

April 21, 1999

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ISSUE 99-08



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filed not later than April 7, 1999

## CITATION

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

## PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (360) 786-6697.

## REPUBLICATION OF OFFICIAL DOCUMENTS

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

## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month April 1999 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

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# WASHINGTON STATE REGISTER

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

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# STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

## 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following nine sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Intent that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **EXPEDITED REPEAL**-includes the Preproposal Statement of Inquiry that lists rules being repealed using the expedited repeal process. Expedited repeals are not consistently filed and may not appear in every issue of the register.
- (c) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (d) **EXPEDITED ADOPTION**-includes the full text of rules being changed using the expedited adoption process. Expedited adoptions are not consistently filed and may not appear in every issue of the Register.
- (e) **PERMANENT**-includes the full text of permanently adopted rules.
- (f) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (g) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (h) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (i) **INDEX**-includes a cumulative index of Register Issues 01 through 24.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. Each filing is listed under the agency name and then describes the subject matter, type of filing and the WSR number. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

## 2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
  - (i) underlined material is new material;
  - (ii) deleted material is (~~lined out between double parentheses~~);
- (b) Complete new sections are prefaced by the heading **NEW SECTION**;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading **REPEALER**.

### MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

Material contained in the Register other than rule-making actions taken under the APA (chapter 34.05 RCW) does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

### EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules normally take effect thirty-one days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one hundred twenty days from the date of filing.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

### EDITORIAL CORRECTIONS

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of document is enclosed in [brackets].

1998 - 1999

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>	Expedited Adoption <sup>4</sup>
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS	Count 20 days from -	For hearing on or after	First Agency Adoption Date
For Inclusion in -	File no later than 12:00 noon -					
98 - 16	Jul 7, 98	Jul 21, 98	Aug 5, 98	Aug 18, 98	Sep 7, 98	Oct 2, 98
98 - 17	Jul 22, 98	Aug 5, 98	Aug 19, 98	Sep 2, 98	Sep 22, 98	Oct 17, 98
98 - 18	Aug 5, 98	Aug 19, 98	Sep 2, 98	Sep 16, 98	Oct 6, 98	Oct 31, 98
98 - 19	Aug 26, 98	Sep 9, 98	Sep 23, 98	Oct 7, 98	Oct 27, 98	Nov 21, 98
98 - 20	Sep 9, 98	Sep 23, 98	Oct 7, 98	Oct 21, 98	Nov 10, 98	Dec 5, 98
98 - 21	Sep 23, 98	Oct 7, 98	Oct 21, 98	Nov 4, 98	Nov 24, 98	Dec 19, 98
98 - 22	Oct 7, 98	Oct 21, 98	Nov 4, 98	Nov 18, 98	Dec 8, 98	Jan 2, 99
98 - 23	Oct 21, 98	Nov 4, 98	Nov 18, 98	Dec 2, 98	Dec 22, 98	Jan 16, 99
98 - 24	Nov 4, 98	Nov 18, 98	Dec 2, 98	Dec 16, 98	Jan 5, 99	Jan 30, 99
99 - 01	Nov 25, 98	Dec 9, 98	Dec 23, 98	Jan 6, 99	Jan 26, 99	Feb 20, 99
99 - 02	Dec 9, 98	Dec 23, 98	Jan 6, 99	Jan 20, 99	Feb 9, 99	Mar 6, 99
99 - 03	Dec 23, 98	Jan 6, 99	Jan 20, 99	Feb 3, 99	Feb 23, 99	Mar 20, 99
99 - 04	Jan 6, 99	Jan 20, 99	Feb 3, 99	Feb 17, 99	Mar 9, 99	Apr 3, 99
99 - 05	Jan 20, 99	Feb 3, 99	Feb 17, 99	Mar 3, 99	Mar 23, 99	Apr 17, 99
99 - 06	Feb 3, 99	Feb 17, 99	Mar 3, 99	Mar 17, 99	Apr 6, 99	May 1, 99
99 - 07	Feb 24, 99	Mar 10, 99	Mar 24, 99	Apr 7, 99	Apr 27, 99	May 22, 99
99 - 08	Mar 10, 99	Mar 24, 99	Apr 7, 99	Apr 21, 99	May 11, 99	Jun 5, 99
99 - 09	Mar 24, 99	Apr 7, 99	Apr 21, 99	May 5, 99	May 25, 99	Jun 19, 99
99 - 10	Apr 7, 99	Apr 21, 99	May 5, 99	May 19, 99	Jun 8, 99	Jul 3, 99
99 - 11	Apr 21, 99	May 5, 99	May 19, 99	Jun 2, 99	Jun 22, 99	Jul 17, 99
99 - 12	May 5, 99	May 19, 99	Jun 2, 99	Jun 16, 99	Jul 6, 99	Jul 31, 99
99 - 13	May 26, 99	Jun 9, 99	Jun 23, 99	Jul 7, 99	Jul 27, 99	Aug 21, 99
99 - 14	Jun 9, 99	Jun 23, 99	Jul 7, 99	Jul 21, 99	Aug 10, 99	Sep 4, 99
99 - 15	Jun 23, 99	Jul 7, 99	Jul 21, 99	Aug 4, 99	Aug 24, 99	Sep 18, 99
99 - 16	Jul 7, 99	Jul 21, 99	Aug 4, 99	Aug 18, 99	Sep 7, 99	Oct 2, 99
99 - 17	Jul 21, 99	Aug 4, 99	Aug 18, 99	Sep 1, 99	Sep 21, 99	Oct 16, 99
99 - 18	Aug 4, 99	Aug 18, 99	Sep 1, 99	Sep 15, 99	Oct 5, 99	Oct 30, 99
99 - 19	Aug 25, 99	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 26, 99	Nov 20, 99
99 - 20	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 9, 99	Dec 4, 99
99 - 21	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 23, 99	Dec 18, 99
99 - 22	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 7, 99	Jan 1, 00
99 - 23	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 21, 99	Jan 15, 00
99 - 24	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 15, 99	Jan 4, 00	Jan 29, 00

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

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

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

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

## **REGULATORY FAIRNESS ACT**

The Regulatory Fairness Act, chapter 19.85 RCW, was enacted in 1982 to minimize the impact of state regulations on small business. Amended in 1994, the act requires a small business economic impact analysis of proposed rules that impose more than a minor cost on twenty percent of the businesses in all industries, or ten percent of the businesses in any one industry. The Regulatory Fairness Act defines industry as businesses within a four digit SIC classification, and for the purpose of this act, small business is defined by RCW 19.85.020 as "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees."

### **Small Business Economic Impact Statements (SBEIS)**

A small business economic impact statement (SBEIS) must be prepared by state agencies when a proposed rule meets the above criteria. Chapter 19.85 RCW requires the Washington State Business Assistance Center (BAC) to develop guidelines for agencies to use in determining whether the impact of a rule is more than minor and to provide technical assistance to agencies in developing a SBEIS. All permanent rules adopted under the Administrative Procedure Act, chapter 34.05 RCW, must be reviewed to determine if the requirements of the Regulatory Fairness Act apply; if an SBEIS is required it must be completed before permanent rules are filed with the Office of the Code Reviser.

### **Mitigation**

In addition to completing the economic impact analysis for proposed rules, state agencies must take reasonable, legal, and feasible steps to reduce or mitigate the impact of rules on small businesses when there is a disproportionate impact on small versus large business. State agencies are encouraged to reduce the economic impact of rules on small businesses when possible and when such steps are in keeping with the stated intent of the statute(s) being implemented by proposed rules. Since 1994, small business economic impact statements must contain a list of the mitigation steps taken, or reasonable justification for not taking steps to reduce the impact of rules on small businesses.

### **When is an SBEIS Required?**

When:

The proposed rule has more than a minor (as defined by the BAC) economic impact on businesses in more than twenty percent of all industries or more than ten percent of any one industry.

### **When is an SBEIS Not Required?**

When:

The rule is proposed only to comply or conform with a federal law or regulation, and the state has no discretion in how the rule is implemented;

There is less than minor economic impact on business;

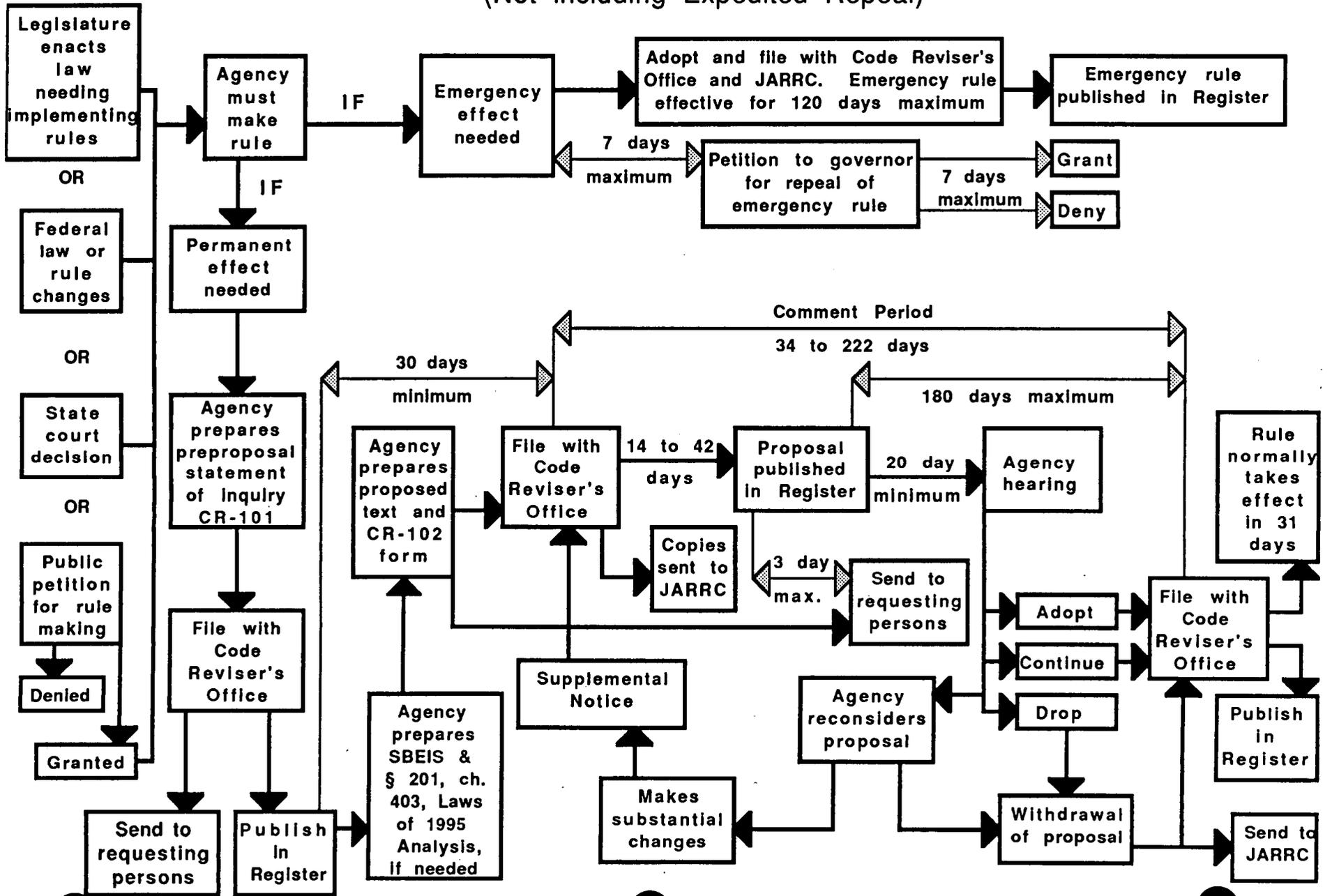
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

The rule is adopted as an emergency rule, although an SBEIS may be required when an emergency rule is proposed for adoption as a permanent rule; or

The rule is pure restatement of state statute.

# RULE-MAKING PROCESS

(Not including Expedited Repeal)



**WSR 99-08-012  
PREPROPOSAL STATEMENT OF INQUIRY  
UTILITIES AND TRANSPORTATION  
COMMISSION**

[Docket No. TG-990161—Filed March 26, 1999, 1:18 p.m.]

Subject of Possible Rule Making: Rules relating to regulated solid waste collection companies (including but not limited to those companies transporting municipal solid waste; medical waste; biohazardous waste; residential recyclables; yardwaste; construction, demolition and land clearing debris; and other wastes) will be reviewed for content and readability pursuant to Executive Order 97-02, with attention to the rules' need; effectiveness and efficiency; clarity; intent and statutory authority; coordination; cost; and fairness. All provisions currently codified in chapter 480-70 WAC might be affected. The review will include consideration of whether substantive changes or additions are required for solid waste regulation, especially (but not limited to) provisions relating to: Definitions; compliance and enforcement; driver, equipment and company safety issues; policies, processes and procedures regarding certificates of public convenience and necessity; tariffs and rate filings; transportation of biomedical and/or biohazardous wastes; and consumer protection and information issues.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040, 81.04.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Executive Order 97-02 requires agencies to review significant rules with attention to the standards set out above. This includes reviewing whether current rules provide the results that they were originally intended to achieve and whether the rules are consistent with laws and with appropriate and lawful policies.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: State Departments of Health, Labor and Industries, State Patrol and Ecology and the Federal Highway Administration. The commission will invite each of those agencies to participate actively in the rule making.

Process for Developing New Rule: Agency study; and the commission will ask for initial written comments, and will provide the opportunity for additional comments. The commission will schedule one or more workshops with representatives of affected constituencies in a manner designed to develop consensus among affected interests regarding any rule proposal.

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

**Written Comments:** Written comments in response to the CR-101 from persons interested in the subject matter of this proposed rule making may be filed with the commission secretary, referencing Docket No. TG-990161, not later than **April 28, 1999**. All persons filing comments are asked, but not required, to file an original and ten copies of their written comments. The commission also requests, but does not require, that comments be provided on a 3 1/2 inch IBM formatted high-density disk, in WordPerfect version 5.1, 6.0 or 6.1, labeled with the docket number of this proceeding and the commenter's name and type of software used. The commission may offer additional opportunities to provide written comments. Interested persons may file additional written comments in response to any such invitation. Interested persons may also attend and participate in workshops that will be scheduled at various times throughout the course of this rule making. The commission will provide written notice of workshops to all commenters and to any other persons specifically asking to receive notice in this rule making proceeding.

**Notice of Proposed Preproposal Workshops:** The commission has scheduled workshops in four cities during the month of May 1999 during which interested persons may appear and present written comments. Additional workshops may be held as this rule making process proceeds. At this time, workshops are planned for:

City	Location	Date/time	Discussion topics
Vancouver	Avalon at St. James Pl. 4607 N.E. St. James Rd. Vancouver, WA	May 17 - 1:00 p.m. - 5:00 p.m.	Commercial and residential solid waste; commercial container service, commercial drop box service; residential recycling; resi- dential yard waste service
Vancouver	Avalon at St. James Pl. 4607 N.E. St. James Rd. Vancouver, WA	May 18 - 8:30 a.m. - noon	Collection and transportation of medical and biohazardous waste
Yakima	Department of Transportation Maintenance Facility 900 East Selah Road East Selah, WA	May 19 - 8:00 a.m. - noon	Commercial and residential solid waste; commercial container service, commercial drop box service; residential recycling; resi- dential yard waste service
Yakima	Department of Transportation Maintenance Facility 900 East Selah Road East Selah, WA	May 19 - 1:00 p.m. - 4:30 p.m.	Collection and transportation of medical and biohazardous waste

City	Location	Date/time	Discussion topics
Spokane	Cheney Cowles Museum 2316 West 1st Avenue Spokane, WA	May 20 - 1:00 p.m. - 5:00 p.m.	Commercial and residential solid waste; commercial container service, commercial drop box service; residential recycling; residential yard waste service
Spokane	Cheney Cowles Museum 2316 West 1st Avenue Spokane, WA	May 21 - 8:00 a.m. - noon	Collection and transportation of medical and biohazardous waste
Everett	Holiday Inn Hotel and Conference Center 101 128th Street S.E. Everett, WA	May 24 - 1:00 p.m. - 4:30 p.m.	Commercial and residential solid waste; commercial container service, commercial drop box service; residential recycling; residential yard waste service
Everett	Holiday Inn Hotel and Conference Center 101 128th Street S.E. Everett, WA	May 24 - 6:00 p.m. - 8:30 p.m.	Collection and transportation of medical and biohazardous waste

**NOTICE**

**TO CONTINUE RECEIVING NOTICES AND INFORMATION ABOUT THIS RULE MAKING** —The commission wants to ensure its mailings are sent to persons who are interested in the topic and want to receive that information. ANY PERSON WHO COMMENTS will continue to receive notices and information. If you do not submit comments but wish to remain on the mailing list for this rule making, please advise the Records Center by any one of the following methods: (1) Send a note with your name, address (or a copy of your mailing label), and telephone and fax numbers referencing Docket No. TG-990161, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, telephone and fax numbers, referencing Docket No. TG-990161, and the words "Please keep me on the mailing list" to records@wutc.wa.gov. Please note that all information in the mailings will be accessible through the commission's Internet web site at <<http://www.wutc.wa.gov/>>. THOSE PARTIES WHO DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULE MAKING.

March 26, 1999  
C. Robert Wallace  
for Carole Washburn  
Secretary

**WSR 99-08-036****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed March 31, 1999, 1:20 p.m.]

Subject of Possible Rule Making: WAC 308-10-010 Definitions.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Clarify definitions to help avoid confusion.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Walt Fahrner, Rules Coordinator, 1125 Washington Street S.E., Olympia, WA 98507-9020, (360) 902-3640, fax (360) 753-7500, e-mail wfahrner@dol.wa.gov.

March 31, 1999

Walt Fahrner  
Rules Coordinator

**WSR 99-08-040****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Medical Assistance Administration)**

[Filed March 31, 1999, 3:20 p.m.]

Subject of Possible Rule Making: WAC 388-501-0160, 388-200-1160, and other rules relating to exceptions to policy or rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To clarify the requirements health care providers must follow when asking MAA to cover a noncovered service for a client. To adopt general criteria MAA will consider when making a determination. To rewrite the rules according to the clear-writing principles in the Governor's Executive Order 97-02.

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this WAC. Draft material and information about how to participate are available by contacting the DSHS representative identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Leslie Saeger, Regulatory Improvement Manager, Medical Assistance Administration, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 664-2315,

fax (360) 753-7315, TTY 1-800-848-5429, e-mail saegell@dshs.wa.gov.

March 31, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 99-08-041**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Medical Assistance Administration)**

[Filed March 31, 1999, 3:21 p.m.]

Subject of Possible Rule Making: WAC 388-501-0165  
Medical services request.

Statutes Authorizing the Agency to Adopt Rules on this  
Subject: RCW 74.08.090.

Reasons Why Rules on this Subject may be Needed and  
What They Might Accomplish: The department is rewriting  
this rule according to the clear-writing principles in the Gov-  
ernor's Executive Order 97-02. Unless public comments  
indicate a need for substantive change, amendments will be  
housekeeping only.

Other Federal and State Agencies that Regulate this Sub-  
ject and the Process Coordinating the Rule with These Agen-  
cies: None.

Process for Developing New Rule: The department  
invites the interested public to review and provide input on  
the draft language of this WAC. Draft material and informa-  
tion about how to participate are available by contacting the  
DSHS representative identified below.

Interested parties can participate in the decision to adopt  
the new rule and formulation of the proposed rule before pub-  
lication by contacting Sharon Morrison, Section Manager,  
Medical Assistance Administration, P.O. Box 45506, Olym-  
pia, WA 98504-5506, phone (360) 586-5398, fax (360) 753-  
7315, TTY 1-800-848-5429, e-mail morrisl@dshs.wa.gov.

March 31, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 99-08-044**

**PREPROPOSAL STATEMENT OF INQUIRY  
WESTERN WASHINGTON UNIVERSITY**

[Filed March 31, 1999, 3:44 p.m.]

Subject of Possible Rule Making: Chapter 516-133  
WAC, Organization.

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

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

Other Federal and State Agencies that Regulate this Sub-  
ject and the Process Coordinating the Rule with These Agen-  
cies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt  
the new rule and formulation of the proposed rule before pub-  
lication by contacting Gloria McDonald, Rules Coordinator,  
Old Main 335, Mailstop 9000, Western Washington Univer-  
sity, Bellingham, Washington 98225, phone (360) 650-3968,  
fax (360) 650-6197.

March 29, 1999

Gloria A. McDonald  
Rules Coordinator

**WSR 99-08-052**

**PREPROPOSAL STATEMENT OF INQUIRY  
UTILITIES AND TRANSPORTATION  
COMMISSION**

[Docket No. UG-990294—Filed April 1, 1999, 12:11 p.m.]

Subject of Possible Rule Making: Rules relating to gas  
companies - operations will be reviewed for content and read-  
ability pursuant to Executive Order 97-02, with attention to  
the rules' need; effectiveness and efficiency; clarity; intent  
and statutory authority; coordination; cost; and fairness. All  
provisions currently codified in chapter 480-90 WAC might  
be affected. The review will include consideration of  
whether substantive changes or additions are required, and  
whether any rules should be repealed.

Statutes Authorizing the Agency to Adopt Rules on this  
Subject: RCW 80.01.040, 80.04.160.

Reasons Why Rules on this Subject may be Needed and  
What They Might Accomplish: Executive Order 97-02  
requires agencies to review significant rules with attention to  
the standards set out above. This includes reviewing whether  
current rules provide the results that they originally were  
intended to achieve, whether the rules are consistent with  
law, and whether the rules are consistent with appropriate and  
lawful policies. In addition, the review will include consider-  
ation of whether additional measures may be needed.

Other Federal and State Agencies that Regulate this Sub-  
ject and the Process Coordinating the Rule with These Agen-  
cies: United States Department of Transportation, Office of  
Pipeline Safety, and the Federal Energy Regulatory Commis-  
sion. The commission will invite the agencies to participate  
in the rule making.

Process for Developing New Rule: Agency study; and  
the commission will ask for initial written comments, and  
will provide the opportunity for additional comments if sub-  
stantial disagreements are reflected in the comments. The  
commission has scheduled one workshop with representa-  
tives of affected constituencies, and will schedule others if  
needed, to promote dialogue designed to develop consensus  
among affected interests regarding any rule proposal.

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

in the commission's list of interested persons for the proceeding.

**Written Comments:** Written comments in response to the CR-101 from persons interested in the subject matter of this proposed rule making may be filed with the Commission Secretary, referencing Docket No. UG-990294, not later than **May 5, 1999**. All commenters are asked, but not required, to file an original and ten copies of their written comments. The commission also requests, but does not require, that comments be provided on a 3 1/2 inch IBM formatted high-density disk, in WordPerfect version 5.1 or later, labeled with the docket number of this proceeding and the commenter's name and type of software used. The commission may offer additional opportunities to provide written comments. Interested persons may file additional written comments in response to any such invitation. Interested persons may also attend the initial workshop scheduled to be held in the Commission's Hearing Room, Room 206, 1300 South Evergreen Park Drive S.W., Olympia, WA, on **Thursday, June 3, 1999, beginning at 9:30 a.m.** and participate in any additional workshops scheduled. The commission will provide written notice of workshops to all commenters and to any other persons who specifically ask to receive notice in this rule-making proceeding.

Questions may be addressed to James Russell at (360) 664-1318 or e-mail at jrussell@wutc.wa.gov.

#### NOTICE

**TO CONTINUE RECEIVING NOTICES AND INFORMATION ABOUT THIS RULE MAKING** — The commission wants to ensure its mailings are sent to persons who are interested in the topic and want to receive that information. ANY PERSON WHO COMMENTS will continue to receive notices and information. If you do not submit comments but wish to remain on the mailing list for this rule making, please advise the records center by any one of the following methods: (1) Send a note with your name, address (or a copy of your mailing label), and telephone and fax numbers referencing Docket No. UG-990294, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, telephone and fax numbers, referencing Docket No. UG-990294, and the words "Please keep me on the mailing list" to records@wutc.wa.gov. Please note that all information in the mailings will be accessible through the commission's Internet web site at <<http://www.wutc.wa.gov/>>. **THOSE PARTIES WHO DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULE MAKING.**

April 1, 1999  
Carole J. Washburn  
Secretary

#### WSR 99-08-053

### PREPROPOSAL STATEMENT OF INQUIRY UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. TR-981102—Filed April 1, 1999, 12:12 p.m.]

**Subject of Possible Rule Making:** Rules relating to railroad company operations. The commission will review provisions codified in chapter 480-62 WAC to consider whether existing rules should be modified or repealed. In addition, the commission will consider new rules requiring notification of: Any activity that may affect a surrounding community; company ownership changes and related information; remote control train operations; and company time tables, bulletins, and notices. The commission will also consider new rules concerning: Blocking crossings; maintenance and standards regarding crossing surfaces, crossing signals and circuitry; safety and operating rules regarding industrial railroads, commuter rail, and track motor cars; and whistle ban procedures and petitions for grade crossings improvements. The commission will also consider adopting by reference, applicable portions of the Federal Railroad Administration and Federal Highway Administration regulations and railroad company General Codes of Operating Rules (GCOR). Related issues brought up by stakeholders may also be considered.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040, 81.01.010, 81.04.160, 81.53.420, and 81.61.020.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** (1) Executive Order 97-02 requires agencies to review significant rules against specific standards identified in the order. This includes reviewing whether current rules provide the results that they were originally intended to achieve and whether the rules are consistent with laws and with appropriate and lawful policies.

(2) Technological advances and changes in railroad company business practices have resulted in a need to explore whether federal standards and safety rules should be adopted; whether new reporting and notification requirements are appropriate; whether the commission's process for company petitions can be streamlined; and whether rules are necessary to establish procedures for considering petitions for whistle bans. New rules may be needed to protect the public welfare and safety.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The Federal Railroad Administration, Washington State Department of Transportation, Washington Department of Labor and Industries and the Washington Military Department may have parallel or overlapping jurisdiction. Staff will work directly with these agencies and consider these agencies' rules and laws to ensure consistency where appropriate.

**Process for Developing New Rule:** Agency study; and the commission will call for initial written comments, and will provide the opportunity for interested persons to make additional comments throughout the rule-making process. The commission will schedule one or more workshops with the representatives of affected constituencies and other inter-

ested parties in a manner designed to develop consensus regarding any rule proposal.

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

**Written Comments:** Written comments in response to the CR-101 from persons interested in the subject matter of this proposed rule making may be filed with the commission secretary, referencing Docket No. TR-981102, not later than **April 30, 1999**. All commenters are asked, but not required, to file an original and ten copies of their written comments. The commission also requests, but does not require, that comments be provided on a 3 1/2 inch IBM formatted high-density disk, in WordPerfect version 51. [5.1], 6.0 or 6.1, labeled with the docket number of this proceeding and the commenter's name and type of software used. The commission may offer additional opportunities to provide written comments. Interested persons may file additional written comments in response to any such invitation. Interested persons may also attend and participate in the workshop described below and in any other workshop or opportunity for written comments that may be scheduled or provided. The commission will provide written notice of any additional preproposal workshops to all commenters and to any other persons specifically asking to receive notice in this rule-making proceeding.

**Notice of Workshop:** A workshop will be held on **May 27, 1999, beginning at 9:30 a.m.**, in the Commission's Hearing Room, Room 206, Second Floor, Chandler Plaza, 1300 South Evergreen Park Drive S.W., Olympia, WA. The commission's teleconference bridge line will be available for this workshop. A limited number of teleconference ports will be available and will be assigned one to an organization, on a first come first served basis. Persons wishing to attend via the teleconference bridge line must contact Jennifer Watsek at (360) 664-1139 no later than 5:00 p.m., May 25, 1999. Questions may be addressed to Kim Dobyans at (360) 664-1242 or e-mail at <kdobyans@wutc.wa.gov>.

#### NOTICE

**TO CONTINUE RECEIVING NOTICES AND INFORMATION ABOUT THIS RULE MAKING**—The commission wants to ensure its mailings are sent to persons who are interested in the topic and want to receive that information. ANY PERSON WHO COMMENTS will continue to receive notices and information. If you do not submit comments but wish to remain on the mailing list for this rule making, please advise the records center by any one of the following methods: (1) Send a note with your name, address (or a copy of your mailing label), and telephone and fax numbers referencing Docket No. TR-981102, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, telephone and fax numbers, referencing Docket No. TR-981102, and the words "Please keep me on the mailing list" to records@wutc.

wa.gov. Please note that all information in the mailings will be accessible through the Commission's Internet web site at <<http://www.wutc.wa.gov/>>. **THOSE PARTIES WHO DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULE MAKING.**

March 31, 1999  
Carole J. Washburn  
Secretary

**WSR 99-08-057**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**STATE BOARD FOR**  
**COMMUNITY AND TECHNICAL COLLEGES**

[Filed April 1, 1999, 1:20 p.m.]

**Subject of Possible Rule Making:** The running start program, chapter 131-46 WAC.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 28B.50 RCW.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Changes in tuition and clarifying language related to administration of the program.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** This is a jointly-administered program involving the State Board for Community and Technical Colleges, the Higher Education Coordinating Board and the Superintendent of Public Instruction.

**Process for Developing New Rule:** Any hearings and subsequent emergency rule filings, and permanent rule adoptions will be jointly collaborated and agreed upon by the three agencies involved.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ron Crossland, State Board for Community and Technical Colleges, Associate Director, Educational Services Division, P.O. Box 42495, Olympia, WA 98504-2495, (360) 753-2000, and fax (360) 586-6440.

March 31, 1999  
Claire C. Krueger  
Executive Assistant  
and Rules Coordinator

**WSR 99-08-059**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF COMMUNITY,**  
**TRADE AND ECONOMIC DEVELOPMENT**

[Filed April 1, 1999, 4:45 p.m.]

**Subject of Possible Rule Making:** Chapter 365-130 WAC.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 39.44.230.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Updating rules to make them

consistent with the RCWs and change the name of the agency.

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

Process for Developing New Rule: Will send proposed changes to the two hundred people who receive the monthly update.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by commenting to the Department of Community, Trade and Economic Development, Attn: Bill Cole, P.O. Box 48300, Olympia, WA 98504-8300, phone (360) 753-0307, fax (360) 586-4162.

April 1, 1999  
Jean L. Ameluxen  
Legislative Liaison

### WSR 99-08-060

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

[Filed April 1, 1999, 4:46 p.m.]

Subject of Possible Rule Making: Chapter 130-16 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.330.040 (2)(g) and 39.84.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Updating rules to make them consistent with the RCWs and change the name of the agency.

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

Process for Developing New Rule: Will send proposed changes to bond counsels and frequent users of the program, less than ten in all.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by commenting to the Department of Community, Trade and Economic Development, Attn: Bill Cole, P.O. Box 48300, Olympia, WA 98504-8300, phone (360) 753-0307, fax (360) 586-4162.

April 1, 1999  
Jean L. Ameluxen  
Legislative Liaison

### WSR 99-08-069

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed April 5, 1999, 10:05 a.m.]

Subject of Possible Rule Making: Penalties, inspections and citations, appeals and reassumptions of jurisdiction,

abatement extension codification in chapter 296-350 WAC with changes to chapter 296-27 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.040, [49.17.]050, [49.17.]100, [49.17.]120, [49.17.]140, chapters 34.05, 43.22 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department proposes to codify into WAC, requirements dealing with penalties, inspections and citations, appeals and reassumptions of jurisdiction, and abatement extension. This proposal is in response to the Governor's Executive Order 97-02, Regulatory Reform, that requires code contents to be readily available and understandable to the employer community. It is expected that clear explanations of penalty calculation, in accord with the executive order, will increase understanding of the process, and lessen confusion surrounding penalty assessments.

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

Process for Developing New Rule: Parties interested in the formulation of these rules for proposal may contact the individual listed below. The public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael McCauley, phone (360) 902-5779, fax (360) 902-5529, Department of Labor and Industries, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620.

April 5, 1999  
Gary Moore  
Director

### WSR 99-08-070

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed April 5, 1999, 10:07 a.m.]

Subject of Possible Rule Making: Scaffolds in general industry, chapters 296-24 and 296-155 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: OSHA adopted amendments as published in Federal Register Volume 61, Number 170, dated August 30, 1996, and Federal Register Volume 61, Number 228, dated November 25, 1996. WISHA adopted essentially the same amendments on February 13, 1998, in chapter 296-155 WAC. These amendments are being proposed to replace existing requirements on scaffold use located in chapter 296-24 WAC to be consistent with current state requirements. These amendments will establish additional compliance requirements.

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

Process for Developing New Rule: Parties interested in the formulation of these rules for proposal may contact the individual listed below. The public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cindy Ireland, Safety and Health Specialist, phone (360) 902-5522, fax (360) 902-5529, Department of Labor and Industries, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620.

April 5, 1999  
Gary Moore  
Director

**WSR 99-08-079**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed April 6, 1999, 10:18 a.m.]

Subject of Possible Rule Making: Recreational crab reporting rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 75.08.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules may be needed to improve catch estimation capability and provide for orderly fisheries.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Morris Barker by June 10, 1999, at (360) 902-2826 or fax (360) 902-2944.

April 6, 1999  
Evan Jacoby  
Rules Coordinator

**WSR 99-08-086**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**

[Filed April 6, 1999, 2:08 p.m.]

Subject of Possible Rule Making: WAC 236-12-065, 236-12-470, and 236-12-500.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.17.060, 43.19.125, 46.08.150.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposal removes the current penalties as they relate to violations of capitol

grounds rules because the current penalties are either inapplicable or nonexistent. This rule would put potential violators on notice that any violation of the rules subjects them to removal by the Washington State Patrol campus detachment. It also removes the authority from the director of the Department of General Administration (GA) to authorize anyone to carry a dangerous weapon on campus because this authority is unnecessary.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington State Patrol is responsible for enforcing these rules. GA has consulted with them on the proposed changes.

Process for Developing New Rule: The Department of General Administration has met with interested parties to discuss this proposal. Anyone wishing to receive more information on the proposal or wishing to provide input should contact the department using the information below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cindy L. Runger, 200 General Administration Building, P.O. Box 41000, Olympia, WA 98504-1000.

April 5, 1999  
Cindy L. Runger  
Rules Coordinator

**WSR 99-08-092**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**INTERAGENCY COMMITTEE**  
**FOR OUTDOOR RECREATION**

[Filed April 6, 1999, 3:55 p.m.]

Subject of Possible Rule Making: Nonhighway and off-road vehicle funds, WAC 286-26-100 Development projects—Conversion to other uses, implement chapter 144, Laws of 1998 (SHB 2826).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.09.240(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 144, Laws of 1998, amended RCW 46.09.240(1) by allowing nonprofit ORV organizations to receive funds under this chapter if the funds benefit ORV recreation on lands once publicly owned that come into private ownership in a federal land exchange between January 1, 1998, and January 1, 2005. The proposed change to WAC 286-26-100 is needed to ensure conformance with this 1998 statutory change.

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

Process for Developing New Rule: It is our intent to advance this rule proposal through a participatory process that includes distribution of copies of the recommended changes to IAC's advisory committees and other interested parties (those who have asked to be placed on IAC's WAC notification listing). We will encourage comments via mail, e-mail, telephone, and in person. Based on any comments,

revisions will be considered before presentation of final recommendations to IAC's board for adoption in an advertised and open public meeting.

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

(1) Provide comments to Greg Lovelady, Rules Coordinator, Interagency Committee for Outdoor Recreation, Natural Resources Building, P.O. Box 40917, Olympia, WA 98504-0917, (360) 902-3008, e-mail gregl@iac.wa.gov, fax (360) 902-3008. Comments received by June 18, 1999, will be mailed to IAC's board for review in advance of public testimony meeting.

(2) Appear to testify as follows: On July 16, 1999, at 9:00 a.m., at the Spokane Center, Okanogan Valley A&B, 334 West Spokane Falls Boulevard, Spokane, WA 99201.

March 1, 1999

G. W. Lovelady  
Rules Coordinator

#### WSR 99-08-095

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

(Chemical Dependency Professionals)

[Filed April 6, 1999, 4:39 p.m.]

**Subject of Possible Rule Making:** The regulation of chemical dependency professionals. This effort includes examination requirements and aids education requirement.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 18.205 RCW and RCW 70.24.270.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** There is a need to implement the 1998 legislation which requires an exam.

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

**Process for Developing New Rule:** Collaborative rule making. Develop in consultation with stakeholders through public meetings, telephone, and correspondence.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tonya G. Stauffer, Department of Health, Chemical Dependency Professionals, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 664-3004, fax (360) 753-0739.

April 2, 1999

Kristine Van Gorkom  
Deputy Secretary

#### WSR 99-08-105

#### PREPROPOSAL STATEMENT OF INQUIRY UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. UE-990473—Filed April 7, 1999, 8:52 a.m.]

**Subject of Possible Rule Making:** Rules relating to electric companies will be reviewed for content and readability pursuant to Executive Order 97-02, with attention to the rules' need; effectiveness and efficiency; clarity; intent and statutory authority; coordination; cost; and fairness. All provisions currently codified in chapter 480-100 WAC might be affected. The review will include consideration of whether substantive changes or additions are required.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 80.01.040.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Executive Order 97-02 requires agencies to review significant rules with attention to the standards set out above. This includes reviewing whether current rules provide the results that they were originally intended to achieve and whether the rules are consistent with laws and with appropriate and lawful policies.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** FERC.

**Process for Developing New Rule:** Agency study; and the commission will ask for initial written comments, and will provide the opportunity for additional comments if substantial disagreements are reflected in the comments. The commission will schedule workshops involving representatives of affected constituencies in a manner designed to develop consensus among affected interests regarding any rule proposal.

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

**Written Comments:** Written comments in response to the CR-101 from persons interested in the subject matter of this proposed rule making may be filed with the commission secretary, referencing Docket No. UE-990473, not later than **May 5, 1999**. All commenters are asked, but not required, to file an original and ten copies of their written comments. The commission also requests, but does not require, that comments be provided on a 3 1/2 inch IBM formatted high-density disk, in WordPerfect version 5.1 or later, labeled with the docket number of this proceeding and the commenter's name, the date, and type of software used. The commission may offer additional opportunities to provide written comments. Interested persons may file additional written comments in response to any such invitation.

**Notice of Workshop:** On March 31, 1999, the commission filed a CR-101 preproposal notice of inquiry and initiated review of chapter 480-90 WAC, Gas companies—Operations. Since many of the gas and electric rules are identical,

the commission has decided to hold a joint workshop which include persons with an interest in rules of either industry. Interested persons may attend the initial workshop scheduled to be held in the Commission's Hearing Room, Room 206, 1300 South Evergreen Park Drive S.W., Olympia, WA, on **Thursday, June 3, 1999 beginning at 9:30 a.m.** Following the conclusion of the joint session, separate gas and electric workshops will convene at the commission's headquarters to discuss the remaining industry specific rules.

The commission will provide written notice of workshops to all commenters and to any other persons who specifically ask to receive notice in this rule-making proceeding.

Questions may be addressed to Graciela Etchart at (360) 664-1310 or e-mail at [getchart@wutc.wa.gov](mailto:getchart@wutc.wa.gov).

#### NOTICE

**TO CONTINUE RECEIVING NOTICES AND INFORMATION ABOUT THIS RULE MAKING** —The commission wants to ensure its mailings are sent to persons who are interested in the topic and want to receive that information. **ANY PERSON WHO COMMENTS** will continue to receive notices and information. If you do not submit comments but wish to remain on the mailing list for this rule making, please advise the records center by any one of the following methods: (1) Send a note with your name, address (or a copy of your mailing label), and telephone and fax numbers referencing Docket No. UE-990473, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, telephone and fax numbers, referencing Docket No. UE-990473, and the words "Please keep me on the mailing list" to [records@wutc.wa.gov](mailto:records@wutc.wa.gov). Please note that all information in the mailings will be accessible through the commission's Internet web site at <http://www.wutc.wa.gov/>. **THOSE PARTIES WHO DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULE MAKING.**

April 6, 1999  
Terrence Stapleton  
for Carole J. Washburn  
Secretary

#### WSR 99-08-107

#### PREPROPOSAL STATEMENT OF INQUIRY HEALTH CARE AUTHORITY

(Basic Health Plan)

[Order 99-02—Filed April 7, 1999, 9:05 a.m.]

Subject of Possible Rule Making: Revise WAC 182-25-030 to clarify eligibility criteria.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.47.050 and 70.47.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules regarding basic health's eligibility requirements need to be clarified, particularly as they apply to applicants or enrollees eligible for Medicare.

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

Process for Developing New Rule: Stakeholder mailings and public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rosanne Reynolds (L3), Basic Health Plan, P.O. Box 42683, Olympia, WA 98504-2683, phone (360) 923-2948, fax (360) 412-4276.

April 6, 1999

Elin Meyer

Rules Coordinator

#### WSR 99-08-110

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed April 7, 1999, 9:15 a.m.]

Subject of Possible Rule Making: Update chapter 16-448 WAC, Standards for potatoes, in order to reflect current industry practices, and to stay consistent with the United States standards for grades of potatoes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.17 RCW, Standards of grades and packs.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Changes in the existing chapter 16-448 WAC are needed in order to reflect current industry practices and to stay consistent with the United States standards for grades of potatoes. Presently, existing chapter 16-448 WAC is outdated, and does not reflect current practices now in place as stated in the United States standards for grades of potatoes.

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

Process for Developing New Rule: Negotiated rule making; and will be working with the Washington State Potato Commission and the Washington State Potato Committee to develop changes in the existing chapter 16-448 WAC, Standards for potatoes.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jim Quigley, Program Manager, Fruit and Vegetable Inspection Program, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1833, fax (360) 902-2085.

April 6, 1999

Robert W. Gore

Assistant Director

**WSR 99-08-111****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF AGRICULTURE**

[Filed April 7, 1999, 9:18 a.m.]

**Subject of Possible Rule Making:** The entire chapter 16-436 WAC, Washington standards for peaches.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 15.17 RCW, Standards of grades and packs.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The department has conducted a review of the above-mentioned rule under the provisions of the Governor's Executive Order 97-02 and has determined that the rule is necessary and should be retained. This rule was reviewed and revised in May 1992, to maintain inspection requirements of peaches handled in the state in lieu of the suspension of the federal marketing order for peaches. This rule is current and meets the needs of the industry.

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

**Process for Developing New Rule:** A rules review was conducted in accordance with the Governor's Executive Order 97-02. Results of this review will be shared with representatives of the rule stakeholders for input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The department is seeking input on its decision to retain the rule. You may comment by writing to Washington State Department of Agriculture, Administrative Regulations Unit, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2092. Comments should be made by May 22, 1999.

For questions regarding this rule, call Jim Quigley, Program Manager, Fruit and Vegetable Inspection Program, phone (360) 902-1833.

April 6, 1999  
Robert W. Gore  
Assistant Director

**WSR 99-08-116****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF NATURAL RESOURCES**

[Filed April 7, 1999, 9:47 a.m.]

**Subject of Possible Rule Making:** WAC 332-52-065 Milwaukee Road Corridor—Recreation use, to update this WAC by having the permitted nonmotorized recreation open period use changed from October 1 through June 15 to year around.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 79.08.277 Milwaukee Road Corridor—Recreational use—Permit—Rules—Fees, 79.08.279 Powers with respect to Milwaukee Road Corridor, and 79.08.281 Milwaukee Road Corridor—Leasing—Duties with respect to unleashed portions.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** By the request of the recreation users, the orderly and safe use of the Milwaukee Road Corridor would allow for better multi-use and recreation opportunities. This proposed change in the WAC is one of the proposed top priorities in the Region's Plan 2005: Concepts for the southeast region recreation program.

This change would also make the corridor consistent with state parks' portion of the Milwaukee Road Corridor which is open year around.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** Washington State Park and Recreation Commission manages the portion of the Milwaukee Road Corridor known as Iron Horse State Park, west of the Columbia River. The portion of the Milwaukee Road Corridor that this proposal addresses is that portion lying east of the Columbia River managed by the Department of Natural Resources (DNR).

**Process for Developing New Rule:** The Department of Natural Resources conducted a survey to establish the interest in opening the Milwaukee Road Corridor to year around nonmotorized use. The super majority was to have the DNR pursue the possibility of this year around open period. Further study would be conducted to involve all adjoining landowners, interest groups and other individuals.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting James A. Munroe, Department of Natural Resources, 713 East Bowers Road, Ellensburg, WA 98926-9341, phone (509) 925-0948, fax (509) 925-8522. There will be public hearings regarding this proposal with a minimum of one in western Washington and two in eastern Washington. Proposal will be sent and/or presented to the county commissioners and each known adjoining landowner to the Milwaukee Road Corridor.

March 4, 1999  
William Q. Boyom  
Region Manager

**WSR 99-08-120****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

(Economic Services Administration)

[Filed April 7, 1999, 10:05 a.m.]

**Subject of Possible Rule Making:** Chapter 388-440 WAC, Exception to rule and chapter 388-426 WAC, Client complaints.

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

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The department needs to clarify that chapter 388-440 WAC applies only to exceptions regarding a client's eligibility for services; and chapter 388-

426 WAC applies only to complaints about eligibility decisions.

In addition, the department will review for compliance with the governor's order on regulatory improvement.

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

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this WAC. Draft material and information about how to participate are available by contacting the DSHS representative identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Leslie Saeger, Regulatory Improvement Project Manager, Medical Assistance Administration, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 664-2315, fax (360) 753-7315, TTY 1-800-848-5429, e-mail saegell@dshs.wa.gov.

April 6, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

#### WSR 99-08-127

#### PREPROPOSAL STATEMENT OF INQUIRY

#### DEPARTMENT OF LICENSING

[Filed April 7, 1999, 11:06 a.m.]

Subject of Possible Rule Making: Chapter 308-78 WAC, Aircraft fuel tax etc., to include but not limited to WAC 308-78-020, 308-78-030, 308-78-040, 308-78-045, 308-78-050, 308-78-060, 308-78-070, 308-78-080, and 308-78-090.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.42.040.

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

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

April 7, 1999

Tom Brewer, Administrator  
Prorate and Fuel Tax Services



**WSR 99-08-074**  
**EXPEDITED REPEAL**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed April 5, 1999, 1:46 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 415-108-671, 415-112-561, and 415-115-070.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

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

Address Your Objection to: Elyette M. Weinstein, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380.

Reason the Expedited Repeal of the Rule is Appropriate: WAC 415-108-671, this rule applies to early retirement window legislation passed in 1993 that was in effect for a limited period of time. This rule interprets a statute that is no longer in effect. Therefore the rule should be repealed.

WAC 415-112-561, this rule applies to early retirement window legislation passed in 1993 that was in effect for a limited period of time. This rule interprets a statute that is no longer in effect. Therefore the rule should be repealed.

WAC 415-115-070, in 1995 this rule gave notice to employers regarding when the department would start to review reports for purposes of assessing an additional fee for untimely or deficient reporting. As such, it was a transitional rule. Such notice is no longer necessary because the department has been reviewing these reports since 1995, when the rule went into effect. By now, employers have received due notice of such reviews. Therefore, this rule should be repealed because it has outlived its usefulness.

April 5, 1999

Elyette M. Weinstein  
 Rules Coordinator

**WSR 99-08-112**  
**EXPEDITED REPEAL**  
**DEPARTMENT OF AGRICULTURE**

[Filed April 7, 1999, 9:19 a.m.]

The Following Sections are Proposed for Expedited Repeal: Chapter 16-424 WAC, Onion standards; chapter 16-412 WAC, Standards for cantaloupes; chapter 16-451 WAC, Rhubarb, hot-house or cellar grown; and chapter 16-460 WAC, Washington standards for tomatoes.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances; and other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

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

Address Your Objection to: Washington State Department of Agriculture, Administrative Regulations Unit, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2092.

If you have any questions, call Jim Quigley, Program Manager, Fruit and Vegetable Inspection Program, phone (360) 902-1833.

Reason the Expedited Repeal of the Rule is Appropriate: (1) Chapter 16-424 WAC states and refers to the United States grades and tolerances, and makes no reference to state grades. These grades of onions are restated in the current United States grades for onions.

(2) Chapter 16-412 WAC was established on May 18, 1942, and is no longer used by the industry. A survey of state certification records indicate that the few inspection certificates issued for cantaloupes is based on the current United States standards for grades of cantaloups.

(3) Chapter 16-451 WAC was established on November 30, 1954, and is no longer used by the industry. A survey of state certification records indicate that the few inspection certificates issued for rhubarb is based on the current United States standards for grades of rhubarb.

(4) Chapter 16-460 WAC was established on July 10, 1967, and is no longer used by the industry. A survey of state certification records indicate that the few inspection certificates that have been issued for tomatoes is based on the current United States standards for grades of fresh tomatoes.

April 6, 1999

Robert W. Gore  
 Assistant Director

EXPEDITED REPEAL



**WSR 99-08-013**  
**PROPOSED RULES**  
**STATE BOARD FOR**  
**COMMUNITY AND TECHNICAL COLLEGES**

[Filed March 26, 1999, 3:09 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 99-04-025 [99-04-029].

Purpose: Exceptional faculty awards program.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Statute Being Implemented: WAC 131-16-450.

Summary: Clarifies how many grant awards are allowed per college in each biennium.

Name of Agency Personnel Responsible for Drafting and Implementation: Ron Crossland, 319 7th Avenue, Olympia, WA, (360) 753-3674; and Enforcement: Howard Fischer, Senior Assistant Attorney General, Education Division, (360) 586-2789.

Name of Proponent: [State Board for Community and Technical Colleges], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Clarifies rules regarding the Exceptional Faculty Awards program.

Proposal Changes the Following Existing Rules: Four grants are allowed to each college within a single biennium.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Grays Harbor College, 1620 Edward P. Smith Drive, Aberdeen, WA, on May 20, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact C. Krueger, fax (360) 586-6440, by May 10, 1999.

Submit Written Comments to: Ron Crossland, State Board for Community and Technical Colleges, P.O. Box 42495, Olympia, WA 98504-2495, fax (360) 586-6440, by May 10, 1999.

Date of Intended Adoption: May 20, 1999.

March 25, 1999

Claire C. Krueger

Executive Assistant and

Agency Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 98-15-007, filed 7/2/98, effective 8/2/98)

**WAC 131-16-450 Exceptional faculty awards trust fund.** (1) Pursuant to chapter 29, Laws of 1990, the community and technical college exceptional faculty award program shall be subject to the following limitations:

(a) All funds generated by and through this program shall be credited to the college district's exceptional faculty local endowment trust fund, from which only the earnings of such funds may be expended for the purpose of this program.

(b) Authorization to transfer funds from the exceptional faculty award trust fund in the state treasury to a college district endowment fund shall be contingent upon certification by the college district that no less than twenty-five thousand dollars of matching cash donations from private sources has been deposited in the district endowment fund.

(c) Grants to individual colleges shall not exceed: ~~((Two))~~ Four grants to each college, ~~((each year, beginning July 1, 1998))~~ in any single biennium.

(d) Award of requested grants to colleges shall be contingent upon determination by the state board for community and technical college that the request is consistent with and meets the requirements of these guidelines. Further, if grant requests exceed available funds, the state board for community and technical college shall select the recipients.

(e) Funds granted for the purposes of the faculty awards program shall be held in trust by the district for the college to which such funds were specifically awarded.

(f) Each college district shall establish procedures by which awards may be named in honor of a donor, benefactor, or honoree; may designate the use of funds; and may renew or redesignate the award annually.

(g) By September 1 of each year beginning in 1991, each district shall report to the state board for community and technical college the amount of contributed endowment funds, their earnings, type of investments, and uses made during the previous fiscal year.

(h) The process for determining awards shall be subject to collective bargaining, except that the amount of individual awards and the recipient(s) shall be determined by the district board of trustees.

(i) Only persons holding faculty assignments as defined by RCW 28B.52.020(2) shall be eligible to receive awards under this section.

(2) The award of exceptional faculty grants from the district endowment fund shall be subject to the following limitations:

(a) The proceeds from the endowment fund shall be used to pay expenses for faculty awards, which may include in-service training, temporary substitute or replacement costs directly associated with faculty development programs, conferences, travel, publication and dissemination of exemplary projects; to make a one time supplement to the salary of the holder or holders of a faculty award, for the duration of the award; or to pay expenses associated with the holder's program area.

(b) Funds from this program shall not be used to supplant existing faculty development funds.

**WSR 99-08-014**  
**PROPOSED RULES**  
**LIQUOR CONTROL BOARD**

[Filed March 29, 1999, 12:52 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 98-22-092.

Title of Rule: WAC 314-04-005 What are the procedures for a licensee to be notified of an alleged violation of a board statute or regulation? WAC 314-04-006 Are the notification procedures different for an alleged first-time violation of a board statute or regulation? WAC 314-04-007 What options does a licensee have once he/she receives a notice of initial board action?

Purpose: These rules outline the procedures for a licensee to be notified of an alleged violation of a liquor law or rule, and outlines the licensee's administrative options.

Statutory Authority for Adoption: RCW 66.08.030, 66.44.010, 66.24.010(3).

Statute Being Implemented: RCW 66.24.010(3).

Summary: The board will consider changes to WAC 314-04-005 to simplify the administrative violation process for persons who allegedly violate the liquor laws and rules. The proposed rule revisions would include a simplification to the process to inform licensees who allegedly commit first-time violations without aggravating or mitigating circumstances to be informed what the proposed penalty will be upon notice of the violation. Currently, licensees must wait for the process to go through several steps before they are made aware of the proposed penalty.

Name of Agency Personnel Responsible for Drafting: Teresa Berntsen, P.O. Box 43080, Olympia, WA 98504-3080, (360) 586-1641; Implementation and Enforcement: Gary Gilbert, P.O. Box 43075, Olympia, WA 98504-3075, (360) 753-2710.

Name of Proponent: Washington State Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Currently, WAC 314-04-005 outlines the administrative violation process for persons who allegedly violate a liquor law and rule. As written, licensees must wait for the administrative process to go through several steps before they are made aware of the proposed penalty. The board would like to propose that this part of the process be simplified, by being able to inform licensees who allegedly commit first-time violations without aggravating or mitigating circumstances to be informed what the proposed penalty will be upon notice of the violation. The licensee's administrative options regarding the proposed penalty would remain the same.

Proposal Changes the Following Existing Rules: The proposed rule revisions simplify the process for licensees who allegedly commit first-time liquor violations without aggravating or mitigating circumstances to be informed what the proposed penalty will be upon notice of the violation. Currently, licensees must wait for the process to go through a multi-step review process before they are made aware of the proposed penalty.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Liquor Control Board is not a listed agency in section 201.

Hearing Location: Washington State Liquor Control Board, 3000 Pacific Avenue S.E., Olympia, WA 98504, on May 12, 1999, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Teresa Berntsen by May 11, 1999, TDD (360) 586-4727, or (360) 586-1641.

Submit Written Comments to: Teresa Berntsen, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, fax (360) 704-4920 by May 18, 1999.

Date of Intended Adoption: May 19, 1999.

March 29, 1999

Eugene Prince

Chair

AMENDATORY SECTION (Amending Order 35, filed 7/2/75)

**WAC 314-04-005** (~~(Prehearing summary disposition.)~~) **What are the procedures for a licensee to be notified of an alleged violation of a board statute or regulation?** (~~(Prior to a hearing pursuant to WAC 314-04-010, the licensee may be afforded an alternative under the terms of RCW 34.04.090(3) to waive an opportunity for such a hearing and agree to a proposed summary disposition of the charges. The summary disposition may include suspension or cancellation of a license or imposition of a monetary penalty in lieu of the proposed summary suspension. The proposed summary disposition shall be determined and administered in the following manner:~~

(1) ~~Upon receipt by the board of an investigative report, referred complaint or other information indicating a possible violation on the part of a licensee, such report shall be processed by the enforcement division and be forwarded to the assistant attorney general assigned to the board, hereafter referred to as attorney, to determine if reasonable cause exists to believe that a violation has occurred.~~

(2) ~~If the attorney determines that reasonable cause exists to believe that a violation has occurred, he shall propose a course of action to the board for its consideration, and the board shall determine whether to accept the initial proposal or order another proposed disposition. After review by the board, the board may direct that a written notice of its proposed order of summary disposition, hereafter notice, be served upon the licensee.~~

(3) ~~The notice will be prepared by the hearing division. Such notice shall fully advise the licensee of all charges reasonably believed to have been committed and specify the board's summary disposition. The notice shall also include an explanation that any proposed penalty is not final but will automatically become final if the licensee does not request a hearing within ten days of receipt of the notice.~~

(4) ~~The board may in its discretion offer the licensee an opportunity for payment of a monetary penalty in lieu of suspension. Such an opportunity shall be explained on the notice and the notice will include either the monetary penalty or, by attachment, a certificate of gross profit from liquor sales, hereafter referred to as certificate, to compute the monetary penalty. The certificate must be returned within ten days of receipt of the notice along with payment, unless additional~~

~~time is requested in writing, or the suspension will not be vacated.~~

~~(5) The notice shall include by attachment a form upon which a request for a hearing can be made. The notice shall be signed by the board, after which the hearing division shall serve the notice and attachments upon the licensee.~~

~~(6) If the licensee requests a hearing, written acknowledgment of the request will be sent the licensee by the hearing division and the hearing will proceed as described by the terms of WAC 314-04-010.~~

~~(7) The licensee may request in writing, and the hearing division may grant an extension of time, not to exceed ten days, in which to make a determination whether to request a hearing.~~

~~(8) If a licensee fails to request a hearing within the prescribed period and the proposed summary penalty becomes effective, the licensee may petition the board in writing to set aside the penalty for good cause shown. Mere inattention on the part of a licensee is not, by itself, grounds to set aside a penalty.~~

~~(9) The board, in its discretion, may determine to issue letters of caution or admonition in lieu of directing that notice with penalty be served on a licensee or determine that a formal hearing be instituted in lieu of serving a notice with penalty on the licensee.)) (1) When an enforcement agent believes that a licensee has violated a board statute or regulation, the agent will prepare an administrative violation notice (AVN), which will include a brief narrative description of the violation(s) the agent is charging and the dates of the violation(s).~~

~~(2) The agent will give a copy of this AVN to the licensee and to the supervisor in the board enforcement region where the licensee is located.~~

~~(3) After the supervisor reviews and approves the AVN, it will be routed to the headquarters office of the enforcement and education division.~~

~~(4) After the headquarters office of the enforcement and education division reviews and concurs with the AVN, it will be routed to the office of the attorney general.~~

~~(5) An assistant attorney general will review the proposed charge to make sure it is legally sufficient. Once the assistant attorney general has approved the AVN, it will be sent to the board's hearing coordinator.~~

~~(6) The board's hearing coordinator will circulate the AVN to the board members for review.~~

~~(7) Once the board members have approved the AVN, the board's hearing coordinator will send a notice of initial board action to the licensee. This notice of initial board action will notify the licensee of the charged violation(s) and the recommended penalty as outlined in WAC 314-12-170 and 314-12-300 through WAC 314-12-340, and will offer the licensee the options outlined in WAC 314-04-007.~~

#### NEW SECTION

**WAC 314-04-006 Are the notification procedures different for an alleged first-time violation of a board statute or regulation?** (1) A board enforcement agent may immediately issue an AVN notice to a licensee without going

through the steps outlined in WAC 314-04-005 (2) through (7), under the following conditions:

(a) The charge would be the first time a licensee has violated the specific statute or regulation; and  
(b) The agent believes the standard penalty is appropriate.

(2) The AVN will contain the recommended standard penalty and will notify the licensee of the option to request an administrative hearing in writing within ten days of receipt of the AVN or to request a settlement conference.

(3) No further review will be made of the charge by the board members or by the office of the attorney general.

(4) The AVN will constitute the notice of initial board action in these cases and the remaining steps in the prehearing procedure as outlined in WAC 314-04-007 will be followed.

#### NEW SECTION

**WAC 314-04-007 What options does a licensee have once he/she receives a notice of initial board action? (1) When a licensee receives a notice of initial board action, the licensee has ten days from receipt of the notice to:**

(a) Accept the recommended penalty; or  
(b) Request a settlement conference; or  
(c) Request an administrative hearing in writing.

**(2) What are the procedures when a licensee requests a settlement conference?**

(a) If the licensee requests a settlement conference, the agent in charge or designee in the enforcement region where the licensee is located will schedule a conference with the licensee.

(b) Both the licensee and the agent in charge or designee will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the agent in charge or designee will prepare a proposed settlement agreement and will forward it to the board for approval.

(i) If the board approves the compromise, a copy of the signed settlement agreement will be sent to the licensee, and will conclude the case.

(ii) If the board does not approve the compromise, the board will notify the licensee of the decision. The licensee will be given the option of agreeing to any changes the board has made in the agreement, or of requesting an administrative hearing on the charges in writing within ten days of receipt of the notice of board action.

(d) If the licensee and the agent in charge or designee cannot reach agreement on a settlement proposal, the licensee may:

(i) Request an administrative hearing in writing within ten days of the date of the settlement conference; or  
(ii) Agree to accept the originally recommended penalty.

**(3) What are the procedures when a licensee requests an administrative hearing?**

(a) If the licensee requests an administrative hearing in writing within ten days, it is conducted pursuant to chapter 34.05 RCW and WAC 314-04-010.

(b) The penalty recommendation will be based upon written guidelines.

(c) The penalty recommendation may be a letter of admonition, a license suspension, a license revocation, or a license suspension with a monetary alternative to be paid by the licensee in lieu of suspension.

**(4) What will happen during the administrative hearing?**

(a) When the licensee requests an administrative hearing, the board's hearing coordinator will notify the assistant attorney general.

(b) The assistant attorney general will draft an administrative complaint and send it to the licensee and to the office of administrative hearings.

(c) The office of administrative hearings will schedule the hearing date, and notify the licensee and their attorney and the assistant attorney general in writing of the hearing date, time, and location.

(d) The hearing will be conducted by an administrative law judge assigned by the office of administrative hearings. Subpoenas may be issued by an attorney for any party, or by the assigned administrative law judge.

(e) At the hearing, the assistant attorney general or a designee will present witnesses and other evidence to prove the charges on behalf of the board's enforcement staff.

(f) At the hearing, the licensee may be represented by an attorney or may choose to represent himself or herself.

**(5) What will happen after the administrative hearing?**

(a) Following the hearing, the administrative law judge will prepare an initial order and send it to the licensee and the assistant attorney general.

(b) Either the licensee or the assistant attorney general may file a petition for review of the initial order with the liquor control board within twenty days of the date of service of the initial order. The petition for review must:

(i) Specify the portions of the initial order to which exception is taken;

(ii) Refer to the evidence of record which is relied upon to support the petition; and

(iii) Be filed with the liquor control board within twenty days of the date of service of the petition.

(iv) Copies of the reply must be mailed to all other parties or their representatives at the time the reply is filed.

(c) The administrative record, the initial order, and any exceptions filed by the parties will be circulated to the board members for review.

(d) Following this review, the board will enter a final order which is appealable under the provisions of RCW 34.05.510 through 34.05.598 (Washington Administrative Procedure Act).

**WSR 99-08-015**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed March 29, 1999, 2:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-22-097.

Title of Rule: WAC 388-452-0005 Interview requirements.

Purpose: Waive the requirement of a face-to-face interview for family-related medical programs.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530.

Statute Being Implemented: 42 CFR 435.907.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, Mailstop 45530, Olympia, WA 98504-5530, (360) 753-7462.

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

Rule is necessary because of federal law, 42 CFR 435.907.

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses. It concerns eligibility policy and affects only clients and staff.

RCW 34.05.328 applies to this rule adoption. This proposed WAC is incorporating federal regulations. DSHS is exempt from preparing a cost benefit analysis under RCW 34.05.328 (5)(b)(vii).

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on May 11, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by April 30, 1999, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by May 11, 1999.

Date of Intended Adoption: May 12, 1999.

March 26, 1999

Edith M. Rice, Chief  
Office of Legal Affairs

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-452-0005 Interview requirements. (1)**  
~~((Persons applying for assistance programs have a single in-office interview unless an alternate type of interview is requested and approved. The interview is conducted in:~~

## WSR 99-08-019

## PROPOSED RULES

YAKIMA VALLEY  
COMMUNITY COLLEGE

[Filed March 29, 1999, 2:18 p.m.]

~~(a) A community services office; or~~

~~(b) A Social Security Administration district office for SSI applicant or recipient assistance units applying for food assistance programs))~~ When the client's application or review is for a combination of cash, food, or medical programs the department requires only a single interview.

~~(2) ((The person who attends the eligibility interview is:~~

~~(a) For food assistance, a responsible member of the assistance unit or an authorized representative as defined in WAC 388-462-0005; or~~

~~(b) For cash assistance and medical, an applicant or someone representing the applicant when the applicant is unable to come into the office))~~ The client has an interview when they apply for or have an eligibility review for cash, food, or medical benefits. However, the client is not required to attend an interview when the client's application or review is only for medical benefits:

~~(a) For a pregnant woman;~~

~~(b) For a child under the age of nineteen;~~

~~(c) For a family with children under the age of nineteen;~~

or

~~(d) When the department has enough information to determine eligibility or can obtain the information by mail.~~

~~(3) ((TANF and SFA assistance units are required to have an in-office interview at least once every twelve months for redetermination of eligibility))~~ The client or another person who can provide information about the assistance unit must attend the interview. The client may bring another person to the interview. The client may choose another person to attend the interview for them when:

~~(a) The client cannot come to the local office for a cash or medical program eligibility determination; or~~

~~(b) The client has an authorized representative as described in WAC 388-462-0005 for food assistance.~~

~~(4) ((A client may bring anyone to the interview.~~

~~(5) Persons applying for medical only are not required to have an in-office interview when the person:~~

~~(a) Is pregnant and the application is for a pregnancy-related program; or~~

~~(b) Is applying only for a child under nineteen years of age and the application is for a medical program for children.~~

~~(6) Applicants may have an alternate type of interview rather than an in-office interview. An alternate type of interview is completed:~~

~~(a) By telephone;~~

~~(b) By a scheduled home visit; or~~

~~(c) For medical only programs, through the mail.~~

~~(7) Applicants may have an alternate type of interview when they request an alternate type and:~~

~~(a) They are unable to appoint an authorized representative;~~

~~(b) They do not have a responsible assistance unit member able to come into the office because of hardships; or~~

~~(c) For medical programs, there is adequate information to determine eligibility))~~ The department usually holds the interview at the local office. The client may have a scheduled home visit or a telephone interview if attending an interview at the local office causes a hardship for the client or the client's representative.

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-07-007.

Title of Rule: Student rights and responsibilities.

Purpose: Inform students of their rights and responsibilities while attending Yakima Valley Community College.

Statutory Authority for Adoption: RCW 28B.50.140.

Summary: Update language; update procedures for student complaints; add sexual harassment policy, expand violations to include specifics on plagiarism.

Reasons Supporting Proposal: Regulations are eighteen years old. These changes bring rights and responsibilities up to date.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jane Rider, Student Life Coordinator, HUB 110, (509) 574-4775.

Name of Proponent: Jane Rider, Student Life Coordinator, Yakima Valley Community College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Informs students of their rights and responsibilities while attending YVCC.

The purpose is to ensure that students maintain high standards of integrity and honesty; that they respect the rights, privileges and property of other members of the college community and do not interfere with legitimate college affairs and that they, in turn, receive the same guarantees.

Effects: A free, creative, and spirited educational environment for students, faculty and staff.

Proposal Changes the Following Existing Rules: Updates language; expands and details procedures for hearing student complaints including sexual harassment; adds section on plagiarism.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No impact to businesses in our area.

RCW 34.05.328 does not apply to this rule adoption. Does not apply to Yakima Valley Community College.

Hearing Location: Yakima Valley College Boardroom, on May 11, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Mark Cornett by May 6, 1999, TDD (509) 574-4961, or (509) 574-4600.

Submit Written Comments to: Jane Rider, fax (509) 574-4649, by May 10, 1999.

Date of Intended Adoption: June 5, 1999.

March 25, 1999

Suzanne M. West

Assistant to the President

PROPOSED

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

**WAC 132P-33-010 Preamble.** Yakima Valley Community College is dedicated not only to learning and the advancement of knowledge but also to the development of ethically sensitive and responsible persons. It seeks to achieve these goals through a sound educational program and policies concerning conduct that encourage independence and maturity while strengthening the spirit of mutual cooperation and responsibility shared by all members of the college community. Sharing goals held in common, the students, faculty, and staff of Yakima Valley Community College are joined in voluntary association in an educational community.

The student is, first of all, a member of the community at large, and as such, is entitled to the rights and responsibilities of any citizen of comparable age and maturity. In addition, students, as members of the college are in the unique position of being citizens of two communities, subject to the regulations imposed by both and accountable to both.

Yakima Valley Community College expects that students will respect the laws of the greater society. As an agency of the state of Washington, the college must respect and adhere to the regulations established by local, state, and federal authorities. As an educational institution, it has the added responsibility for assisting students in gaining an understanding of the law and its function, and the responsibilities imposed upon each individual in a democratic society to respect and support the legal structure which protects the individual and the society. As a functioning organization, ((#)) the college also has the responsibility to develop a set of regulations to assure the orderly conduct of the affairs of the college.

Admission to the college carries with it the expectation that students will conduct themselves as responsible members of the college community, that they will comply with the rules and regulations of the college, maintain high standards of integrity and honesty, respect the rights, privileges and property of other members of the college community and will not interfere with legitimate college affairs.

An atmosphere of learning and self-development is created by appropriate conditions in the college community. The rights and responsibilities in this document are critical ingredients in the free, creative, and spirited educational environment to which the students, faculty and staff on Yakima Valley Community College are committed.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

**WAC 132P-33-020 Definitions.** As used in this code of student rights and responsibilities the following words and phrases shall mean:

(1) "YVCC senate" means the representative governing body for students at Yakima Valley Community College recognized by the board of trustees.

(2) "Assembly" means any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons or group of persons.

(3) "Board" means the board of trustees of Community College District 16, state of Washington.

(4) "College" means Yakima Valley Community College located within Community College District 16, state of Washington.

(5) "College facilities" means and includes any or all real and personal property owned or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(6) "College personnel" refers to any person employed by Community College District 16 on a full-time or part-time basis, except those who are faculty members.

(7) "Disciplinary action" means and includes suspension or any lesser sanction of any student by the dean of students, the student hearing committee, college president, or the board of trustees for the violation of any of the provisions of the code of student rights and responsibilities for which such sanctions may be imposed.

~~((a))~~ The college president or designee shall have the authority to take any disciplinary action including the authority to suspend any student of the college ~~((for a period not to exceed ten academic calendar days.~~

~~(b) The college president or designee shall have the authority to take any disciplinary action including the authority to suspend any student of the college).~~

(8) "District" means Community College District 16, state of Washington.

(9) "Faculty member(s)" means any employee of Yakima Valley Community College who is employed on a full-time or part-time basis as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, except administrative appointments.

(10) "President" means the duly appointed chief executive officer of Yakima Valley Community College, District 16, state of Washington, or in his/her absence, the acting chief executive officer.

(11) "Recognized student organization" means and includes any group or organization composed of students which is recognized formally by the student government of the college.

(12) A "sponsored event or activity" means any activity that is scheduled by the college and is supervised and controlled by the college's faculty members or college personnel. Such sponsorship shall continue only as long as the event is supervised and controlled by the college faculty member or college personnel. When the sponsored event or activity is of a prolonged nature, and free time periods are permitted to the students participating in the event, any activity taking place during such a free time period outside of the supervision and control of the college's faculty member or college personnel responsible for the event or activity shall be deemed to be a nonsponsored activity.

(13) "Student," unless otherwise qualified, means and includes any person who is enrolled for classes or formally in the process of applying for admission to the college.

**AMENDATORY SECTION** (Amending Resolution No. 81-4, filed 12/21/81)

**WAC 132P-33-080 Freedom of association and organization.** Students bring to the campus a variety of interests previously acquired and develop many new interests as members of the college community. They are free to organize and join associations to promote any legal purpose, whether it be religious, political, educational, recreational, or social.

Student organizations must be granted a charter by the college student government before they may be officially recognized. Prior to becoming chartered, a student organization must submit to the student government a statement of purpose, criteria for membership, a statement of operating rules or procedures, and the name of a college employee who has agreed to serve as advisor. All student organizations must also submit to the student government a list of officers and keep that list updated when changes occur. In order to qualify for issuance of a charter, a student organization must be open to all students without respect to race, sex, creed, or national origin, except for religious qualifications which may be required by organizations whose aims are primarily sectarian, or for other reasonable justifications which are directly related to the purposes of the organization. Affiliation with a noncampus organization shall not be grounds for denial of a charter provided that other conditions for the charter issuance have been met.

**AMENDATORY SECTION** (Amending Resolution No. 81-4, filed 12/21/81)

**WAC 132P-33-100 Student records.** In compliance with the Family Educational Rights and Privacy Act, this policy has been created to insure continued confidentiality of student records at the college and govern the release of personally identifiable information contained within.

(1) **Education record.** Education records are defined as those records, files, and documents containing information directly pertaining to a student. At Yakima Valley Community College these are:

- (a) Records pertaining to admission, advisement, registration, grading and progress ((t)) toward a degree that are maintained by the registrar.
- (b) Testing information used for advisement and counseling purposes by the counseling center.
- (c) Information concerning payment of fees as maintained by the business office.
- (d) Financial aid information as collected by the financial aid office.
- (e) Information regarding students participating in student government or athletics that is maintained by the student programs office.

(2) **Access to education records.** Students who are or have attended the college have the right to examine or review their personal records, as defined above, by submitting to the registrar a written request indicating education records to which access is desired.

Note: Charges may be assessed for reproduced copies of education records.

(3) **Directory information.** The following information is considered "directory information" and thus may be disclosed without consent of the student, unless otherwise directed by the student, at any time, to the registrar in writing: The student's name, address, telephone number, date and place of birth, major field of study, eligibility for and participation in officially recognized activities, organizations, and sports, weight and height of members of athletic teams, dates of attendance, honor roll, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(4) **Disclosure from education records.** In addition to directory information the college will, at its discretion, make disclosures from education records of students with the student's prior written consent or to the following listed parties:

(a) College officials including college administrative and clerical staff, faculty, and students where officially elected or appointed to the ASYVCC senate or employed by the college. Access or release of records to the above is permissible only when the information is required for advisement, counseling, record keeping, reporting, or other legitimate educational interest consonant with their specific duties and responsibilities.

(b) To officials of another school in which the student seeks or intends to enroll.

(c) To authorized federal, state, or local officials as required by law.

(d) In connection with financial aid for which the student has applied or received.

(e) To accrediting organization, or organizations conducting studies for or on behalf of the institution.

(f) To appropriate parties in a health or safety emergency.

(g) To parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1954, upon receipt of a written affidavit stating that the student is a dependent for income tax purposes. This, however, will not affect the other rights of the student.

In cases where consent of the student is required for release of education records, the student shall in writing, signed and dated by the student, specify: The records to be disclosed, the purpose or purposes of the disclosure, and the name of the party or parties to whom the disclosure can be made.

When personally identifiable information is released without prior consent of the student, other than directory information and information released to college officials or the student, the college official in charge of these records will record the names of the parties who have requested information from education records and the nature of the interest in that information.

Educational records released to third parties shall be accompanied by a statement indicating that the information cannot be subsequently released in a personally identifiable form to other parties without obtaining the consent of the student. The college is not precluded from permitting their party disclosures to other parties listed in subsection (4)(a) through (g) of this section.

(5) **Challenge of education records.** Students who believe that information contained in their education records

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is inaccurate, misleading or violates the privacy of other rights of the student may request in writing to the appropriate college official that the college amend their record(s). The college official(s) will make every effort to settle disputes through informal meetings and discussion with the student.

In instances where disputes regarding contents of education records cannot be resolved by the parties concerned, the college official involved shall advise the student of the right to a hearing through a written request to the registrar or dean of students. Should the registrar or dean of students deem that the education records in question are inaccurate or misleading, he or she can ask that the records be amended by the appropriate college official. If the education records are held to be accurate, the student shall be granted the opportunity to place within those records a personal statement commenting upon the information contained within.

Each eligible student is afforded the right to file a complaint concerning alleged failures by the college to comply with the requirements of the act. The address of the office designated to investigate, process, and review violations and complaints which are filed is:

The Family Educational Rights and  
Privacy Act Office (FERPA)  
Department of Health, Education, and Welfare  
330 Independence Avenue, SW  
Washington, DC 20201

Copies of the Federal Register pertaining to the Family Education Rights and Privacy Act may be obtained from:

Superintendent of Documents  
US Government Printing Office  
Washington, DC 20402

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

**WAC 132P-33-120 Student complaints.** Student complaints regarding academic employees (faculty) are governed by the negotiated policy agreement between the faculty and college board of trustees. (~~Students with complaints about academic employees may contact the dean of students, director of student programs and activities, or division chairs for further information.~~)

Complaints regarding the staff and administrators shall be brought to the attention of the appropriate dean or the college president.

Any enrolled student who has a complaint concerning an alleged violation of his or her rights as a student of Yakima Valley Community College, has the opportunity to seek resolution of such complaint. A complaint under this section is defined as a violation of a legal right or a discriminatory act made against a student based upon his or her gender, color, race, national origin, age, religion, disability, or veteran status.

Any student who wishes to file a formal complaint against the president of the college shall submit his or her complaint directly to the board of trustees of Community College District 16.

A student who wishes to file a formal complaint against an administrator (other than the college president), or staff member must address the complaint to the dean of student within ten working days of the alleged act or acts. All complaints must be submitted in writing as detailed by the Yakima Valley Community College formal complaint form. A complaint made by a recognized student group must also include the written minutes from the meeting in which the student group voted to file a formal complaint and the complaint must be signed by the president of the student group. Any administrator or staff member who has a formal complaint filed against him or her has the right to be informed of the complaint and the allegations within two working days of its filing. An impartial investigation will take place in order to obtain the necessary facts. Any person contacted through this investigation process shall treat any information, including, but not limited to, the questions being asked, the names of the complainant and/or the administrator or staff person and the allegations themselves as confidential and shall not publicly discuss any information as stated above nor the allegations until such time as a hearing has been held or other resolution to this complaint has been made.

At any time during this process, the administrator or staff person involved shall retain his/her due process rights with regard to disciplinary action, including, but not limited to, the right to have a representative of his/her own choosing present at any or all meetings involving the alleged complaint.

The investigation shall provide facts involving the alleged allegation(s) and at a minimum include a taped interview of the complainant, the individual alleged to have committed a violation of rights or an act of discrimination, and any witnesses to the alleged conduct. Students may request a representative from the associated student body of Yakima Valley Community College to attend any meeting required during the investigative process. At no time shall any representative interfere with the investigation. The investigation shall commence within two weeks of receipt of the formal complaint and the independent investigator shall make a non-binding recommendation to the dean of students stating that the complaint is unfounded or that the complaint has merit. The student life coordinator shall file a written report with the dean of students who shall notify and submit documentation to the dean, vice-president, or college president, as appropriate, within thirty days of receipt of the investigation report recommending one of the following three outcomes:

(1) The complaint is without merit and no further action is warranted;

(2) There is an agreed upon negotiated settlement of the matter; or

(3) The complaint has merit and further action should be taken.

Should disciplinary action be recommended, all steps as outlined in the negotiated agreements between the board of trustees of Yakima Valley Community College and the staff, and all applicable laws, shall be followed. Should disciplinary action be recommended with regard to an administrator, the determination shall be made by the immediate supervisor and/or the college president, as deemed appropriate.

Complaints that do not deal with gender, color, race, national origin, age, religion, disability, or veteran status, will

first follow an informal process in which the dean of the department in which the complaint has originated, or the supervisor of the person of which the complaint is directed, will be notified and steps will be taken to informally resolve the complaints. If the complaint cannot be resolved informally, the above procedures will be implemented. Formal complaint forms can be obtained from the student life coordinator and the dean of students.

## NEW SECTION

**WAC 132P-33-123 Sexual harassment policy.** The college is committed to eliminating sexual harassment and providing an environment respecting the dignity of employees and students. Sexual harassment demonstrates a lack of decency, integrity, and professionalism. It debases the workplace and classroom environment.

(1) Definition. Sexual harassment is a form of sex discrimination. It occurs in a variety of situations which share a common element: The inappropriate introduction of sexual activities or comments into the work or learning situation. Often, sexual harassment involves relationships of unequal power and contains elements of coercion, as when compliance with requests for sexual favors becomes a criterion for granting work, study, or grading benefits. However, sexual harassment may also involve relationships among equals, as when repeated sexual advances or demeaning verbal behavior have a harmful effect on a person's ability to study or work in the academic setting.

(2) General. For general policy purposes, the term sexual harassment may include, without limitation, such behavior as unwelcome sexual advances, requests for sexual favors and other physical or verbal conduct and expressive behavior of a sexual nature where:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education.

(b) Submission to, or rejection of, such conduct by an individual is used as the basis for academic or employment decisions affecting that individual.

(c) Such conduct has the purpose or effect of interfering with an individual's academic or professional performance or creating an intimidating, hostile, demeaning employment or educational environment.

(3) Grievance procedures.

(a) A student who feels he/she has been subjected to harassment should report the incident(s) to the "college representative." Students who are contacted by another student or college employee regarding a sexual harassment grievance should direct those grieving to the college representative.

(b) The student life coordinator for students. The college representative shall be the ombudsman between the person allegedly subjected to harassment and the grievance process and procedure. The college representative may, in any appropriate case and with the written authorization of the president, designate another employee of the college to act as the college representative. Any person so designated shall in all ways act with the authority of the college representative.

(c) The college representative will provide a supportive, receptive, and confidential environment while listening to the grievant's concern.

(d) The college representative will delineate and discuss with the student, available options in handling and coping with their situation.

(e) The college representative shall provide guidance and referral to available support services, assistance in weighing the options, and potential dangers.

(f) The student who files a grievance complaining of sexual harassment (the grievant) may be accompanied by a friend or advisor when reporting the incident to the college representative.

(g) The grievant may also submit a brief written statement including the date, place, time, status of the accused, and a description of the circumstances and events that occurred.

(h) After the college representative has heard the grievant's complaint and has suggested any available support services, the college representative shall investigate the complaint. An investigation shall be conducted in all cases unless the grievant, after meeting with the college representative, decides to withdraw the grievance.

(i) The college representative's investigation shall be based upon specific information. Charges may be submitted in writing by the grievant or prepared by the college representative and approved by the grievant.

(j) Investigation of complaints shall be kept in confidence and designed to protect the rights of both the grievant and the party accused (respondent).

(k) The college representative shall provide the respondent with a copy of the written charges. The respondent must reply in writing within five calendar days of receipt of the charges.

(l) The college representative will conduct a thorough investigation including, but not limited to, providing both the grievant and respondent the opportunity to state their positions and interview witnesses. The investigation shall be concluded within ninety days of receipt of written complaint. During the course of the investigation the grievant and respondent shall be included in the process and have access to the relevant documentation.

(m) Records will be kept during the investigation and shall be kept in a confidential manner by the college representative.

(n) Retaliation against the grievant during or after the grievance process is expressly forbidden and constitutes grounds for a separate grievance or other institutional action.

(o) At the close of the investigation, the college representative shall reduce his/her findings and recommendations to writing and shall present those findings and recommendations to the "appointing authority" where the respondent is a college employee, or the "disciplinary authority" where the respondent is a college student.

(p) The appointing authority/disciplinary authority shall consider the findings and recommendations of the college representative. Following consideration, the appointing authority/disciplinary authority shall determine whether or not disciplinary/corrective action is warranted. The grievant

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shall be advised of college action on her/his grievance at that time.

(q) Should the appointing authority determine that disciplinary/corrective action should be considered, applicable provisions of employee rights and responsibilities shall be utilized. These include, but are not limited to, state and federal constitutional and statutory provisions, rules of the state personnel resources board, collective bargaining agreements and college policies.

#### NEW SECTION

##### **WAC 132P-33-125 Complaints against academic employees in accordance with the negotiated agreement.**

In any instance where an administrator of the district receives a substantive complaint about the performance of an academic employee from students or the public or from personnel in the district, the administrator shall so notify the employee's supervising administrator and shall refer the complaint to that administrator. The academic employee shall be notified of the complaint by the supervising administrator within thirty days of the administration's first cognizance of the complaint.

The supervising administrator and the academic employee shall then meet in a timely manner to discuss the complaint informally and, if possible, to resolve it. Such meeting shall normally take place during the academic employee's assignment period and shall ordinarily (except under extraordinary or emergency circumstances) be held prior to any other investigation of the complaint. If disciplinary action is deemed appropriate by the supervising administrator following such meeting(s), he or she shall proceed in accordance with Section 15.4 regarding progressive discipline.

No disciplinary action shall result from a complaint unless the complaint has been reduced to writing, dated, and signed by the complainant and presented to the affected employee by the supervising administrator prior to any such disciplinary action.

Nothing in this section shall be construed as taking the place of normal evaluation procedures as required elsewhere in this agreement, nor as taking the place of dismissal procedures as set forth in Article XI of this agreement. The employee shall have the right to YVCFT representation in implementation of this section.

#### AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

**WAC 132P-33-130 Distribution and posting of materials.** The college encourages free expression. Use of college facilities as provided herein, however, does not accord users immunity from legal action.

Permission for posting of literature in the various restricted areas provided therefore, shall be obtained from the following college officials:

(1) The ~~((director of student programs))~~ student life coordinator for posting on the restricted posting areas of the HUB and those areas located on the campus outside of college buildings.

(2) Deans and directors for posting on the restricted posting areas provided in the appropriate college facility.

ASYVCC campaign rules govern special poster and sign locations for elections. Information on these special policies and regulations is available in the ASYVCC office.

Posting of posters, signs, and other publicity or promotional materials is permitted only in the locations specified above. All material sought to be posted in restricted posting areas must have the identity of its sponsorship appearing on its face.

The dissemination or distribution of materials by persons on the public streets, walks and ways of the campus or off-campus college facility, shall be subject to the laws of the particular city, state of Washington, and the United States.

Permission for the dissemination or distribution of materials in other areas of the college campus, buildings and facilities shall be obtained from the ~~((director of student programs))~~ student life coordinator. Persons distributing materials without permission shall be subject to the provisions of the *Code of student rights and responsibilities*.

#### AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

**WAC 132P-33-150 Use of college facilities.** Any recognized ASYVCC organization may request approval from the ~~((director of student programs))~~ student life coordinator to utilize available college facilities for authorized activities as provided for in official ASYVCC documents. Facilities will be provided free of charge to the organization except when such use necessitates staffing and services beyond regular college requirements. Standard college fees will be charged in these cases.

Use of facilities for purposes other than those approved or in an irresponsible manner may result in withdrawal of this privilege for an organization.

Student organizations should schedule facility use requests with the director of student programs as far in advance as possible.

#### NEW SECTION

**WAC 132P-33-155 Electronic communication policy.** The following is a general policy:

(1) Computer and network use at Yakima Valley Community College must be consistent with the mission, policies, and procedures of the college and applicable federal, state, and local laws and regulations. Yakima Valley Community College computers and networking facilities are primarily designated for educational and research purposes.

(2) Users must respect the rights and property of others. Users must not improperly access, misuse, send, or misappropriate information or files. Unauthorized access to systems, software, or data is prohibited.

(3) Yakima Valley Community College computers and network facilities must not be used for commercial purposes or private gain.

(4) Yakima Valley Community College computers and network facilities must not be used to transmit or solicit the transmission of any communication in any form where the

content and/or meaning of the message transmitted or distributed would violate any applicable law or regulation.

(5) Users of Yakima Valley Community College computers and network facilities must promote efficient use of the networks. Users must minimize and avoid unnecessary network traffic which might interfere or negatively impact the work of other users of the YVCC network or connected networks. Uses that significantly interfere with the ability of others to make effective use of the network or which disrupt the YVCC network or any connected networks, systems, services, or equipment are prohibited.

(6) Interpretation, application, and modification of this policy will be at the sole discretion of Yakima Valley Community College. Violations may result in loss of computer and network privileges and other penalties as applicable under YVCC policies and federal, state, and local laws and regulations.

(7) Yakima Valley Community College makes no warranty of any kind, expressed or implied, regarding computer resources or services, or the contents of resources or electronic messages over the YVCC campus network or connected networks. Yakima Valley Community College will not be liable in any event for incidental or consequential damages, direct or indirect, resulting from the use of the YVCC campus network or network services.

**AMENDATORY SECTION** (Amending Resolution No. 81-4, filed 12/21/81)

**WAC 132P-33-160 Noncollege speaker policy.** The trustees, the administration, and the faculty of the college subscribe to the proposition that an important aspect of the education of college students is the opportunity to listen to speakers representing a wide variety of opinions and beliefs on important public issues. In conformity with the American tradition of free speech and free inquiry, the following policies are established governing the appearance on campus of speakers not themselves members of the college community:

(1) Any recognized ASYVCC student organization with the written sanction of its advisor, may ask individuals to speak on the campus subject to normal restraints imposed by considerations of common decency and the state law.

(2) The appearance of a speaker on the campus does not involve an endorsement, either implicit or explicit, of the speaker's views by the college, its students, its faculty, its administration, or its board of trustees.

(3) The scheduling of facilities for hearing invited speakers shall be made through the office of the ~~((director of student programs))~~ student life coordinator.

(4) The ~~((director of student programs))~~ student life coordinator or designee will be notified at least three academic calendar days prior to the appearance of an invited speaker, at which time a form (available in the student programs office) must be completed with such particulars as name of speaker, speech or discussion topic, time of appearance(s) and sponsoring organization. The form must bear the signature of the sponsoring organization's advisor. Exceptions to the three day ruling may be made by the ~~((director of student programs))~~ student life coordinator with the approval of the dean of students.

(5) The dean of students may require views other than those of the invited speaker to be presented at the meeting, or at a subsequent meeting. The campus president may assign a faculty member to preside over any meeting where a speaker has been invited.

**AMENDATORY SECTION** (Amending Resolution No. 81-4, filed 12/21/81)

**WAC 132P-33-170 Violations.** Any student shall be subject to immediate disciplinary action provided for in code procedures and summary suspension rules who, either as a principal actor or aider or abettor:

(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college;

(2) Violates any provision of the *Code of student rights and responsibilities*;

(3) Commits any of the following acts which are hereby prohibited:

(a) All forms of dishonesty including cheating, plagiarism, knowingly furnishing false information to the college, and forgery, alteration or use of college documents or instruments of identification with intent to defraud.

(b) Failure to comply with lawful directions of faculty, administrators and other regularly employed personnel acting in performance of their lawful duties.

(c) Conduct which intentionally and substantially obstructs or disrupts freedom of movement, teaching, research administration, disciplinary proceedings or other lawful activities on the college campus.

(d) Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on college-owned or controlled property or at college-sponsored or supervised functions.

(e) Malicious damage to or malicious misuse of college property, or the property of any person where such property is located on the college campus.

(f) Refusal to comply with any lawful order to leave the college campus or any portion thereof.

(g) Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on the college campus, except for authorized college purposes; unless prior written approval has been obtained from the dean of students, or any other person designated by the campus president.

(h) Intentionally inciting others to engage immediately in any of the conduct prohibited herein, which incitement leads directly to such conduct. (Inciting is that advocacy which prepares the group addressed for imminent action and steers it to the conduct prohibited herein.)

(i) Possessing, consuming or furnishing of alcoholic beverages on college-owned or controlled property or at college-sponsored or supervised functions where prohibited by law.

(j) Disorderly conduct, including disorderly conduct resulting from drunkenness.

(k) Engaging in lewd, indecent, or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

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(l) Using, possessing, furnishing, or selling any narcotic or dangerous drug as those terms are used in Washington statutes, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist.

(m) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(n) Theft or conversion of college property or private property.

(o) Entering any administrative office or any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

(p) Buying, copying, borrowing, or otherwise plagiarizing another's images, ideas, evidence, examples, opinions, or other original products or documents from published, unpublished, or electronic sources for the purpose of deceiving an instructor as to the product's origination.

(q) Plagiarism is "the wrongful act of taking the product of another person's mind and presenting it as one's own" (qtd. In MLA Handbook for Writers of Research Papers, 4th Edition, 26). Plagiarism occurs when an author fails to give credit for:

- Someone else's words;
- Someone else's examples;
- Someone else's ideas or opinions;
- Statistics or other facts compiled by someone else;
- Evidence or testimony taken from someone else's argument;
- An image from another artist.

(i) YVCC recognizes two types of plagiarism: Intentional and unintentional. Intentional plagiarism is the dishonest act of appropriating another's ideas, words, facts, opinions, or images with the intent to deceive others about the document's origin. Any student found to have committed intentional plagiarism shall be subject to disciplinary actions provided for in the Code Procedures and Summary Suspension Rules.

(ii) Students may also commit plagiarism without intent to deceive. A student's intent to deceive shall be taken into account when instructors evaluate an act of plagiarism. All forms of plagiarism which an instructor determines to be unintentional should be treated as instructional problems to be handled within the student/instructor relationship with the instructor following, but not limited by, the penalty guideline below:

(A) Student must resubmit the assignment after instruction but before an agreed upon due date.

(B) Student can receive a lowered grade on the assignment, including "F."

(C) Student can be advised to seek aid from the writing center or tutoring center as a condition before receiving a grade or resubmitting an assignment.

The instructor need not take formal disciplinary action for unintentional plagiarism.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

**WAC 132P-33-210 Appeals.** (1) Appeals contesting recommendations of disciplinary action(s) shall be taken in the following order:

(a) Disciplinary action taken by or at the recommendation of the dean of students or designated representative may be appealed to the student hearing committee;

(b) Disciplinary recommendations made by the student hearing committee may be appealed by the student to the college president; in the case of a recommendation for suspension it may also be appealed to the college president; all decisions by the president or designee are final.

~~((c) Disciplinary action taken by the college president and resulting in suspension exceeding in duration one college quarter may be appealed by the student to the board of trustees and their decision shall be final.))~~

(2) All appeals by a student must be made in writing to the committee, college president or designee or board of trustees ~~((and presented to the committee, college president or designee or chairman of the board of trustees))~~ within ten calendar days after the student has been notified of the action from which he/she has a right of appeal.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

**WAC 132P-33-220 Student hearing committee.** (1) **Composition.** The college shall have a standing committee composed of nine members, who shall be chosen and appointed no later than October 15 of each year to serve as a standing committee until their successors are appointed. The membership of the standing committee shall consist of three members of the administration, excepting the dean of students, chosen by the college president; three faculty members chosen by the faculty organization; and three students chosen by the ASYVCC senate. Any student entitled to a hearing before a student hearing committee shall choose, in writing, five members of the standing committee to hear and decide the appeal, provided, the student must choose at least one student, one faculty member and one member of the administration from the nine member standing committee. The balance of the student hearing committee, two members, may be chosen from the remainder of the standing committee, provided that both shall not be from the same classification. If a hearing is to be conducted for a student from a specialized program (i.e., allied health, vocational-technical), an additional member will be appointed to the hearing committee by the division involved. In the event that unforeseen circumstances prevent a previously selected committee member from attending the hearing, the student must choose a replacement from among the balance of the standing committee.

(2) **Procedures for hearing.**

(a) Five members of the student hearing committee will hear, de novo, and make recommendations to the college president or designee on all disciplinary cases appealed to the committee by the student or referred to it by the dean of students or designated representative. Recommendations

involving suspension will be referred to the college president or designee.

(b) The student hearing committee shall elect from among its five members a ((~~chairman~~)) chair for the purpose of presiding at the disciplinary hearing.

(c) Hearings generally will be held in closed session, except when a student requests that persons other than those directly involved be invited to attend. If at any time during the conduct of a hearing any person is disruptive of the proceedings, the ((~~chairman~~)) chair of the student hearing committee may exclude such person from the hearing room.

(d) The student has a right to a fair and impartial hearing before the committee on any charge of violating a provision or provisions of the *Code of student rights and responsibilities*. The student's failure to cooperate with the hearing procedures hereinafter outlined, however, shall not preclude the committee from making its findings of fact, conclusions and recommendations as provided below. Failure by the student to cooperate may be taken into consideration by the committee in recommending to the college president or designee the appropriate disciplinary action.

(e) The student shall be given written notice of the time and place of the hearing before the committee. Said notice shall contain:

(i) A statement of the date, time, place and nature of the disciplinary proceedings;

(ii) A statement of the specific charges against the student including references to the particular sections of the *Code of student rights and responsibilities* involved;

(iii) To the extent known, a list of witnesses who will appear and a summary description of any documentary or other physical evidence that will be presented by the college at the hearing.

(f) The student shall be entitled to hear and examine the evidence against him/her and be informed of the identity of its source; the student shall be entitled to present evidence in his/her own behalf and cross-examine witnesses testifying against him/her as to factual matters. The student shall have all authority possessed by the college to obtain information that the student specifically describes, in writing, and tenders to the dean of students no later than three days prior to the hearings or to request the presence of witnesses or the production of other evidence relevant to the hearings.

(g) The student may be represented by counsel of his/her choice at the disciplinary hearings. If the student elects to choose a duly licensed attorney admitted to practice in any state in the United States as counsel, the student must tender three days notice thereof to the dean of students.

(h) In all disciplinary proceedings the college may be represented by the dean of students or designee; the dean of students may then present the college's case against the student accused of violating the *Code of student rights and responsibilities*, provided, that in those cases in which the student elects to be represented by a licensed attorney, the dean of students may elect to have the college represented by an assistant attorney general.

(i) The proceedings of the hearing shall be recorded. A copy thereof shall be on file at the office of the dean of students.

(j) The time of the hearing may be advanced by the committee at the request of the student or continued for good cause.

**(3) Admissible evidence.**

(a) Only those matters presented at the hearing in the presence of the accused student will be considered in determining whether the student hearing committee has sufficient cause to believe that the accused student is guilty of violating the rules that the student is charged with having violated.

(b) In determining whether sufficient cause, as stated in the preceding paragraph (a) of this subsection, does exist, members of the student hearing committee shall give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs.

(c) The ((~~chairman~~)) chair of the student hearing committee shall, in the course of presiding at the disciplinary hearing, give effect to the rules of privilege recognized by law and exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

(4) **Interference with proceedings.** Any student interfering with the proceedings of the meeting with the dean of students or the formal hearing or any subsequent hearing shall be in contempt of the proceedings and may be summarily suspended from the college by the dean of students or the student hearing committee or the college president or designee, ((~~or the board of trustees at the time the interference takes place or~~)) within fifteen academic calendar days thereafter.

**(5) Decision by the committee.**

(a) Upon conclusion of the disciplinary hearing, the student hearing committee shall consider all the evidence therein presented and decide by majority vote whether to recommend to the college president or designee the following actions:

(i) That the college terminate the proceedings and exonerate the student or students;

(ii) That the college impose minor sanctions directly, such as, but not limited to, a warning, reprimand, fine, restitution, or disciplinary probation;

(iii) That the student be suspended from college including a recommendation of the duration of suspension.

(b) The student shall be provided with a copy of the committee's findings of fact and conclusions regarding whether the student did violate any rule or rules of the *Code of student rights and responsibilities* and the committee's recommendation to the college president or designee. The committee shall also advise the student in writing of the right to present within ten calendar days, a written statement to the college president or designee appealing the recommendation of the committee.

**AMENDATORY SECTION** (Amending Resolution No. 81-4, filed 12/21/81)

**WAC 132P-33-230 Final decision regarding disciplinary sanction.** (1) The college president or designee (except the dean of students) shall, after reviewing the record of the case prepared by the student hearing committee together with any statement filed by the student, include therein a written acceptance of the recommendations of the

committee, or written directions as to what (~~less disciplinary~~) sanction shall be taken.

(2) If the college president or designee decides that discipline is to be imposed after the review provided by subsection (1) of this section, the college president or designee shall notify the student in writing of the discipline imposed.

(3) In all cases of disciplinary action, the decision of the college president or designee shall be final (~~except for those cases involving suspension if the suspension has been appealed to the board~~).

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

**WAC 132P-33-260 Reestablishment of academic standings.** Students who have been suspended pursuant to disciplinary procedures set forth in code procedures of summary suspension rules, and whose suspension upon appeal is found to have been unwarranted shall be provided the opportunity to reestablish their academic and student standing (~~to the extent possible within the abilities of the college~~) pursuant to college policy, including an opportunity to retake examinations or otherwise complete course offerings missed by reason of such action.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

**WAC 132P-33-270 Initiation of summary suspension proceedings.** The college president or designee may suspend any student of the college (~~for not more than ten academic calendar days~~) pending investigation, action or (~~persecution~~) prosecution on charges of an alleged *Code of student rights and responsibilities* violation or violations, and if the college president or designee has reason to believe the student's physical or emotional safety and well-being, or the safety and well-being of the other college community members, or the safety and well-being of the college property command such suspension.

**WSR 99-08-028**

**PROPOSED RULES**

**DEPARTMENT OF LICENSING**

[Filed March 30, 1999, 2:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-23-048.

Title of Rule: WAC 308-125-090 Continuing education required.

Purpose: To establish the minimum hours for continuing education courses and seminars.

Statutory Authority for Adoption: RCW 18.140.030(8).

Statute Being Implemented: Chapter 18.140 RCW.

Summary: To amend the minimum hours for continuing education courses and seminars as established in WAC 308-125-030.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cleotis Borner, Jr., Olympia, (360) 753-1062.

Name of Proponent: Department of Licensing, Real Estate Appraiser Program, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To amend the established minimum hours for continuing education courses and seminars.

Proposal Changes the Following Existing Rules: Establish minimum hours for continuing education courses and seminars.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule only amends the minimum hours for continuing education hours for courses and seminars.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Department of Licensing, Business and Professions Division, 405 Black Lake Boulevard, Building #2 Conference Room, Olympia, WA, on Friday, May 11, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Ralph Birkedahl by May 5, 1999, TDD (360) 753-1966, or (360) 753-1062.

Submit Written Comments to: Cleotis Borner, Jr., Real Estate Appraiser Program, P.O. Box 9015, Olympia, WA 98507-9015, fax (360) 586-0998, by May 10, 1999.

Date of Intended Adoption: May 14, 1999.

March 30, 1999  
Cleotis Borner, Jr.  
Program Manager

AMENDATORY SECTION (Amending WSR 97-02-004, filed 12/20/96, effective 1/20/97)

**WAC 308-125-090 Continuing education required.**

(1) As a prerequisite to renewal of certification or licensure, the holder of a certificate or license shall present evidence satisfactory to the director of successful completion of the continuing education requirements of this section.

(2) The continuing education requirements for renewal of certification or licensure shall be the completion by the applicant of twenty classroom hours of instruction in courses or seminars which have received the approval of the director. Courses must be completed within the term of certification or licensure immediately preceding renewal: Provided, That effective January 1, 1998, the number of classroom hours is twenty-eight; further, every other renewal period, the holder of a certificate or license will present evidence of successful completion of at least fifteen hours of approved USPAP related continuing education. The hours of USPAP education may be included in the total education hours submitted for both the current and previous renewal periods.

(3) In order for courses or seminars to be accepted under subsection (2) of this section, the course or seminar must be a minimum of (~~four~~) two hours in length and be directly related to real estate appraising. However, a maximum of

PROPOSED

one-half of the continuing education hours required for renewal can be in two-hour seminars or courses.

(4) An examination is not required for courses or seminars taken for continuing education classroom hours. The exception is the fifteen-hour Uniform Standards of Professional Appraisal Practice (USPAP) course when required by the course provider.

(5) The requirement under subsection (2) of this section may be met by participation other than as a student in educational process and programs approved by the director including teaching, program development, and authorship of textbooks and other written instructional materials.

(6) Courses or seminars taken to satisfy the continuing education requirement for general real estate appraisers, should include coverage of real estate appraisal related topics, such as:

- (a) Ad valorem taxation.
- (b) Arbitrations.
- (c) Business courses related to practice of real estate.
- (d) Construction estimating.
- (e) Ethics and standards of professional practice.
- (f) Land use planning, zoning, and taxation.
- (g) Management, leasing, brokerage, timesharing.
- (h) Property development.
- (i) Real estate appraisal (valuations/evaluations).
- (j) Real estate financing and investment.
- (k) Real estate law.
- (l) Real estate litigation.
- (m) Real estate related computer applications.
- (n) Real estate securities and syndication.
- (o) Real property exchange.
- (p) Such other presentations approved by the director.

(7) Courses or seminars taken to satisfy the continuing education requirement for residential real estate appraisers should include coverage of real estate appraisal related topics, such as:

- (a) Ad valorem taxation.
- (b) Business courses related to practice of real estate.
- (c) Construction estimation.
- (d) Ethics and standards of professional practice.
- (e) Land use planning, zoning, taxation.
- (f) Property development.
- (g) Real estate financing and investment.
- (h) Real estate law.
- (i) Real estate related computer applications.
- (j) Real estate securities and syndication.
- (k) Real property exchange.
- (l) Real estate feasibility and marketability studies.
- (m) Such other presentations approved by the director.
- (n) Real estate securities and syndication.
- (o) Real estate property exchange.
- (p) Such other presentations approved by the director.

(8) Courses or seminars taken to satisfy the continuing education requirement for licensed real estate appraisers should include coverage of real estate appraisal related topics, such as:

- (a) Ad valorem taxation.
- (b) Arbitration.
- (c) Business courses related to practice of real estate appraisal.

- (d) Construction estimating.
- (e) Ethics and standards of professional practice.
- (f) Land use planning, zoning, and taxation.
- (g) Management, leasing brokerage, timesharing.
- (h) Property development.
- (i) Real estate appraisal (valuations/evaluations).
- (j) Real estate law.
- (k) Real estate litigation.
- (l) Real estate financing and investment.
- (m) Real estate appraisal related computer applications.
- (n) Real estate securities and syndication.
- (o) Real property exchange.
- (p) Such other presentations approved by the director.

### WSR 99-08-030

#### PROPOSED RULES

#### THE EVERGREEN STATE COLLEGE

[Filed March 30, 1999, 4:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-05-056.

Title of Rule: WAC 174-280-015 and 174-280-030, Student Conduct Code—Disciplinary records of students.

Purpose: To amend some sections and allow revision on others related to release of student disciplinary hearing records.

Other Identifying Information: This rule is regulated by the Department of Education and their rules.

Statutory Authority for Adoption: RCW 28B.40.-120(12).

Summary: Amendment to WAC 174-280-015, add definition for "crime of violence" and/or "sex offense(s)"; and amendment to WAC 174-280-030, add paragraph stating that results of campus disciplinary action(s) involving a crime of violence and/or sex offense(s) will be disclosed only after a finding has been made and appeal options have been exhausted.

Reasons Supporting Proposal: To be consistent with regulatory language of the Department of Education.

Name of Agency Personnel Responsible for Drafting: Lee Lambert, TESC Library Building, Room 3103, 866-6000, ext. 6386; Implementation and Enforcement: Art Costantino, TESC Library Building, Room 3236, 866-6000, ext. 6296.

Name of Proponent: The Evergreen State College, governmental.

Rule is necessary because of federal law, Vol. 18 USC Sec. 16 and Vol. 20 USC Sec. 1232g (6) Campus Security Act Regulations 34 CFR part 668.47(B) w/index.

Explanation of Rule, its Purpose, and Anticipated Effects: The student conduct code has existed at the college in various forms since 1971. The purpose of these rules is to establish minimum standards of behavior and provide processes to govern violations. It is anticipated that the changes in these sections will be consistent with the Department of Education statutes and regulations and will clarify under

what conditions disciplinary records of students involved in "crimes of violence" and/or "sex offenses" will be released.

Proposal Changes the Following Existing Rules: The amendments to the rules will define "crime of violence" and "sex offenses" and clarify that the results of campus disciplinary action(s) involving a crime of violence and/or sex offense(s) will be disclosed only after a finding has been made and appeal options have been exhausted.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Evergreen is not a listed agency in section 201.

Hearing Location: The Evergreen State College Campus, 2700 Evergreen Parkway, College Activities Building, Room 108, Olympia, WA 98505, on May 12, 1999, at 4 - 5 p.m.

Assistance for Persons with Disabilities: Lind Pickering by 5 p.m. on May 7, 1999, TDD (360) 866-6834.

Submit Written Comments to: Lee Lambert, Assistant for Civil Rights and Legal Affairs, The Evergreen State College, Library Building, Room 3103, Olympia, Washington 98505, fax (360) 866-6000, ext. 6386, by May 7, 1999, at 5 p.m.

Date of Intended Adoption: May 17, 1999, filing.

March 30, 1999

D. Lee Hoemann, Rules Coordinator  
Executive Associate to the President

**AMENDATORY SECTION** (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

**WAC 174-280-015 Definitions.** For the purposes of WAC 174-280-010 through 174-280-045, the following terms shall have the definitions shown:

(1) A "student" is any person who is or has been registered at Evergreen, with respect to whom Evergreen maintains educational records or other information personally-identifiable by name, identification number, or other names of recognition.

(2) The term "educational records" means those records, files, documents and other materials maintained by Evergreen which contain information directly related to the individual student.

(3) The term "directory information" means the student's name, address, telephone number, dates of attendance, date and place of birth, major field of study, participation in officially recognized activities and sports, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(4) The term "crime of violence" means:

(a) An offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another; or

(b) Any other offense that is a felony and that, by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(5) "Sex offense" is any sexual act directed against another individual, forcibly and/or against their will; or non-

forcibly and/or against their will where the individual is incapable of giving consent.

**AMENDATORY SECTION** (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

**WAC 174-280-030 Release of personally identifiable records.** (1) The college shall not permit access to or the release of education records or personally identifiable information contained therein, other than "directory information," without the written consent of the student, to any party other than the following:

(a) Evergreen staff, faculty, and student employees when the information is specifically required for a legitimate educational interest within the performance of their assigned responsibilities to the college, with the understanding that its use will be strictly limited to the performance of those assigned responsibilities;

(b) Federal and state officials requiring access to educational records in connection with the audit and evaluation of a federally- or state-supported education program or in connection with the enforcement of the federal or state legal requirements which relate to such programs. In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students to other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation or enforcement of legal requirements;

(c) Agencies or organizations requesting information specifically required as a part of a student's application for, or receipt of, financial aid, with the understanding that its use will be strictly limited to that purpose;

(d) Organizations conducting studies for or on behalf of the college for purposes of developing, validating or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students by persons other than representatives of such organizations, and such information will be destroyed when no longer needed for the purpose for which it was provided;

(e) Accrediting organizations in order to carry out their accrediting functions, if such studies are conducted in such a manner as will not permit the personal identification of students by persons other than representatives of such organizations, and such information will be destroyed when no longer needed for the purpose for which it was provided;

(f) Any person or entity designated by judicial order or lawfully-issued subpoena, upon condition that the student is notified of all such orders or subpoenas in advance of compliance therewith. Any college individual(s) or office(s) receiving a subpoena or judicial order for educational records should also immediately notify the assistant attorney general assigned to Evergreen;

(g) A collection agency under contract to Evergreen when necessary to collect past due accounts the student owes to Evergreen upon the condition that the student is forwarded a notice at least ten days in advance of the date the account is transferred;

(h) Results of campus disciplinary action(s) involving a crime of violence and/or sex offense(s) will be disclosed to the accuser upon request. Results will be disclosed only after a finding has been made and appeal options have been exhausted under The Evergreen State College's student conduct code.

(2) Where the consent of a student is obtained for the issuance of education records, it shall be in writing, signed and dated by the student giving the release, and the names of the parties to whom such records will be released, and may include the reasons for such release, except that transcripts may be issued to other colleges or universities for admission as a result of telephone requests from the student.

(3) In cases where records are made available without student release as permitted by subsection (1)(b), (c), (d), (e), (f), and (g) of this section, the appropriate Evergreen official shall maintain a record, which will be made available to the student upon request kept with the education record, which will indicate the parties which have requested or obtained access to a student's records maintained by the college and which will indicate the legitimate interest of the investigating party. Releases in accordance with subsection (1)(a) of this section need not be recorded.

(4) Personally identifiable education records released to third parties, with or without student consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally identifiable form to any other parties without obtaining consent of the student.

(5) Students may request that the college not release directory information by written notice to the registrar.

(6) Information from education records may be released to appropriate persons in connection with an emergency if the knowledge of such information is clearly necessary to protect the health or safety of a student or other person(s).

(7) Student information in computer files may be released only by the Evergreen individual or office which maintains the respective files.

**WSR 99-08-056**  
**PROPOSED RULES**  
**UNIVERSITY OF WASHINGTON**

[Filed April 1, 1999, 1:14 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 99-01-075.

Title of Rule: Chapter 478-140 WAC, Rules and regulations for the University of Washington governing disclosure of student records.

Purpose: The purpose of chapter 478-140 WAC is to implement policies and practices required of institutions of higher education by the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g.

Statutory Authority for Adoption: RCW 28B.20.130.

Statute Being Implemented: RCW 28B.20.130.

Summary: Several modifications to FERPA during the last few years include (1) permitting institutions to notify vic-

tims of violent crimes of the results of disciplinary proceedings and allowing institutions to disclose information from a student's record if the parent or student has provided written consent; (2) exempting records created by police departments from being considered educational records; (3) defining a disciplinary proceeding as an educational record; (4) requiring institutions to notify victims of sexual offenses of results of disciplinary proceedings; (5) requiring dissemination of additional information to students and access to educational records by students and parents; (6) implementing notification requirements prior to the release of certain records in legal actions; (7) allowing disclosure, without prior consent or notification, to certain state, local and school officials and when complying with certain subpoenas.

Reasons Supporting Proposal: The proposed revisions to chapter 478-140 WAC are necessary to ensure that University of Washington policies and practices are in compliance with mandated modifications to the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g.

Name of Agency Personnel Responsible for Drafting and Implementation: Ernest R. Morris, Vice-President for Student Affairs, 476 Schmitz Hall, University of Washington, (206) 543-4972; and Enforcement: W. W. (Tim) Washburn, Executive Director, Admissions and Records, 328 Schmitz Hall, University of Washington, (206) 543-3511.

Name of Proponent: University of Washington, governmental.

Rule is necessary because of federal law, 20 U.S.C. Sec. 1232g.

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 478-140 WAC implements the policies and practices at the University of Washington governing the disclosure of student records as required by federal statute. The anticipated effect of the proposed modifications is to ensure that those policies and practices are in compliance with the statute.

Proposal Changes the Following Existing Rules: The proposal amends WAC 478-140-010, 478-140-015, 478-140-018, 478-140-021, 478-140-024, 478-140-050, and 478-140-070; and repeals WAC 478-140-060.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 478-140 WAC is not subject to the Regulatory Fairness Act, chapter 19.85 RCW.

RCW 34.05.328 does not apply to this rule adoption. Chapter 478-140 WAC is not considered a significant legislative rule applicable to RCW 34.05.328.

Hearing Location: Room 309 of the Husky Union Building (HUB), University of Washington, Seattle, Washington, on May 11, 1999, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact University of Washington Disability Services Office by April 27, 1999, TDD (206) 543-6452, or (206) 543-6450,

Submit Written Comments to: Rebecca Goodwin Dardorff, Administrative Procedures Officer, Administrative Procedures Office via one of the following routes: Campus mail: Box 355509; United States mail: University of Washington, 4014 University Way N.E., Seattle, WA 98105-6203; e-mail: adminpro@u.washington.edu; or fax (206) 543-0786, by May 4, 1999.

Date of Intended Adoption: May 21, 1999.

March 31, 1999

Rebecca Goodwin Dearnorff  
Administrative Procedures Officer

### Chapter 478-140 WAC

#### RULES AND REGULATIONS FOR THE UNIVERSITY OF WASHINGTON GOVERNING ~~((DISCLOSURE OF))~~ STUDENT EDUCATION RECORDS

AMENDATORY SECTION (Amending Order 75-1, filed 3/5/75)

**WAC 478-140-010 University policy on student education records.** ~~((Public Law 93-380,))~~ The Family Educational Rights and Privacy Act of 1974, ~~((requires that the university adopt guidelines concerning))~~ 20 U.S.C. Sec. 1232g, provides for the right of a student to inspect his or her education records, and guidelines concerning the release of ~~((personally identifiable information))~~ those records to third parties. The act further provides that such a student ~~((has the right to))~~ may request a hearing in order to ~~((provide for the correction or deletion of))~~ correct or delete inaccurate, misleading or otherwise inappropriate data, and that currently registered students be informed annually of their rights under the act. ~~((The act also provides that students be informed annually of the types of education records maintained by the university that are directly related to students.))~~ Any student who alleges a failure by the university to comply with the act has the right to file a complaint with the U.S. Department of Education.

Consistent with ~~((that))~~ the act, this policy on student education records is established to ~~((insure))~~ ensure that the education records and the information contained in such records ~~((is))~~ are treated in a responsible manner ~~((with due regard to the personal nature of the information)).~~

AMENDATORY SECTION (Amending Order 79-1, filed 4/18/79)

**WAC 478-140-015 Definition of a student.** For the purposes of these rules, a student is defined as any person who is or has been admitted or is or has been officially registered in courses at the University of Washington for at least one day of an academic program and with respect to whom the university maintains education records ~~((or personally identifiable information));~~ except that a person who has applied ~~((for admission to, but has never been in attendance at, a component unit of the university (i.e., college, school, or department; undergraduate, graduate, or professional program), even if that person is or has been in attendance at another component unit of the university, is not considered to be a student with respect to the component unit to which an application for admission has been made but to which attendance was denied))~~ to a unit of the university (e.g., college, department, graduate or professional program) is not considered to be a student of that unit, even if he or she is or has been attending another unit of the university, if he or she

never attended the unit applied to and/or the application is denied. For most individuals, this means one day of an academic quarter.

AMENDATORY SECTION (Amending Order 79-1, filed 4/18/79)

**WAC 478-140-018 Education records—Student's right to inspect.** (1) A student has the right to inspect and review his or her education records except where otherwise provided in this chapter.

(a) The term "education records" means those records, files, documents and other materials which contain information directly related to a student and are maintained by the university.

(b) Types of education records, and the university officials responsible for those records, include, but are not limited to:

(i) Official transcripts of courses taken and grades received~~((s))~~, records relating to prior ~~((educational))~~ education experience, and admission records. The executive director of admissions and records, whose office is located in Schmitz Hall, is ~~((the official))~~ responsible for the maintenance of such records. In addition, the director of graduate admissions ~~((officer))~~, whose office is located in ~~((administration building))~~ Gerberding Hall, is ~~((the official))~~ responsible for the maintenance of certain admission~~((s))~~ and current education status records for graduate students, as are the admission directors of the professional schools of dentistry, law, medicine and pharmacy.

(ii) Tuition and fee payment records. The manager of the student accounts office, located in Schmitz Hall, is ~~((the official))~~ responsible for the maintenance of such records.

(iii) Student disciplinary records ~~((are the responsibility of)).~~ The vice president for student affairs, whose office is located in Schmitz Hall, is responsible for the maintenance of such records.

(iv) ~~((Individual))~~ Education records relating to a student's particular field of study may be maintained by the departments and ~~((for))~~ colleges throughout the university. Where such education records are so maintained, the respective ~~((chairperson))~~ chair or dean of the department or college is ~~((the university official))~~ responsible for maintenance of the records.

~~((b))~~ (c) The term "education records" does not include:

(i) ~~((Working papers concerning students that are maintained by faculty and graduate student service appointees, such as informal notes, memory aids or other temporary records of a similar nature which are in the sole possession of the maker thereof and not accessible or revealed to any other person except a substitute. A substitute may be defined as:))~~ Any record of instructional, supervisory, administrative or educational personnel which is in the sole possession of the maker thereof and not accessible or revealed to any other person except a substitute. For the purposes of this subsection, substitute means:

(A) A person who is providing instruction in place of or as assistant to the regularly assigned faculty member in a

course in which knowledge of the performance of individual students is essential to the provision of instruction, or

(B) A person who is supervising a student's thesis or research progress in place of or as an assistant to the regularly assigned faculty member during a prolonged absence.

(ii) ~~((If the personnel of the university police department do not have access to education records under WAC 478-140-024(1), the records and documents of the police department which~~

~~(A) Are kept apart from records described in WAC 478-140-018 (1)(a);~~

~~(B) Are maintained solely for law enforcement purposes; and~~

~~(C) Are not made available to persons other than law enforcement officials of the same jurisdiction.)) Records created and maintained by the University of Washington police department for the purposes of law enforcement, except that education records created by another university department remain education records while in the possession of the police department.~~

(iii) Records made and maintained in the normal course of business which relate exclusively to the person's capacity as an employee and are not available for any other purposes ~~(~~:- Provided,;))~~; however, ~~((That))~~ records concerning a student who is employed as a result of his or her status as a student (e.g., graduate student service appointments) shall not be considered to relate exclusively to a student's capacity as an employee.~~

(iv) Health care records on a student ((which)) that are created or maintained by a ((physician, psychiatrist, psychologist or other recognized professional or para-professional acting in his professional or para-professional capacity, or assisting in that capacity and which are created, maintained or used only)) health care provider or health care facility in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment((~~:- Provided, however, That such records can be personally reviewed by a physician or other appropriate professional)), the student, or a health care provider of the student's choice (see also chapter 70.02 RCW).~~

(v) Records of an institution which contain only information relating to a person after that person is no longer a student at the university (e.g., information pertaining to the accomplishment((s)) of an ((~~alumni~~)) alumnus or alumna).

(2)(a) Confidential recommendations, evaluations or comments concerning a student, ((whether or not provided in confidence, either expressed or implied, as between the author and the recipient,)) shall nonetheless be made available to the student, except as provided in ((paragraphs)) (b), (c) and (d) of this subsection.

(b) The student may specifically ~~((release))~~ waive his or her right to inspect and review education records where the information consists only of confidential recommendations respecting the student's:

(i) Admission to the University of Washington or any other educational institution, or component part thereof, or

(ii) ~~((An))~~ Application for employment, or

(iii) Receipt of an honor or honorary recognition.

(c) A student's waiver of his or her right ~~((of access))~~ to inspect and review confidential statements shall ~~((apply))~~ be valid only if:

(i) The student is, upon request, notified of the names of all persons making confidential statements concerning ~~((him))~~ the student, the dates of such confidential statements and the purpose or purposes for which the statements were provided, and

(ii) Such confidential statements are used solely for the purpose or purposes for which they were ~~((originally intended))~~ provided, and

(iii) Such waivers are not required as a condition for admission to, receipt of financial aid from or receipt of any other services or benefits from the university, and

(iv) Such waiver is in writing and signed and dated by the student.

(d) Such a waiver may be revoked, in writing, by the student; however, the revocation will be effective only for confidential statements or records dated after the date of the revocation.

(e) Confidential recommendations, evaluations or comments concerning a student ((that have been provided in confidence, either expressed or implied, as between the author and the recipient,)) prior to January 1, 1975, shall not be subject to release under WAC 478-140-018 (2)(a)((~~:- Provided,;))~~; however, ((That)) upon request the student ((is)) shall be notified of the names of the authors of all such confidential records, the dates appearing on such confidential records and the purpose for which each such confidential record was provided. Such records shall remain confidential and shall be released only with the consent of the author. Such records shall be used by the ((institution)) university only for the purpose or purposes for which they were ((originally intended)) provided.

(3) Where requested education records ((or data)) include information on more than one student, the student making the request shall be entitled to ((receive)) inspect, review or be informed of only ((that part of the record or data that pertains to)) the specific portion of the record about that student.

(4) A student may not inspect and review education records that are or contain financial records of his or her parents.

(5) Students ~~((have the right to))~~ may obtain copies of their education records. Charges for ~~((the))~~ copies shall not exceed the cost normally charged by a University of Washington copy center (except in cases where charges have previously been approved ~~((by regential action))~~ for certain specified services ~~((such as transcripts and grade sheets))~~).

~~((5))~~ (a) The university may refuse to provide copies of education records including transcripts and diplomas in the following circumstances:

(i) If the record is a secure exam as determined by the department that maintains the exam, so that the integrity of such exams may be protected;

(ii) If the student has outstanding debts owed to the university, so that the university may facilitate collection of such debts;

(iii) If disciplinary action is pending or sanctions are not completed.

(b) The university must provide copies of education records, subject to the provisions of (a) of this subsection, in the following circumstances:

(i) If failure to do so would effectively prevent the student from inspecting and reviewing a record;

(ii) When records are released pursuant to a student's consent and the student requests copies; and

(iii) When the records are transferred to another educational agency or institution where the student seeks or intends to enroll and the student requests copies.

(6) The office of the registrar is the ~~((official custodian of academic records and therefore is the))~~ only ~~((official who))~~ office which may issue ~~((a))~~ an official transcript of the student's ~~((official))~~ academic record.

~~((6))~~ (7) Student education records may be destroyed in accordance with a department's routine retention schedule. In no case will any record which is requested by a student for review in accordance with WAC 478-140-018 ~~((and))~~ or 478-140-021 be removed or destroyed prior to providing the student access.

#### NEW SECTION

**WAC 478-140-019 Student records committee.** The student records committee is appointed by the president of the university and shall be responsible for reviewing unusual requests for information and for assisting in the interpretation of these rules. The committee shall also be responsible for hearing appeals as defined in WAC 478-140-021. The committee shall consist of an administrator, a graduate student, an undergraduate student, two faculty and two university staff members. The committee will be advised by a representative of the university's attorney general's division.

AMENDATORY SECTION (Amending Order 79-1, filed 4/18/79)

#### **WAC 478-140-021 Requests and appeal procedures.**

(1) A request by a student ~~((for))~~ to inspect and review ~~((of information))~~ his or her education records should be made in writing to the university ~~((individual(s)))~~ official(s) or office(s) having custody of the particular records.

(2) ~~((An))~~ Individual(s) or office(s) must respond to a request for education records, or explanations or interpretations of those records, within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(3)(a) After reviewing his or her records, a student may ~~((challenge the content of))~~ ask the university to amend the records if ~~((they are felt to be))~~ the student believes information contained in the records is inaccurate~~((;))~~ or misleading ~~((or otherwise in violation of the privacy or other rights of the student))~~. In such cases, the student should contact the appropriate dean or director responsible for custody of the record. The responsible party must inform the student of the party's decision within a reasonable period of time.

If the responsible party grants the student's request, the university shall amend the education records and inform the student in writing of the action taken.

~~((b))~~ ((In cases where a student has been unable to correct or delete such inaccurate, misleading or otherwise inappropriate data, he or she may request a hearing by the university's student records committee. The student records committee will render its decision within a reasonable period of time following the hearing. The decision of the student records committee shall be final.)) If the party receiving a request to amend an education record denies the student's request, the party must, within a reasonable period of time, inform the student of the decision and the student's right to a hearing before the university student records committee. The student must request in writing, addressed to the office of the registrar in Schmitz Hall, a hearing within ninety days of the date of the denial of his or her request by the custodian of the record.

(c) The committee shall hold a hearing within a reasonable period of time after the student files a request for a hearing. The student must receive notice of the hearing's date, time and place reasonably in advance of the hearing. The committee shall give the student a full and fair opportunity to present evidence relevant to the contested part of the education record. The student may, at his or her own expense, be assisted or represented by one or more individuals, including an attorney. The student records committee will render its decision in writing within a reasonable period of time following the hearing. The decision must be based on the records relevant to the matter and on any evidence presented to the committee. The decision must include a brief summary of the evidence and a statement of the reasons supporting the decision. The decision of the student records committee shall be the university's final decision.

~~((i))~~ If ~~((, as a result of the hearing,))~~ the university student records committee ~~((decides that the information the student complained of is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the students, it))~~ grants the student's appeal, the university shall amend the education records of the student accordingly and shall inform the student in writing of the action taken.

~~((ii))~~ If ~~((, as a result of the hearing,))~~ the university student records committee ~~((decides that the information the student complained of is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student))~~ denies the student's appeal, the student shall be given the right to place in the education record a statement commenting upon the information in the education record and/or setting forth any reasons for disagreeing with the decision of the university student records committee. The university must maintain the statement with the contested part of the record for as long as the record is maintained and must disclose the statement whenever it discloses the portion of the record to which the statement relates.

~~((e))~~ In no case shall any request for review by a student be considered by the university's student records committee which has not been filed with that body in writing within ninety days from the date of the initial request to the custodian of the record.))

~~((d))~~ The student records committee shall not review any matter regarding the appropriateness of official academic grades~~((, in that each school or college within the university provides appropriate review procedures in this area))~~.

PROPOSED

AMENDATORY SECTION (Amending Order 79-1, filed 4/18/79)

**WAC 478-140-024 Education records—Release** (~~(of personally identifiable records)~~). (1) The university shall not permit access to or the release of education records or personally-identifiable information contained therein, other than "directory information(~~(;)~~)" (as defined in (~~section (5) hereof~~)) subsection (5) of this section), without the written consent of the student, to any party other than the following:

(a) University staff(~~(;)~~) and faculty, and students when officially appointed to a faculty council or administrative committee, when the information is required for a legitimate educational interest in support of the university's mission of education, research and public service and within the performance of their responsibilities to the university(~~(, with the understanding that its)~~). The use of such information will be strictly limited to the performance of those responsibilities.

(b) (~~Federal and state officials~~) Authorized representatives of the comptroller general of the United States, the Secretary of the U.S. Department of Education, or state or local authorities requiring access to education records, in connection with the audit (~~and~~) or evaluation of a federally- or state-supported education program or in connection with the enforcement of the federal or state legal requirements which relate to such a program. (~~In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students and their parents to other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation or enforcement of legal requirements.~~)

(c) Agencies or organizations requesting information in connection with a student's application for, or receipt of, financial aid if the information is necessary to determine:

- (i)(A) Eligibility for financial aid;
- (B) The amount of financial aid; or
- (C) The conditions for financial aid;

(ii) Or, enforce the terms and conditions of financial aid.

(d) Organizations conducting studies for or on behalf of the university or educational agencies or institutions for purposes of developing, validating, ~~or (administering predictive tests,)~~ administering student aid programs, (~~and~~) or improving instruction or student services, if such studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of such organizations, and such information will be destroyed when no longer needed for the purposes for which it was provided.

(e) Accrediting organizations in order to carry out their accrediting functions.

(f) Any person or entity designated by judicial order or lawfully-issued subpoena, or as a consequence of the university initiating legal action against a parent or student, upon condition that the university makes a reasonable effort to notify the student (~~(is notified)~~) of all such orders or subpoenas or of its intent to release records in advance of (~~the~~) compliance (~~therewith~~) or release, unless directed otherwise by the court issuing the subpoena. Any university individual(s) or office(s) receiving a subpoena or judicial order

for education records should immediately notify the attorney general's division.

(g) Alleged victims of a crime of violence or a nonforcible sexual offense requesting the final results of disciplinary proceedings conducted by the university under its student conduct code against the alleged perpetrator of such crime with respect to such crime.

(h) To others, the final results of a disciplinary proceeding when, at its discretion the university believes that disclosure will serve a legitimate educational interest, and determines through a disciplinary proceeding conducted under its student conduct code that the alleged student perpetrator committed a crime of violence or a nonforcible sexual offense that is a violation of the university's rules or policies with respect to such crime or offense. For purposes of this subsection, "final results" means the name of the student perpetrator, the violation committed, and any sanction imposed by the university on that student. Names of other students involved in the violation, such as a victim or witness, will be released only with the written consent of that other student or students.

(i) For the purpose of (g) and (h) of this subsection, a "crime of violence" means:

(i) An offense that has an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(ii) An offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(j) Victims alleging a sexual offense shall be notified of the outcome of disciplinary proceedings through the student conduct code (chapter 478-120 WAC).

(k) Officials of another institution of postsecondary education where the student seeks to enroll; the university shall provide the student a copy of the records released.

(l) Officials of another postsecondary institution or educational agency in which the student is enrolled or from which the student receives services when there is a legitimate educational interest.

(m) State or local officials or authorities, if a state statute adopted before November 19, 1974, specifically requires disclosures to those officials and authorities. The university may limit the number and type of officials to whom disclosure will be made under this subsection.

(n) A parent of a minor student or a nonminor dependent student, as defined in the Internal Revenue Code and upon submission of a copy of the most recent Internal Revenue Service annual tax return showing the student as a dependent.

(o) When, at its discretion, it believes that disclosure will serve a legitimate educational interest, the university may release to a parent or legal guardian of a student, information regarding that student's violation of any federal, state, or local law, or of any rule or policy of the university, governing the use or possession of alcohol or a controlled substance if:

(i) The student is under the age of twenty-one, and

(ii) The university determines that the student has committed a disciplinary violation with respect to such use or possession.

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(p) Appropriate persons in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individual(s).

(q) Appropriate persons for whom information about the student's university-sponsored student health insurance status is necessary to protect the welfare of the student (e.g., to pay premiums, provide medical treatment, process claims).

(r) For deceased students, members of the family or to other persons with the approval of the family or representatives of the estate. The request for education records must be accompanied by a copy of the death certificate or obituary. Absent approval from the family or representative of the estate, directory information only will be released to persons upon request.

(2) Where the consent of ~~((a))~~ the student is obtained for the release of education records, it shall be in writing, signed and dated by the ~~((person giving such consent))~~ student, or through the use of computer technology if the identification of the requesting student can be verified by the university, and shall include:

- (a) A specification of the records to be released,
- (b) The reasons for such release, and
- (c) The names of the parties to whom such records ~~((will))~~ may be released:

~~((3))~~ ~~((In cases where records are made available without student release as permitted by WAC 478-140-024 (1)(b), (c), (d), (e) and (f),))~~ The university shall ((maintain a record kept)) keep with the education record released, a log which will indicate the parties which have requested or obtained access to a student's records maintained by the university, including the names of additional parties to whom the receiving party was permitted by the university to disclose the record, and which will indicate the ((legitimate)) interest ((of)) claimed by the ((investigating)) requesting party. ((Releases in accordance with WAC 478-140-024 (1)(a) need not be recorded.) The university need not maintain a log of releases made to university officials who have been determined to have a legitimate educational interest; releases to the student; releases made pursuant to a student's written consent, or releases of directory information only. The ((records)) log of disclosure may be inspected and reviewed by the student, the university official responsible for the custody of the records, and other authorized parties.

(4) ~~((Personally identifiable))~~ Education records, other than directory information, released to third parties, with or without student consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released ((in a personally identifiable form)) to any other parties without obtaining consent of the student and must be destroyed when no longer needed for the purposes for which it was provided. Third parties and their agents may use such information only for the purposes for which it was released.

(5) The term "directory information" used in WAC 478-140-024(1) is defined as a student's name, street address, e-mail address, telephone numbers, date ((and place)) of birth, major ((field)) and minor field(s) of ((studies,)) study, class, participation in officially-recognized ((sports)) activities and sports, weight and height ((of members of athletic teams)) if the student is a member of an intercollegiate athletic team,

dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student. Students may ((request that the university not)) restrict release of directory information, or remove a previous directory release restriction, by ((so indicating on their registration form or through written notice to the Registration Department of the Registrar's Office, 225 Schmitz Hall, Window 3, 1400 N.E. Campus Parkway)) going to the registration office (225 Schmitz Hall) in person and presenting photo identification, or using STAR online.

~~(((6)) Information from education records may be released to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other person(s).))~~

AMENDATORY SECTION (Amending Order 75-1, filed 3/5/75)

**WAC 478-140-050 University records.** All university individual(s) or office(s) which have custody of education records will develop procedures in accord with WAC 478-140-010 through ~~((478-140-060))~~ 478-140-024. Any supplementary ~~((regulations))~~ policies and procedures found necessary by departments will be filed with the student records committee, which will be responsible for periodic review of policy and procedures.

~~(((1)) Disciplinary records shall be kept separate and apart from academic records, and transcripts of a student's academic record shall contain no notation of any disciplinary action. Special precautions shall be exercised to insure that information from disciplinary or counseling files is not revealed to unauthorized persons. Provision shall be made for periodic review and routine destruction of inactive disciplinary records by offices maintaining such records.~~

~~((2)) No records shall be kept that reflect a student's political or ideological beliefs or associations.))~~

AMENDATORY SECTION (Amending Order 79-1, filed 4/18/79)

**WAC 478-140-070 Notice of university rules governing student education records ((policy)).** ~~((Each year during fall quarter,))~~ The university ((publishes)) will publish in the quarterly *Time Schedule* a notice of students' rights under the Family Educational Rights and Privacy Act of 1974((, and the regulations interpreting that act, and the university rules and regulations governing disclosure of student records implementing the act, in the *University of Washington Daily newspaper*)). Copies of the university rules are ((printed and)) available through the Washington Administrative Code located in the reference stations ((throughout)) on campus. ~~((In addition, the University of Washington Bulletin, distributed to all new students upon entrance to the university, contains references to the university rules and regulations governing disclosure of student records.))~~ The university shall provide copies of these rules to students upon request.

NEW SECTION

**WAC 478-140-080 Appeals to the U.S. Department of Education.** Students may file complaints with the U.S. Department of Education concerning alleged failures by the university to comply with the requirements of the Family Educational Rights and Privacy Act or its implementing regulations.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 478-140-060 Student records committee.

**WSR 99-08-071  
PROPOSED RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed April 5, 1999, 10:09 a.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-071.

Title of Rule: Chapter 296-62 WAC, Part I-1, Asbestos, tremolite, anthophyllite, and actinolite and chapter 296-65 WAC, Asbestos removal and encapsulation.

Purpose: The proposal incorporates new OSHA changes to the scope of the federal construction and shipyard standards, existing OSHA requirement, clarifies existing WISHA requirements and corrects errors.

Statutory Authority for Adoption: RCW 49.17.040, 49.17.050, 49.26.040, and 49.26.130.

Statute Being Implemented: Chapters 49.17 and 49.26 RCW.

Summary: Background: What are the asbestos rules? WISHA's asbestos rules are found in chapter 296-62 WAC, Part I-1, Asbestos, tremolite, anthophyllite, and actinolite and in chapter 296-65 WAC, Asbestos removal and encapsulation. In March of 1997, WISHA made comprehensive changes that consolidated OSHA's asbestos rules (29 CFR Parts 1910.1001, 1915.1001, and 1926.1101), EPA rules (40 CFR Part 763), and chapter 49.26 RCW.

Chapter 49.26 RCW, Health and safety—Asbestos, is a state law that applies to any asbestos project or asbestos abatement project as specified. This law covers:

- Inspections of construction projects;
- Containers used to store asbestos;
- Training certification for asbestos workers, supervisors and contractors;
- Prenotification of projects;
- Fees for issuing and renewing certificates;
- Administration of exams and review of training courses; and
- Enforcement and penalties.

Chapter 296-62 WAC, Part I-1 applies to all occupational exposures to asbestos in all industries covered by the Washington Industrial Safety and Health Act, chapter 49.17

RCW, construction work as defined in WAC 296-155-012, and ship repairing, shipbuilding and shipbreaking as defined in WAC 296-304-01001. The asbestos rules protect individuals working with asbestos against exposure that could lead to illness.

Why is WISHA proposing changes to the asbestos rules? On June 28, 1998, OSHA adopted an exemption in 29 CFR Parts 1915.1001, and 1926.1101 based on a Court of Appeals decision (Federal Register: Volume 63, pages 35137-35138 and Court of Appeals decision: Asbestos Information Association/North America v. Reich, 117 F.3d 891, 5th Circuit, 1997). The court eliminated requirements in the construction and shipyard standards regulating asbestos-containing roof cements, mastics and coatings. The court's decision did not affect OSHA's general industry asbestos standard (29 CFR Part 1910.1001) and that standard was not changed. WISHA's proposal includes the same exemptions that OSHA added to the federal construction and shipyard standards. The exemptions reduce the scope of chapter 296-62 WAC, Part I-1. The proposal also clarifies that asbestos-containing asphalt-coated asbestos roofing and similar built-up roofing materials are not covered by this exemption.

In addition to making the federal change, the proposal also makes numerous changes to clarify the existing requirements and corrects errors. For example, the certification training requirements found in WAC 296-62-07722 Employee information and training, are organized and written so that they are easier to understand. Provisions currently in the "asbestos project" definition were moved to WAC 296-62-07722, placing all of the requirements about training in one section and avoiding further confusion (see WAC 296-65-003).

Another example is found in WAC 296-65-020 Notification requirements, which include a more specific explanation of when amended notices must be filed with the department.

What is the anticipated effect of these changes? Adding the new federal change to WAC 296-62-07701 (2) and (3), exempting certain roofing materials in construction and shipyard workplaces, will reduce the scope of chapter 296-62 WAC, Part I-1. This reduces requirements for work involving specific types of asbestos-containing roof cements, mastics, and coatings. It does not change the current requirements for work involving asphalt-coated asbestos felting and similar built-up roofing. Adding the existing federal requirements about evaluating employee exposures to WAC 296-62-07712 (8)(d) will provide a safer workplace for affected workers. The other proposed state changes improve clarity of the rules, making it easier to understand and comply with the requirements. Complying with the requirements decreases the chance of illness resulting from exposure to asbestos.

STAKEHOLDERING: The department sent draft wording to approved asbestos training course sponsors for comment. This proposal includes changes to the draft wording based on the comments received from these stakeholders. For example:

- In WAC 296-62-07701 (2) and (3), we added clarifications explaining that asphalt-coated asbestos-containing felting and similar built-up roofing is not covered by the new OSHA exemptions.

- In WAC 296-62-07709(3), we corrected error in draft wording.

- In WAC 296-62-07712 (7)(f)(i)(C), we changed wording to reflect that worker should wear Tyvek disposable coveralls or equivalent and must use the appropriate HEPA respirator.

- In WAC 296-62-07722 (4)(a)(i), we changed current wording, explaining that additional training must supplement the first eight-hour training course.

- In WAC 296-62-07722 (3)(b), we added a reference to the asbestos certification program, describing who in the department approves Class II asbestos-cement water pipe work.

MAJOR CHANGES: Major changes in the asbestos rules include:

- Adding a new OSHA exemption to WAC 296-62-07701 (2) and (3), exempting asbestos-containing asphalt roofing coatings, cements, and mastics in construction and maritime workplaces. WISHA's proposal explains that asphalt-coated asbestos felting and similar built-up roofing are not covered by this exemption.

- Changing the wording of certification and training requirements in WAC 296-62-07722, making them easier to understand.

- Clarifying when amended notices must be filed in WAC 296-62-020: The proposal includes specific wording, which clarifies when employers must notify the department about asbestos work.

- Explaining what must happen if an individual does not pass an examination. In WAC 296-65-010 and 296-65-012, new wording describes how additional examinations must be given when an individual does not pass the first examination.

- Clarifying how friable relates to intact and disturbance: In the "intact" definition in WAC 296-62-07703, a new sentence describes how friable is used in the standard and how it relates to intact and disturbance.

- Moving exemptions to worker certification into WAC 296-62-07722: Exemptions for worker certification were moved from WAC 296-65-003 to 296-62-07722, placing the requirements in one section. Currently these exemptions are found in both WAC 296-65-003 and 296-62-07722. The proposal makes it easier to find, understand and comply with the worker certification requirements because they are placed in one section.

Proposed Changes throughout Amended Sections: Throughout the proposal, the following words were changed to help people unfamiliar with these rules or using rules for the first time, find what they [are] looking for, understand what they read and comply with the requirements. Changing these words makes no changes to the existing rules. Words changed:

- "Shall" to either "must" or "will" — "must" reflects requirements for an employer or person outside of the department and "will" reflects those things that the department will do.

- "Pursuant" to "according."

Proposed Changes to Chapter 296-62 WAC:

WAC 296-62-07701 Scope and application.

- In subsection (1), a complete reference to chapter 49.17 RCW and a new reference to chapter 49.26 RCW is added. This standard includes provisions from both laws.

- In subsections (2) and (3), the proposal reduces requirements by exempting asbestos-containing asphalt roofing coatings, cements, and mastics in construction and maritime workplaces. WISHA adds clarifications explaining that asphalt-coated asbestos felting and similar built-up roofing are not covered by this exemption as covered by an OSHA interpretation.

WAC 296-62-07703 Definitions. The proposal:

- Adds a complete definition for "asbestos project."

- Adds "disturb" to the "disturbance" definition.

- Adds a description of how friable is used in the standard and how it relates to intact and disturbance.

WAC 296-62-07709 Exposure assessment and monitoring.

- In subsection (3)(b)(iv), requirement for monitoring outside negative pressure enclosures were moved from subsection (3)(b) to subsection (3)(c). Subsection (3)(b) covers negative pressure enclosures and subsection (3)(c) covers periodic monitoring. Moving this under the periodic monitoring places all of the monitoring requirements together.

- New wording clarifies pre-abatement monitoring in subsection (3)(f).

- Clearance monitoring moves from WAC 296-62-07712 (5)(c) to subsection (3)(g). New wording clarifies clearance air monitoring and that it must occur prior to the removal of an enclosure.

- New wording in subsection (4)(a) clarifies the type of monitoring required to evaluate employee exposure.

WAC 296-62-07712 Requirements for asbestos activities in construction and shipyard work.

- In subsection (5), adding the word "work" improves clarity of subsection (5)(a); new wording clarifies encapsulant requirements; and deleting requirements located in the air monitoring section eliminates redundant wording.

- In subsection (8)(a), removing the phrase "or otherwise capture or redirect such dust" eliminates confusion about the control methods for Class I work.

- In subsection (8)(d), adding an existing OSHA requirement found in 29 CFR 1926.1101 (g)(6)(ii)(B) makes WISHA's rule as effective as OSHA's rules. Adding a new requirement to evaluate employee exposure, based on sampling and analytical data during the worst-case conditions, provides the appropriate level of worker protection against exposure to asbestos.

- In subsection (13), removing the phrase "cements, mastics, coatings, or" makes WISHA's rules like OSHA's rule and makes this section consistent with the proposed changes to WAC 296-62-07701.

WAC 296-62-07713 Methods of compliance for asbestos activities in general industry. Changes to subsection (2) make the existing requirements easier to understand.

WAC 296-62-07721 Communication. of hazards to employees.

- In subsection (2)(b)(ii)(B), changing "distributed" to "disturbed" corrects a typographical error.

- In subsection (6), changes better explain the use of "where feasible." The sentence reads "except where such a

label would clearly not be feasible." Deciding whether or not labeling is feasible requires consideration on a case-by-case basis.

WAC 296-62-07722 Employee information and training. Changes to this section clarify the complex overlay of training and certification requirements for asbestos workers in state law and federal rules. Chapter 49.26 RCW, Washington state's asbestos certification law, which is based on the Environmental Protection Agency's (EPA) model accreditation plan (MAP), requires all persons working on an asbestos project to be certified. OSHA's rules found in 29 CFR Parts 1910.1001, 1915.1001, and 1926.1101 require training based on asbestos work classifications and whether the asbestos-containing materials are intact or disturbed.

Current wording in WAC 296-62-07722 describes asbestos work differently than how it is described in WAC 296-65-003. Exemptions for asbestos worker certification are currently located in the "asbestos project" definition in WAC 296-65-003 and in WAC 296-62-07722, creating confusion because of the complex relationship between the certification and training requirements. To avoid confusion, OSHA's use of "intact" and "disturbance" must be considered when comparing "asbestos project" to "asbestos work." Proposed changes to this section incorporate these different aspects and eliminate confusing differences in the current rules.

- The proposal splits subsection (1)(a), placing certified worker requirements in subsection (1)(a) and certified supervisor requirements in subsection (1)(b). New wording in subsection (1)(d) clarifies when certification is not required.
- Subsection (3) covers asbestos projects, separating the requirement by class of asbestos work.
- Subsection (4) covers the training requirements for asbestos work that is not considered an asbestos project or excluded from asbestos worker certification, again separating the requirements by class.
- Subsection (6) lists the current requirements using bullet points.

WAC 206-62-07728 Competent person. Adding the phrase "an asbestos project" clarifies the current requirements in subsection (5)(b)(i).

WAC 296-62-07735 Appendix A—WISHA reference method—Mandatory. The maximum air flow rate (or sampling rate) for 25 mm filters changes from 2.5 L/min to 4.0 L/min. This allows more flexibility when sampling airborne exposures and reflects current pump capabilities. The National Institute of Occupational Safety and Health (NIOSH) 7400 analytical method allows up to 16 L/min, but pumps are not capable to pull this volume of air through a filter.

WAC 296-62-07737 Appendix B—Detailed procedures for asbestos sampling and analysis—Nonmandatory.

- Changes to the maximum sampling rate make Appendix B consistent with the mandatory Appendix A. "5.0" L/min changes to "4.0" L/min.
- Under 5. Sampling subsection (a)(i)(C), "4 fibers/100 fields" changes to "5 fibers/100 fields," making it consistent with NIOSH 7400 method.
- Under 5. Sampling, a table containing suggested maximum air sample volumes replaces the existing table contain-

ing types of asbestos, making WISHA's rule like OSHA's rule and correcting an error.

For chapter 296-65 WAC:

WAC 296-65-003 Definitions.

- Worker certification exceptions in the "asbestos project" definition move to WAC 296-62-07722, placing the certification exceptions in one place to avoid further confusion.

- Deleting the "direct on-site supervision" definition eliminates an obsolete definition. The 1995 revision to chapter 49.26 RCW no longer allows certified supervisors to supervise uncertified asbestos workers working on asbestos projects.

WAC 296-65-010 Asbestos worker certification.

- In subsection (2)(b), new wording clarifies what must happen when a worker does not pass an examination and how additional examinations must be given.

- In subsection (2)(c), new wording clarifies when the department assesses administrative fees. The department collects fees when the application is submitted — not at the time of the examination — and only once no matter how many times an employee takes different examinations.

- In subsection (5), minor changes make it easier to understand the requirements.

WAC 296-65-012 Asbestos supervisor certification.

- In subsection (2)(c), new wording clarifies what must happen when a supervisor does not pass an examination and how new examinations must be given.

- In subsection (2)(d), new wording clarifies when the department assesses administrative fees, making this like WAC 296-65-010 (2)(c).

- In subsection (5), minor changes make it easier to understand the requirements.

WAC 296-65-020 Notification requirements. In subsection (1)(e), new wording clarifies when the department must receive amended notices. RCW 49.26.120, states "the department shall require persons undertaking asbestos projects to provide written notice to the department before the commencement of the project ... The department shall by rule establish the procedure and criteria by which a person will be considered to have attempted to meet the prenotification requirement." The proposal provides specific criteria to assure that the department receives amended notices before a project begins and before the date/time on the original notice. These changes provide specific criteria, eliminating confusion about when amended notices must be filed with the department.

WAC 296-65-025 Fees. Adding "replacement" to subsections (1) and (2), clarifies that the department assesses a twenty-five dollar, nonrefundable fee for replacement asbestos worker certificates, as well as for initial and renewal certificates. RCW 49.26.130 requires the department to prescribe fees for issuing certificates.

WAC 296-65-030 Methods of compliance. Direct, on-site supervision requirements move from subsection (4) to subsection (5), placing the supervision requirements and exceptions in the same place. Changes make it easier to find and comply with the current requirements.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation

and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Washington State Department of Labor and Industries, WISHA Services, governmental.

Rule is necessary because of federal law, 29 CFR 1915.1001 and 1926.1101.

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Federal changes clarify existing requirements, add an exemption for certain types of asbestos-containing roofing materials used in construction and shipyard workplaces, and add an existing federal requirement. A small business economic impact statement is not required because no more than a minor economic impact exists for the affected businesses.

RCW 34.05.328 applies to this rule adoption.

- Recent changes made by OSHA add an exemption for certain asbestos-containing roofing materials used in construction and shipyard workplaces. WISHA's proposal included the new federal exemption, but is exempted from the significant rule-making criteria in RCW 34.05.328 (5)(b)(iii) and (iv) because proposed rule adopts federal regulations without material change.

- Adding the existing OSHA requirement to WISHA rule, increases the state's requirements, but is also exempted from the significant rule-making criteria in RCW 34.05.328 (5)(b)(iii) and (iv) because proposed rule adopts federal regulations without material change.

- The proposal changes no other requirements. All other proposed changes clarify current requirements, making it easier to find, understand and comply with the requirements.

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA, on May 14, 1999, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Josh Swanson by May 5, 1999, at (360) 902-5484.

Submit Written Comments to: Tracy Spencer, P.O. Box 44620, Olympia, WA 98504-4620, fax (360) 902-5529, by 5:00 p.m., on May 21, 1999.

Date of Intended Adoption: June 1, 1999.

April 1, 1999

Gary Moore

Director

**AMENDATORY SECTION** (Amending WSR 96-05-056, filed 2/16/96, effective 4/1/96)

**WAC 296-65-003 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this standard.

"Approved" means approved by the department.

"Asbestos" includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, and actinolite asbestos, and any of these minerals that have been chemically treated and/or altered.

"Asbestos fiber" means asbestos fiber as defined in WAC 296-62-07703.

"Asbestos abatement project" means an asbestos project involving three square feet or three linear feet, or more, of asbestos containing material.

"Asbestos project" includes the construction, demolition, repair, remodeling, maintenance or renovation of any public or private building or structure, mechanical piping equipment or system involving the demolition, removal, encapsulation, salvage, or disposal of material or outdoor activity releasing or likely to release asbestos fibers into the air. (~~Removal of intact vinyl asbestos tile (VAT), and intact roofing materials is excluded from this definition, unless these items are removed by mechanical methods such as chipping, grinding, sanding, or sawing. Also excluded is any project in which there is a disturbance of asbestos of less than one square foot of total surface area of asbestos-containing material (ACM), but this latter exclusion does not pertain to any disturbance of asbestos during a project dealing with pipe insulation. Also excluded from this definition is work on asbestos cement water pipe provided such work is done in accordance with the latest edition of "Recommended Standard Asbestos Cement Pipe Work Practice Procedures and Training Requirements" adopted and published by the Pacific Northwest Section of the American Water Works Association and as approved by the department.~~)

"Certified asbestos contractor" means any partnership, firm, association, corporation or sole proprietorship, registered under chapter 18.27 RCW, that submits a bid, or contracts to remove or encapsulate asbestos for another and is certified by the department to remove or encapsulate asbestos.

"Certificate" means a certificate issued by the department that shall include the name of person awarded the certificate, certificate number, the discipline for which certification was conferred, training and examination dates, the course provider's name and address, and the course provider's telephone number, expiration date, and a statement that the person receiving the certificate has completed the training for asbestos accreditation under TSCA Title II.

"Certified asbestos supervisor" means an individual who is certified by the department under WAC 296-65-012.

"Certified asbestos worker" means an individual certified by the department under WAC 296-65-010.

"Department" means the department of labor and industries.

"Demolition" means the activity of razing a structure which includes the wrecking, removal, or dismantling of any load-supporting structural member of any facility including any related handling operations.

~~("Direct on site supervision" means the supervision of no more than three workers by a certified asbestos supervisor who is physically present at all times at the asbestos project. It includes the authority to immediately correct any deficiencies on the project.)~~

"Director" means the director of the department of labor and industries or the director's designee.

"Emergency project" means a project that was not planned but results from a sudden, unexpected event and includes operations which are necessitated by nonroutine failures of equipment or systems.

"Encapsulation" means the application of an encapsulant to asbestos containing materials to control the release of asbestos fibers into the air. The encapsulation process either creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"EPA MAP" means the environmental protection agency model accreditation plan for asbestos requirements in 40 CFR Part 763.

"HEPA filtration" means high-efficiency particulate air filtration found in respirators and vacuum systems capable of filtering 0.3 micron particles with 99.97% efficiency.

"Intact" means that the asbestos containing material has not crumbled, been pulverized, or otherwise deteriorated so that it is no longer likely to be bound with its matrix.

"NESHAP" means the National Emission Standards for Hazardous Air Pollutants.

"Owner" means the person who owns any public or private building, structure, facility, or mechanical system, or the remnants thereof, or the agent of such person, but does not include individuals who work on asbestos projects in their own single-family residences, no part of which is used for commercial purposes.

"Person" means any individual, partnership, firm, association, corporation, sole proprietorship, or the state of Washington or its political subdivisions.

"Revocation" means a permanent withdrawal of a certification issued by the department.

"Suspension" means a temporary withdrawal of a certification issued by the department. No suspension shall be less than six months or longer than one year.

**AMENDATORY SECTION** (Amending WSR 96-05-056, filed 2/16/96, effective 4/1/96)

**WAC 296-65-010 Asbestos worker certification.** (1) For the purposes of this section "individual" means any natural person.

(2) To qualify for an asbestos worker certificate, an individual must do the following:

(a) Successfully complete an approved asbestos worker training course;

(b) Achieve a score of at least seventy percent on a one hundred question multiple choice closed book examination approved by the department but administered by the training course sponsor. If an individual does not pass the examination, then another examination (meeting the above criteria) may be given after a sufficient period of study. The new examination must not duplicate more than fifty percent of the questions used on prior examinations;

(c) Submit to the department a timely application validated by an approved training course sponsor. To be considered timely, an application must be received by the department not later than sixty days after the completion of the course. In the event that an application is not timely, the individual ~~((shall)) will~~ be required to pass, with a score of at least seventy percent, an examination administered by the department. A nonrefundable fifty-dollar ~~((assessment shall be charged to take this examination))~~ fee will be assessed when the application is submitted to the department; and

(d) Pay the fee prescribed in WAC 296-65-025.

(3) Individuals ~~((shall)) must~~ not perform any asbestos project work prior to issuance of the certificate.

(4) Certificates ~~((shall)) will~~ be issued and mailed to the individual applicants and ~~((shall)) will~~ be valid for one year from the date of issuance.

(5) Certified asbestos workers shall attend an eight-hour worker refresher course prior to certificate renewal.

(a) The course shall, at a minimum, adequately review the subjects required by WAC 296-65-005, update information on state-of-the-art procedures and equipment, and review regulatory changes and interpretations. ~~((Specific subjects may be required by))~~ The department may require specific subjects.

(b) An application for renewal of the certificate must be validated by the refresher training course instructor.

(c) The refresher course must be taken prior to expiration of the certificate.

(d) The ~~((certificate renewal application must be received by the))~~ department must receive the certificate renewal application no later than the expiration date of the current certificate. Applicants missing this renewal deadline ~~((shall)) will~~ be required to pass, with a score of seventy percent, an examination administered by the department. A non-refundable fifty-dollar fee will be charged to take this examination.

(e) Individuals whose certificates have been expired for more than six months will be required to retake the entire basic worker course.

(6) The initial TSCA Title II worker accreditation certificate and the current worker certificate ~~((shall)) must~~ be available for inspection at all times at the location of the asbestos project.

(7) The department may suspend or revoke a certificate as provided in WAC 296-65-050 and chapter 296-350 WAC.

**AMENDATORY SECTION** (Amending WSR 96-05-056, filed 2/16/96, effective 4/1/96)

**WAC 296-65-012 Asbestos supervisor certification.**

(1) For the purposes of this section, "individual" means any natural person.

(2) To qualify for an asbestos supervisor certificate, an individual must meet the following criteria:

(a) Have at least 1600 hours of experience in one or more of the following disciplines:

(i) Asbestos abatement;

(ii) Asbestos project design;

(iii) Consultation on asbestos abatement projects;

(iv) Operations and maintenance program supervision;

(v) Construction project supervision;

(b) Successfully complete an approved asbestos supervisor training course;

(c) Achieve a score of at least seventy percent on a one hundred question multiple choice closed book examination approved by the department but administered by the training course sponsor. If an individual does not pass the examination, then another examination (meeting the above criteria) may be given after a sufficient period of study. The new

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examination must not duplicate more than fifty percent of the questions used on prior examinations;

(d) Submit to the department a timely application validated by an approved training course sponsor. To be considered timely, an application must be received by the department not later than sixty days after the completion of the course. In the event that an application is not timely, the individual ~~((shall))~~ will be required to pass, with a score of at least seventy percent, an examination administered by the department. A nonrefundable fifty-dollar ~~((assessment shall be charged to take this examination))~~ fee will be assessed when the application is submitted to the department; and

(e) Pay the fee prescribed in WAC 296-65-025.

(3) An individual ~~((shall))~~ must not supervise any asbestos project prior to issuance of the certificate.

(4) Certificates ~~((shall))~~ will be issued and mailed to the individual applicants and ~~((shall))~~ will be valid for one year from the date of issuance.

(5) A certified asbestos supervisor ~~((shall))~~ must attend an eight-hour supervisor refresher course prior to certificate renewal. It ~~((shall))~~ is not necessary to also take a worker refresher course.

(a) The course ~~((shall))~~ must, at a minimum, adequately review the subjects required by WAC 296-65-007, update information on state-of-the-art procedures and equipment, and review regulatory changes and interpretations. ~~((Specific subjects may be required by the department.))~~ The department may require specific subjects.

(b) An application for renewal of the certificate must be validated by the refresher training course instructor.

(c) The refresher course must be taken prior to expiration of the certificate.

(d) ~~The ((certificate renewal application must be received by the))~~ department must receive the certificate renewal application no later than the expiration date of the current certificate. Applicants missing this renewal deadline ~~((shall))~~ will be required to pass, with a score of seventy percent, an examination administered by the department. A non-refundable fifty-dollar fee will be charged to take this examination.

(e) Individuals whose certificates have been expired for more than six months will be required to retake the entire basic supervisor course.

(6) The initial TSCA Title II supervisor accreditation certificate and the current supervisor certificate ~~((shall))~~ must be available for inspection at all times at the location of the asbestos project.

(7) The department may suspend or revoke a certificate as provided in WAC 296-65-050 and chapter 296-350 WAC.

**AMENDATORY SECTION** (Amending WSR 96-05-056, filed 2/16/96, effective 4/1/96)

**WAC 296-65-020 Notification requirements.** (1) Before any person or individual begins an asbestos project involving more than forty-eight square feet or ten linear feet, unless the surface area of the pipe is greater than forty-eight square feet, of asbestos containing material, written notification ~~((shall))~~ must be provided to the department. Notices ~~((shall))~~ must include:

(a) Name and address of the owner and contractor.

(b) Description of the facility including size, age, and prior use of the facility.

(c) Amount of asbestos-containing material to be removed or encapsulated.

(d) Location of the facility.

(e) Exact starting and completion dates of the asbestos project, including shifts during which abatement work will be accomplished. These dates must correspond to the dates specified in the contract. Any change in these dates or work shifts ~~((shall))~~ must be communicated to the department by an amended notice filed at the office where the original notice was filed.

• When the starting date or time changes, the amended notice must be filed no later than 5:00 p.m. on the business day prior to the starting date in the original notice and prior to the new starting date.

• When the completion date or time changes, the amended notice must be filed before completion of the project, and within eight hours from when the person learns that the change will occur.

The amended notice may be filed by facsimile (FAX).

(f) Nature of the project and methods used to remove or encapsulate the material.

(2) Notices must be received by the department no later than ten days prior to the start of the project. Notices ~~((shall))~~ must be sent directly to the department of labor and industries regional office having jurisdiction on the project.

(3) The director may waive the prenotification requirement upon written request of an owner for large-scale, ongoing projects. In granting such a waiver, the director ~~((shall))~~ will require the owner to provide prenotification if significant changes in personnel, methodologies, equipment, work site, or work procedures occur or are likely to occur. The director ~~((shall))~~ will further require annual resubmittal of such notification.

(4) The director, upon review of an owner's reports, work practices, or other data available as a result of inspections, audits, or other authorized activities, may reduce the size threshold for prenotification required by this section. Such a change ~~((shall))~~ will be based on the director's determination that significant problems in personnel, methodologies, equipment, work site, or work procedures are creating the potential for violations of this chapter.

(5) Emergency projects which disturb or release asbestos into the air ~~((shall))~~ must be reported to the department within three working days after commencement of the project in the manner otherwise required under this chapter. The employees, the employees' collective bargaining representative or employee representative, if any, and other persons at the project area ~~((shall))~~ must be notified of the emergency as soon as possible by the person undertaking the emergency project. A notice describing the nature of the emergency project ~~((shall))~~ must be clearly posted adjacent to the work area.

(6) Incremental phasing in the conduct or design of asbestos projects or otherwise conducting or designing asbestos projects of a size less than the threshold exemption specified in subsection (1) of this section, with the intent of avoid-

ing the notification requirements, is a violation of this chapter.

**AMENDATORY SECTION** (Amending Order 89-10, filed 10/10/89, effective 11/24/89)

**WAC 296-65-025 Fees.** (1) A nonrefundable administrative fee of twenty-five dollars ~~((shall))~~ will be assessed for each initial, replacement, or renewal asbestos worker certificate application. The fee (check or money order) must accompany the certificate application and be made payable to the department. An application form may be obtained from any approved training course instructor or directly from the department.

(2) A nonrefundable administrative fee of thirty-five dollars ~~((shall))~~ will be assessed for each initial, replacement, or renewal asbestos supervisor certificate application. The fee (check or money order) must accompany the certificate application and be made payable to the department. An application form may be obtained from any approved training course instructor or directly from the department.

(3) A nonrefundable administrative fee of one thousand dollars ~~((shall))~~ will be assessed for each initial or renewal contractor certificate application. The fee (check or money order) must accompany the certificate application and be made payable to the department. An application form may be obtained from the department.

Note: In circumstances where it is necessary to coordinate an expiration date with the date of expiration of a contractor registration issued under chapter 18.27 RCW, certificates may be valid for less than one year. In such circumstances, the certificate fee prescribed in WAC 296-65-025 ~~((shall))~~ will be prorated accordingly for the initial application only.

(4) A nonrefundable administrative fee of one thousand dollars ~~((shall))~~ will be assessed for each initial and renewal application for training course approval. A check or money order ~~((shall))~~ must accompany any application made under the provisions of WAC 296-65-015.

**AMENDATORY SECTION** (Amending WSR 97-19-014, filed 9/5/97, effective 11/5/97)

**WAC 296-65-030 Methods of compliance.** (1) Before submitting a bid or working on an asbestos abatement project, any person or individual ~~((shall))~~ must obtain an asbestos contractor certificate as provided in WAC 296-65-017 and ~~((shall))~~ must have in its employ at least one certified asbestos supervisor responsible for supervising all asbestos projects undertaken by the contractor.

(2) A certified asbestos supervisor will not be required on asbestos projects involving less than three linear square feet or three feet of asbestos-containing material unless the surface area of the pipe is greater than three square feet. A certified asbestos supervisor is required for all Class I and II asbestos work in accordance with WAC 296-62-07728 ~~((a))~~.

(3) No employee or other individual is eligible to do work or supervise an asbestos project without being issued a certificate by the department.

(a) Employees performing Class I or Class II asbestos work ~~((shall))~~ must be certified asbestos workers ~~((except when excluded))~~ as specified in WAC 296-62-07722 ~~((3))~~.

(b) Employees performing Class III or Class IV asbestos work specified by WAC 296-62-07722 as an asbestos project shall be certified asbestos workers.

~~((Note: Exceptions to certification of asbestos work not considered to be an asbestos project are found in WAC 296-65-003 in the definition of "asbestos project," and in WAC 296-62-07722. If intact asbestos-containing materials or PACM are removed according to the required work practices, controls, respiratory protection, training and related provisions of WAC 296-62-077, certification is not required as specified in the exceptions. If asbestos-containing material or PACM is not intact, or becomes nonintact during removal, the asbestos work is considered as an asbestos project and the certification requirements of chapter 296-65 WAC apply.))~~

(4) No person may assign any employee, contract with, or permit any individual, to ~~((remove or encapsulate asbestos))~~ work on an asbestos project in any facility without the project being performed by a certified asbestos worker ~~((and under the direct, on-site supervision of a certified asbestos supervisor))~~.

(5) A certified asbestos supervisor must provide direct, on-site supervision for an asbestos project. Except in cases in which an employer conducts an asbestos abatement project in its own facility by its own certified employees, supervision ~~((can))~~ may be performed in the regular course of a certified asbestos supervisor's duties. Asbestos workers must have access to and under the control of certified asbestos supervisors throughout the duration of the project.

(6) Any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of this section ~~((shall))~~ must be halted immediately and cannot be resumed before meeting such requirements.

**AMENDATORY SECTION** (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07701 Scope and application.** (1) WAC 296-62-07701 through 296-62-07753 applies to all occupational exposures to asbestos in all industries covered by ~~((the))~~ chapter 49.17 RCW, Washington Industrial Safety and Health Act and chapter 49.26 RCW, Health and Safety—Asbestos.

(2) This ~~((section does apply))~~ part applies to construction work as defined in WAC 296-155-012 except for work involving asbestos-containing asphalt roof coatings, cements, and mastics. The exception for roofing materials does not apply to asphalt coated asbestos felting and similar built-up roofing.

(3) This ~~((section does apply))~~ part applies to ship repairing, shipbuilding and shipbreaking employments and related employments as defined in WAC 296-304-01001 except for work involving asbestos-containing asphalt roof coatings, cements, and mastics. The exception for roofing materials does not apply to asphalt coated asbestos felting and similar built-up roofing.

**AMENDATORY SECTION** (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07703 Definitions.** For the purpose of WAC 296-62-07701 through 296-62-07753:

**Accredited inspector** means any person meeting the accreditation requirements of the Federal Toxic Substance Control Act, Section 206 (a)(1) and (3). 15 U.S.C. 2646 (a)(1) and (3).

**Aggressive method** means removal or disturbance of building material by sanding, abrading, grinding or other method that breaks, crumbles, or disintegrates intact ACM.

**Amended water** means water to which surfactant (wetting agent) has been added to increase the ability of the liquid to penetrate ACM.

**Asbestos** includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated and/or altered.

For purposes of this standard, "asbestos" includes PACM, as defined below.

**Asbestos abatement project** means an asbestos project involving three square feet or three linear feet, or more, of asbestos-containing material.

**Asbestos-containing material (ACM)** means any material containing more than 1% asbestos.

**Asbestos project** (~~—definition as stated in WAC 296-65-003~~) includes the construction, demolition, repair, remodeling, maintenance or renovation of any public or private building or structure, mechanical piping equipment or system involving the demolition, removal, encapsulation, salvage, or disposal of material or outdoor activity releasing or likely to release asbestos fibers into the air.

**Authorized person** means any person authorized by the employer and required by work duties to be present in regulated areas.

**Building/facility/vessel owner** means any legal entity or person who owns any public or private building, vessel, structure, facility, or mechanical system or the remnants thereof, including the agent of such person, but does not include individuals who work on asbestos projects in their own single-family residences, no part of which is used for commercial purposes. Also included is any lessee, who exercises control over management and recordkeeping functions relating to a building, vessel, and/or facility in which activities covered by this standard takes place.

**Certified asbestos supervisor** means an individual certified by the department under WAC 296-65-012.

**Certified asbestos worker** means an individual certified by the department under WAC 296-65-010.

**Certified industrial hygienist (CIH)** means one certified in the practice of industrial hygiene by the American Board of Industrial Hygiene.

**Class I asbestos work** means activities involving the removal of thermal system insulation or surfacing ACM/PACM.

**Class II asbestos work** means activities involving the removal of ACM which is not thermal system insulation or surfacing material. This includes, but is not limited to, the removal of asbestos-containing wallboard, floor tile and

sheeting, roofing and siding shingles, and construction mastics.

**Class III asbestos work** means repair and maintenance operations where "ACM," including TSI and surfacing ACM and PACM, may be disturbed.

**Class IV asbestos work** means maintenance and custodial activities during which employees contact but do not disturb ACM or PACM and activities to clean up dust, waste and debris resulting from Class I, II, and III activities.

**Clean room** means an uncontaminated room having facilities for the storage of employees' street clothing and uncontaminated materials and equipment.

**Closely resemble** means that the major workplace conditions which have contributed to the levels of historic asbestos exposure, are no more protective than conditions of the current workplace.

**Competent person** means, in addition to the definition in WAC 296-62-07728, one who is capable of identifying existing asbestos, hazards in the workplace and selecting the appropriate control strategy for asbestos exposure, who has the authority to take prompt corrective measures to eliminate them as specified in WAC 296-62-07728. The competent person shall be certified as an asbestos supervisor in compliance with WAC 296-65-030(3) and 296-65-012 for Class I and Class II work, and for Class III and Class IV work involving 3 square feet or 3 linear feet or more of asbestos-containing material. For Class III and Class IV work, involving less than 3 square feet or 3 linear feet, the competent person shall be trained in an operations and maintenance (O&M) course which meets the criteria of EPA (40 CFR 763.92 (a)(2)).

**Critical barrier** means one or more layers of plastic sealed over all openings into a work area or any other similarly placed physical barrier sufficient to prevent airborne asbestos in a work area from migrating to an adjacent area.

**Decontamination area** means an enclosed area adjacent and connected to the regulated area and consisting of an equipment room, shower area, and clean room, which is used for the decontamination of workers, materials, and equipment contaminated with asbestos.

**Demolition** means the wrecking or taking out of any load-supporting structural member and any related razing, removing, or stripping of asbestos products. Where feasible, asbestos-containing materials shall be removed from all structures prior to the commencement of any demolition activity as per WAC 296-155-775(9).

**Department** means the department of labor and industries.

**Director** means the director of the department of labor and industries or his/her authorized representative.

**Director of NIOSH** means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designee.

**Disturb or disturbance** (~~means~~) refers to activities that disrupt the matrix of ACM or PACM, crumble or pulverize ACM or PACM, or generate visible debris from ACM or PACM. This term includes activities that disrupt the matrix of ACM or PACM, render ACM or PACM friable, or generate visible debris. Disturbance includes cutting away small

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amounts of ACM or PACM, no greater than the amount which can be contained in one standard size glove bag or waste bag in order to access a building or vessel component. In no event shall the amount of ACM or PACM so disturbed exceed that which can be contained in one glove bag or waste bag which shall not exceed 60 inches in length and width.

**Employee exposure** means that exposure to airborne asbestos that would occur if the employee were not using respiratory protective equipment.

**Equipment room (change room)** means a contaminated room located within the decontamination area that is supplied with impermeable bags or containers for the disposal of contaminated protective clothing and equipment.

**Fiber** means a particulate form of asbestos, five micrometers or longer, with a length-to-diameter ratio of at least three to one.

**Glove bag** means not more than a 60 x 60 inch impervious plastic bag-like enclosure affixed around an asbestos-containing material, with glove-like appendages through which material and tools may be handled.

**High-efficiency particulate air (HEPA) filter** means a filter capable of trapping and retaining at least 99.97 percent of all monodispersed particles of 0.3 micrometers mean aerodynamic diameter or larger.

**Homogeneous area** means an area of surfacing material or thermal system insulation that is uniform in color and texture.

**Industrial hygienist** means a professional qualified by education, training, and experience to anticipate, recognize, evaluate and develop controls for occupational health hazards.

**Intact** means that the ACM has not crumbled, been pulverized, or otherwise deteriorated so that the asbestos is no longer likely to be bound with its matrix. Friable ACM that is disturbed, as defined in this part, is presumed to be no longer intact.

**Modification** for the purpose of WAC 296-62-07712 means a changed or altered procedure, material or component of a control system, which replaces a procedure, material or component of a required system. Omitting a procedure or component, or reducing or diminishing the stringency or strength of a material or component of the control system is not a "modification" for the purposes of WAC 296-62-07712.

**Negative initial exposure assessment** means a demonstration by the employer (which complies with the criteria in WAC 296-62-07709) that employee exposure during an operation is expected to be consistently below the PELs.

**PACM** means "presumed asbestos-containing material."

**Presumed asbestos-containing material** means thermal system insulation and surfacing material found in buildings, vessels, and vessel sections constructed no later than 1980. The designation of a material as "PACM" may be rebutted pursuant to WAC 296-62-07721.

**Project designer** means a person who has successfully completed the training requirements for an abatement project designer established by 40 U.S.C. 763.90(g).

**Regulated area** means an area established by the employer to demarcate areas where Class I, II, and III asbestos work is conducted, and any adjoining area where debris

and waste from such asbestos work accumulate; and a work area within which airborne concentrations of asbestos, exceed or can reasonably be expected to exceed the permissible exposure limit. Requirements for regulated areas are set out in WAC 296-62-07711.

**Removal** means all operations where ACM and/or PACM is taken out or stripped from structures or substrates, and includes demolition operations.

**Renovation** means the modifying of any existing vessel, vessel section, structure, or portion thereof.

**Repair** means overhauling, rebuilding, reconstructing, or reconditioning of vessels, vessel sections, structures or substrates, including encapsulation or other repair of ACM or PACM attached to vessels, vessel sections, structures or substrates.

**Surfacing material** means material that is sprayed, troweled-on or otherwise applied to surfaces (such as acoustical plaster on ceilings and fireproofing materials on structural members, or other materials on surfaces for acoustical, fireproofing, and other purposes).

**Surfacing ACM** means surfacing material which contains more than 1% asbestos.

**Thermal system insulation (TSI)** means ACM applied to pipes, fittings, boilers, breaching, tanks, ducts, or other structural components to prevent heat loss or gain.

**Thermal system insulation ACM** is thermal system insulation which contains more than 1% asbestos.

AMENDATORY SECTION (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07709 Exposure assessment and monitoring.** (1) General monitoring criteria.

(a) Each employer who has a workplace or work operation where exposure monitoring is required under this (~~section shall~~) part must perform monitoring to determine accurately the airborne concentrations of asbestos to which employees may be exposed.

(b) Determinations of employee exposure (~~shall~~) must be made from breathing zone air samples that are representative of the eight-hour TWA and thirty minute short-term exposures of each employee.

(c) Representative eight-hour TWA employee exposures (~~shall~~) must be determined on the basis of one or more samples representing full-shift exposure for each shift for each employee in each job classification in each work area.

(d) Representative thirty minute short-term employee exposures (~~shall~~) must be determined on the basis of one or more samples representing thirty minute exposures associated with operations that are most likely to produce exposures above the excursion limit for each shift for each job classification in each work area.

(2) Exposure monitoring requirements for all occupational exposures to asbestos in all industries covered by the Washington Industrial Safety and Health Act except construction work, as defined in WAC 296-155-012, and except ship repairing, shipbuilding and shipbreaking employments and related employments as defined in WAC 296-304-01001.

(a) Initial monitoring.

PROPOSED

(i) Each employer who has a workplace or work operation covered by this standard, except as provided for in (a)(ii) and (iii) of this subsection, ~~((shall))~~ must perform initial monitoring of employees who are, or may reasonably be expected to be exposed to airborne concentrations at or above the TWA permissible exposure limit and/or excursion limit. The initial monitoring ~~((shall))~~ must be at the initiation of each asbestos job to accurately determine the airborne concentration of asbestos to which employees may be exposed.

(ii) Where the employer or his/her representative has monitored after March 31, 1992, for the TWA permissible exposure limit and/or excursion limit, and the monitoring satisfies all other requirements of this section, and the monitoring data was obtained during work operations conducted under workplace conditions closely resembling the processes, type of material including percentage of asbestos, control methods, work practices, and environmental conditions used and prevailing in the employer's current operations, the employer may rely on such earlier monitoring results to satisfy the requirements of (a)(i) of this subsection.

(iii) Where the employer has relied upon objective data that demonstrates that asbestos is not capable of being released in airborne concentrations at or above the TWA permissible exposure limit and/or excursion limit under those work conditions of processing, use, or handling expected to have the greatest potential for releasing asbestos, then no initial monitoring is required.

(b) Monitoring frequency (periodic monitoring) and patterns. After the initial determinations required by subsection (2)(a)(i) of this section, samples ~~((shall))~~ must be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of the employees. In no case ~~((shall))~~ must sampling be at intervals greater than six months for employees whose exposures may reasonably be foreseen to exceed the TWA permissible exposure limit and/or excursion limit.

(c) Daily monitoring within regulated areas: The employer ~~((shall))~~ must conduct daily monitoring that is representative of the exposure of each employee who is assigned to work within a regulated area. Exception: When all employees within a regulated area are equipped with full facepiece supplied-air respirators operated in the pressure-demand mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a HEPA filter, the employer may dispense with the daily monitoring required by this subsection.

(d) Changes in monitoring frequency. If either the initial or the periodic monitoring required by subsection (2)(a) and (b) of this section statistically indicates that employee exposures are below the TWA permissible exposure limit and/or excursion limit, the employer may discontinue the monitoring for those employees whose exposures are represented by such monitoring.

(e) Additional monitoring. Notwithstanding the provisions of subsection (2)(a)(ii) and (c) of this section, the employer ~~((shall))~~ must institute the exposure monitoring required under subsection (2)(a)(i) and (ii) of this section whenever there has been a change in the production, process, control equipment, personnel, or work practices that may result in new or additional exposures above the TWA permis-

sible exposure limit and/or excursion limit, or when the employer has any reason to suspect that a change may result in new or additional exposures above the TWA permissible exposure limit and/or excursion limit.

(3) Exposure assessment monitoring requirements for all construction work as defined in WAC 296-155-012 and for all ship repairing, shipbuilding and shipbreaking employments and related employments as defined in WAC 296-304-01001.

(a) Initial exposure assessment.

(i) Each employer who has a workplace or work operation covered by this standard ~~((shall))~~ must ensure that a "competent person" conducts an exposure assessment immediately before or at the initiation of the operation to ascertain expected exposures during that operation or workplace. The assessment must be completed in time to comply with the requirements which are triggered by exposure data or lack of a "negative exposure assessment," and to provide information necessary to assure that all control systems planned are appropriate for that operation and will work properly.

(ii) Basis of initial exposure assessment: Unless a negative exposure assessment has been made ~~((pursuant))~~ according to (b) of this subsection, the initial exposure assessment ~~((shall))~~ must, if feasible, be based on monitoring conducted ~~((pursuant))~~ according to (b) of this subsection. The assessment ~~((shall))~~ must take into consideration both the monitoring results and all observations, information or calculations which indicate employee exposure to asbestos, including any previous monitoring conducted in the workplace, or of the operations of the employer which indicate the levels of airborne asbestos likely to be encountered on the job. For Class I asbestos work, until the employer conducts exposure monitoring and documents that employees on that job will not be exposed in excess of the PELs, or otherwise makes a negative exposure assessment ~~((pursuant))~~ according to (b) of this subsection, the employer ~~((shall))~~ must presume that employees are exposed in excess of the TWA and excursion limit.

(b) Negative exposure assessment: For any one specific asbestos job which will be performed by employees who have been trained in compliance with the standard, the employer may demonstrate that employee exposures will be below the PELs by data which conform to the following criteria:

(i) Objective data demonstrating that the products or material containing asbestos minerals or the activity involving such product or material cannot release airborne fibers in concentrations exceeding the TWA and excursion limit under those work conditions having the greatest potential for releasing asbestos; or

(ii) Where the employer has monitored prior asbestos jobs for the PEL and the excursion limit within 12 months of the current or projected job, the monitoring and analysis were performed in compliance with the asbestos standard in effect; and the data was obtained during work operations conducted under workplace conditions "closely resembling" the processes, type of material including percentage of asbestos, control methods, work practices, and environmental conditions used and prevailing in the employer's current operations, the operations were conducted by employees whose training and experience are no more extensive than that of

employees performing the current job, and these data show that under the conditions prevailing and which will prevail in the current workplace there is a high degree of certainty that employee exposures will not exceed the TWA or excursion limit; or

(iii) The results of initial exposure monitoring of the current job made from breathing zone samples that are representative of the 8-hour TWA and 30-minute short-term exposures of each employee covering operations which are most likely during the performance of the entire asbestos job to result in exposures over the PELs ~~(~~or~~~~

~~(iv) Monitoring outside negative pressure enclosures: The employer shall conduct representative area monitoring of the airborne fiber levels at least every other day at the HEPA machine exhaust and entrance to the decontamination area).~~

(c) Periodic monitoring.

(i) Class I and Class II operations. The employer ~~((shall))~~ must conduct daily monitoring that is representative of the exposure of each employee who is assigned to work within a regulated area who is performing Class I or II work, unless the employer ~~((pursuant))~~ according to (b) of this subsection, has made a negative exposure assessment for the entire operation.

(ii) All operations under the standard other than Class I and II operations. The employer ~~((shall))~~ must conduct periodic monitoring of all work where exposures are expected to exceed a PEL, at intervals sufficient to document the validity of the exposure prediction.

(iii) Exception. When all employees required to be monitored daily are equipped with supplied-air respirators operated in the pressure demand mode, the employer may dispense with the daily monitoring required by subsection (2)(c) of this section. However, employees performing Class I work using a control method which is not listed in WAC 296-62-07712 of this section or using a modification of a listed control method, ~~((shall))~~ must continue to be monitored daily even if they are equipped with supplied-air respirators.

(iv) Monitoring outside negative-pressure enclosures: The employer must conduct representative area monitoring of the airborne fiber levels at least every other day at the HEPA machine exhaust and entrance to the decontamination area.

(d) Termination of monitoring. If the periodic monitoring required by (c) of this subsection reveals that employee exposures, as indicated by statistically reliable measurements, are below the permissible exposure limit and excursion limit the employer may discontinue monitoring for those employees whose exposures are represented by such monitoring.

(e) Additional monitoring. Notwithstanding the provisions of (b), (c), and (d) of this subsection, the employer ~~((shall))~~ must institute the exposure monitoring required under (c) of this subsection whenever there has been a change in process, control equipment, personnel or work practices that may result in new or additional exposures above the permissible exposure limit and/or excursion limit or when the employer has any reason to suspect that a change may result in new or additional exposures above the permissible exposure limit and/or excursion limit. Such additional monitoring

is required regardless of whether a "negative exposure assessment" was previously produced for a specific job.

~~(f) ((Prior to the start of the removal, demolition, or renovation project, representative area monitoring shall be conducted for later use)) Preabatement monitoring. Prior to the start of asbestos work, representative area air monitoring must be conducted for comparison to clearance monitoring as required by WAC 296-62-07709 (3)(g). Preabatement air monitoring is not required for outdoor work (see WAC 296-62-07712 (5)(c)).~~

(g) Clearance monitoring. Representative area air monitoring must be taken at the completion of the asbestos work. Air sample results must be obtained before removal or reoccupancy of the regulated area. Clearance air monitoring is not required for outdoor asbestos work.

(4) Method of monitoring.

(a) All samples taken to satisfy the employee exposure monitoring requirements of this section ~~((shall))~~ must be personal samples collected following the procedures specified in WAC 296-62-07735, Appendix A.

(b) Monitoring ~~((shall))~~ must be performed by persons having a thorough understanding of monitoring principles and procedures and who can demonstrate proficiency in sampling techniques.

(c) All samples taken to satisfy the monitoring requirements of this section ~~((shall))~~ must be evaluated using the WISHA reference method specified in WAC 296-62-07735, Appendix A, or an equivalent counting method recognized by the department.

(d) If an equivalent method to the WISHA reference method is used, the employer ~~((shall))~~ must ensure that the method meets the following criteria:

(i) Replicate exposure data used to establish equivalency are collected in side-by-side field and laboratory comparisons; and

(ii) The comparison indicates that ninety percent of the samples collected in the range 0.5 to 2.0 times the permissible limit have an accuracy range of plus or minus twenty-five percent of the WISHA reference method results at a ninety-five percent confidence level as demonstrated by a statistically valid protocol; and

(iii) The equivalent method is documented and the results of the comparison testing are maintained.

(e) To satisfy the monitoring requirements of this section, employers must use the results of monitoring analysis performed by laboratories which have instituted quality assurance programs that include the elements as prescribed in WAC 296-62-07735, Appendix A.

(5) Employee notification of monitoring results.

(a) The employer ~~((shall))~~ must, as soon as possible but no later than within fifteen working days after the receipt of the results of any monitoring performed under the standard, notify the affected employees of these results in writing either individually or by posting of results in an appropriate location that is accessible to affected employees.

(b) The written notification required by (a) of this subsection ~~((shall))~~ must contain the corrective action being taken by the employer to reduce employee exposure to or below the TWA and/or excursion exposure limits, wherever

monitoring results indicated that the TWA and/or excursion exposure limits had been exceeded.

(6) Observation of monitoring.

(a) The employer ((shall)) must provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to asbestos conducted in accordance with this section.

(b) When observation of the monitoring of employee exposure to asbestos requires entry into an area where the use of protective clothing or equipment is required, the observer ((shall)) must be provided with and be required to use such clothing and equipment and shall comply with all other applicable safety and health procedures.

**AMENDATORY SECTION** (Amending WSR 97-19-014, filed 9/5/97, effective 11/5/97)

**WAC 296-62-07712 Requirements for asbestos activities in construction and shipyard work.** (1) Methods of compliance, the following engineering controls and work practices of this section ((shall)) must be used for construction work defined in WAC 296-155-012 and for all ship repair defined in WAC 296-304-010.

(2) Engineering controls and work practices for all operations covered by this section. The employer ((shall)) must use the following engineering controls and work practices in all operations covered by this section, regardless of the levels of exposure:

(a) Vacuum cleaners equipped with HEPA filters to collect all debris and dust containing ACM and PACM, except as provided in subsection (10)(b) of this section in the case of roofing material.

(b) Wet methods, or wetting agents, to control employee exposures during asbestos handling, mixing, removal, cutting, application, and cleanup, except where employers demonstrate that the use of wet methods is infeasible due to, for example, the creation of electrical hazards, equipment malfunction, and, in roofing, except as provided in subsection (10)(b) of this section.

(c) Asbestos ((shall)) must be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet saturated state to prevent the emission of airborne fibers unless the usefulness of the product would be diminished thereby.

(d) Prompt cleanup and disposal of wastes and debris contaminated with asbestos in leak-tight containers except in roofing operations, where the procedures specified in this section apply.

(3) In addition to the requirements of subsection (2) of this section, the employer ((shall)) must use the following control methods to achieve compliance with the TWA permissible exposure limit and excursion limit prescribed by WAC 296-62-07705:

(a) Local exhaust ventilation equipped with HEPA filter dust collection systems;

(b) Enclosure or isolation of processes producing asbestos dust;

(c) Ventilation of the regulated area to move contaminated air away from the breathing zone of employees and toward a filtration or collection device equipped with a HEPA filter;

(d) Use of other work practices and engineering controls that the department can show to be feasible;

(e) Wherever the feasible engineering and work practice controls described above are not sufficient to reduce employee exposure to or below the permissible exposure limit and/or excursion limit prescribed in WAC 296-62-07705, the employer ((shall)) must use them to reduce employee exposure to the lowest levels attainable by these controls and ((shall)) must supplement them by the use of respiratory protection that complies with the requirements of WAC 296-62-07715.

(4) Prohibitions. The following work practices and engineering controls ((shall)) must not be used for work related to asbestos or for work which disturbs ACM or PACM, regardless of measured levels of asbestos exposure or the results of initial exposure assessments:

(a) High-speed abrasive disc saws that are not equipped with point or cut ventilator or enclosures with HEPA filtered exhaust air;

(b) Compressed air used to remove asbestos, or materials containing asbestos, unless the compressed air is used in conjunction with an enclosed ventilation system designed to capture the dust cloud created by the compressed air;

(c) Dry sweeping, shoveling or other dry cleanup of dust and debris containing ACM and PACM;

(d) Employee rotation as a means of reducing employee exposure to asbestos.

(5) Cleanup.

(a) After completion of asbestos work (removal, demolition, and renovation operations), all surfaces in and around the work area ((shall)) must be cleared of any asbestos debris.

~~(b) ((Lock-down. Where asbestos has been removed, encapsulant shall be applied to ensure binding of remaining fibers.~~

~~(e) The employer shall demonstrate by monitoring that the airborne fiber concentration is below the permissible exposure limits; or, at or below the airborne fiber level existing prior to the start of the removal, demolition, or renovation project; whichever level is lower.) Encapsulant must be applied to all areas where asbestos has been removed to ensure binding of any remaining fibers.~~

(6) Class I requirements. The following engineering controls and work practices and procedures ((shall)) must be used:

(a) All Class I work, including the installation and operation of the control system ((shall)) must be supervised by a competent person as defined in WAC 296-62-07703;

(b) For all Class I jobs involving the removal of more than 25 linear or 10 square feet of thermal system insulation or surfacing material; for all other Class I jobs, where the employer cannot produce a negative exposure assessment ((pursuant)) according to WAC 296-62-07709(3), or where employees are working in areas adjacent to the ((regulation)) regulated area, while the Class I work is being performed, the employer ((shall)) must use one of the following methods to ensure that airborne asbestos does not migrate from the regulated area:

(i) Critical barriers ((shall)) must be placed over all the openings to the regulated area, except where activities are performed outdoors; or

(ii) The employer ~~((shall))~~ must use another barrier or isolation method which prevents the migration of airborne asbestos from the regulated area, as verified by perimeter area surveillance during each work shift at each boundary of the regulated area, showing no visible asbestos dust; and perimeter area monitoring showing that clearance levels contained in 40 CFR Part 763, Subpart E, of the EPA Asbestos in Schools Rule are met, or that perimeter area levels, measured by Phase Contrast Microscopy (PCM) are no more than background levels representing the same area before the asbestos work began. The results of such monitoring ~~((shall))~~ must be made known to the employer no later than 24 hours from the end of the work shift represented by such monitoring. Exception: For work completed outdoors where employees are not working in areas adjacent to the regulated areas, (a) of this subsection is satisfied when the specific control methods in subsection (7) of this section are used;

(c) For all Class I jobs, HVAC systems ~~((shall))~~ must be isolated in the regulated area by sealing with a double layer of 6 mil plastic or the equivalent;

(d) For all Class I jobs, impermeable dropcloths shall be placed on surfaces beneath all removal activity;

(e) For all Class I jobs, all objects within the regulated area ~~((shall))~~ must be covered with impermeable dropcloths or plastic sheeting which is secured by duct tape or an equivalent;

(f) For all Class I jobs where the employer cannot produce a negative exposure assessment, or where exposure monitoring shows that a PEL is exceeded, the employer ~~((shall))~~ must ventilate the regulated area to move contaminated air away from the breathing zone of employees toward a HEPA filtration or collection device.

(7) Specific control methods for Class I work. In addition, Class I asbestos work ~~((shall))~~ must be performed using one or more of the following control methods ~~((pursuant))~~ according to the limitations stated below:

(a) Negative pressure enclosure (NPE) systems: NPE systems may be used where the configuration of the work area does not make the erection of the enclosure infeasible, with the following specifications and work practices:

(i) Specifications:

(A) The negative pressure enclosure (NPE) may be of any configuration;

(B) At least 4 air changes per hour ~~((shall))~~ must be maintained in the NPE;

(C) A minimum of -0.02 column inches of water pressure differential, relative to outside pressure, ~~((shall))~~ must be maintained within the NPE as evidenced by manometric measurements;

(D) The NPE ~~((shall))~~ must be kept under negative pressure throughout the period of its use; and

(E) Air movement ~~((shall))~~ must be directed away from employees performing asbestos work within the enclosure, and toward a HEPA filtration or collection device.

(ii) Work practices:

(A) Before beginning work within the enclosure and at the beginning of each shift, the NPE ~~((shall))~~ must be inspected for breaches and smoke-tested for leaks, and any leaks sealed.

(B) Electrical circuits in the enclosure ~~((shall))~~ must be deactivated, unless equipped with ground-fault circuit interrupters.

(b) Glove bag systems may be used to remove PACM and/or ACM from straight runs of piping and elbows and other connections with the following specifications and work practices:

(i) Specifications:

(A) Glove bags ~~((shall))~~ must be made of 6 mil thick plastic and ~~((shall))~~ must be seamless at the bottom.

(B) Glove bags used on elbows and other connections must be designed for that purpose and used without modifications.

(ii) Work practices:

(A) Each glove bag ~~((shall))~~ must be installed so that it completely covers the circumference of pipe or other structure where the work is to be done.

(B) Glove bags ~~((shall))~~ must be smoke-tested for leaks and any leaks sealed prior to use.

(C) Glove bags may be used only once and may not be moved.

(D) Glove bags ~~((shall))~~ must not be used on surfaces whose temperature exceeds 150°F.

(E) Prior to disposal, glove bags ~~((shall))~~ must be collapsed by removing air within them using a HEPA vacuum.

(F) Before beginning the operation, loose and friable material adjacent to the glove bag/box operation ~~((shall))~~ must be wrapped and sealed in two layers of six mil plastic or otherwise rendered intact.

(G) Where system uses attached waste bag, such bag ~~((shall))~~ must be connected to collection bag using hose or other material which ~~((shall))~~ must withstand pressure of ACM waste and water without losing its integrity.

(H) Sliding valve or other device ~~((shall))~~ must separate waste bag from hose to ensure no exposure when waste bag is disconnected.

(I) At least two persons ~~((shall))~~ must perform Class I glove bag removal operations.

(c) Negative pressure glove bag systems. Negative pressure glove bag systems may be used to remove ACM or PACM from piping.

(i) Specifications: In addition to specifications for glove bag systems above, negative pressure glove bag systems ~~((shall))~~ must attach HEPA vacuum systems or other devices to bag during removal.

(ii) Work practices:

(A) The employer ~~((shall))~~ must comply with the work practices for glove bag systems in this section.

(B) The HEPA vacuum cleaner or other device used during removal ~~((shall))~~ must run continually during the operation until it is completed at which time the bag ~~((shall))~~ must be collapsed prior to removal of the bag from the pipe.

(C) Where a separate waste bag is used along with a collection bag and discarded after one use, the collection bag may be reused if rinsed clean with amended water before reuse.

(d) Negative pressure glove box systems: Negative pressure glove boxes may be used to remove ACM or PACM

from pipe runs with the following specifications and work practices:

(i) Specifications:

(A) Glove boxes ((~~shall~~)) must be constructed with rigid sides and made from metal or other material which can withstand the weight of the ACM and PACM and water used during removal.

(B) A negative pressure generator ((~~shall~~)) must be used to create negative pressure in the system.

(C) An air filtration unit ((~~shall~~)) must be attached to the box.

(D) The box ((~~shall~~)) must be fitted with gloved apertures.

(E) An aperture at the base of the box ((~~shall~~)) must serve as a bagging outlet for waste ACM and water.

(F) A back-up generator ((~~shall~~)) must be present on site.

(G) Waste bags ((~~shall~~)) must consist of 6 mil thick plastic double-bagged before they are filled or plastic thicker than 6 mil.

(ii) Work practices:

(A) At least two persons ((~~shall~~)) must perform the removal.

(B) The box ((~~shall~~)) must be smoke-tested for leaks and any leaks sealed prior to each use.

(C) Loose or damaged ACM adjacent to the box ((~~shall~~)) must be wrapped and sealed in two layers of 6 mil plastic prior to the job, or otherwise made intact prior to the job.

(D) A HEPA filtration system ((~~shall~~)) must be used to maintain pressure barrier in box.

(e) Water spray process system. A water spray process system may be used for removal of ACM and PACM from cold line piping if, employees carrying out such process have completed a 40-hour separate training course in its use, in addition to training required for employees performing Class I work. The system ((~~shall~~)) must meet the following specifications and shall be performed by employees using the following work practices:

(i) Specifications:

(A) Piping ((~~shall~~)) must be surrounded on 3 sides by rigid framing.

(B) A 360 degree water spray, delivered through nozzles supplied by a high pressure separate water line, ((~~shall~~)) must be formed around the piping.

(C) The spray ((~~shall~~)) must collide to form a fine aerosol which provides a liquid barrier between workers and the ACM and PACM.

(ii) Work practices:

(A) The system ((~~shall~~)) must be run for at least 10 minutes before removal begins.

(B) All removal ((~~shall~~)) must take place within the water barrier.

(C) The system ((~~shall~~)) must be operated by at least three persons, one of whom ((~~shall~~)) must not perform removal, but ((~~shall~~)) must check equipment, and ensure proper operation of the system.

(D) After removal, the ACM and PACM ((~~shall~~)) must be bagged while still inside the water barrier.

(f) A small walk-in enclosure which accommodates no more than two persons (mini-enclosure) may be used if the disturbance or removal can be completely contained by the

enclosure with the following specifications and work practices:

(i) Specifications:

(A) The fabricated or job-made enclosure ((~~shall~~)) must be constructed of 6 mil plastic or equivalent.

(B) The enclosure ((~~shall~~)) must be placed under negative pressure by means of a HEPA filtered vacuum or similar ventilation unit.

(C) Change room. A small change room made of 6-mil-thick polyethylene plastic should be contiguous to the mini-enclosure, and is necessary to allow the worker to vacuum off his/her protective coveralls and remove them before leaving the work area. While inside the enclosure, the worker should wear ((~~Tyvek~~)) Tyvek disposable coveralls or equivalent and must use the appropriate HEPA-filtered dual cartridge respiratory protection. The advantages of mini-enclosures are that they limit the spread of asbestos contamination, reduce the potential exposure of bystanders and other workers who may be working in adjacent areas, and are quick and easy to install. The disadvantage of mini-enclosures is that they may be too small to contain the equipment necessary to create a negative-pressure within the enclosure; however, the double layer of plastic sheeting will serve to restrict the release of asbestos fibers to the area outside the enclosure.

(ii) Work practices:

(A) Before use, the mini-enclosure ((~~shall~~)) must be inspected for leaks and smoke-tested to detect breaches, and any breaches sealed.

(B) Before reuse, the interior ((~~shall~~)) must be completely washed with amended water and HEPA-vacuumed.

(C) During use, air movement ((~~shall~~)) must be directed away from the employee's breathing zone within the mini-enclosure.

(8) Alternative control methods for Class I work. Class I work may be performed using a control method which is not referenced in subsection (2)(a) through (3)(e) of this section, or which modifies a control method referenced in subsection (2)(a) through (3)(e) of this section, if the following provisions are complied with:

(a) The control method shall enclose, contain or isolate the processes or source of airborne asbestos dust, ((~~or otherwise capture or redirect such dust~~)) before it enters the breathing zone of employees.

(b) A certified industrial hygienist or licensed professional engineer who is also qualified as a project designer as defined in WAC 296-62-07703, shall evaluate the work area, the projected work practices and the engineering controls and shall certify in writing that the planned control method is adequate to reduce direct and indirect employee exposure to below the PELs under worst-case conditions of use, and that the planned control method will prevent asbestos contamination outside the regulated area, as measured by clearance sampling which meets the requirements of EPA's Asbestos in Schools rule issued under AHERA, or perimeter monitoring which meets the criteria in subsection (6)(b)(ii) of this section. Where the TSI or surfacing material to be removed is 25 linear or 10 square feet or less, the evaluation required in subsection (8)(b) of this section may be performed by a competent person.

(c) Before work which involves the removal of more than 25 linear or 10 square feet of thermal system insulation or surfacing material is begun using an alternative method which has been the subject of subsection (2)(a) through (3)(e) of this section required evaluation and certification, the employer shall send a copy of such evaluation and certification to the Department of Labor and Industries, Asbestos Certification Program, P.O. Box 44614, Olympia, Washington 98504-4614. The submission shall not constitute approval by WISHA.

(d) The evaluation of employee exposure required in WAC 296-62-07712(8) must include and be based on sampling and analytical data representing employee exposure during the use of such method under the worst-case conditions and by employees whose training and experiences are equivalent to employees who are to perform the current job.

(9) Work practices and engineering controls for Class II work.

(a) All Class II work ((~~shall~~)) must be supervised by a competent person as defined in WAC 296-62-07703.

(b) For all indoor Class II jobs, where the employer has not produced a negative exposure assessment ((~~pursuant~~)) according to WAC 296-62-07709(3), or where during the job, changed conditions indicate there may be exposure above the PEL or where the employer does not remove the ACM in a substantially intact state, the employer ((~~shall~~)) must use one of the following methods to ensure that airborne asbestos does not migrate from the regulated area:

(i) Critical barriers ((~~shall~~)) must be placed over all openings to the regulated area; or

(ii) The employer ((~~shall~~)) must use another barrier or isolation method which prevents the migration of airborne asbestos from the regulated area, as verified by perimeter area monitoring or clearance monitoring which meets the criteria set out in subsection (6)(b)(ii) of this section; or

(iii) Impermeable dropcloths ((~~shall~~)) must be placed on surfaces beneath all removal activity.

(c) (Reserved.)

(d) All Class II asbestos work ((~~shall~~)) must be performed using the work practices and requirements set out above in subsection (9)(a) and (b) of this section.

(10) Additional controls for Class II work. Class II asbestos work ((~~shall~~)) must also be performed by complying with the work practices and controls designated for each type of asbestos work to be performed, set out in this paragraph. Where more than one control method may be used for a type of asbestos work, the employer may choose one or a combination of designated control methods. Class II work also may be performed using a method allowed for Class I work, except that glove bags and glove boxes are allowed if they fully enclose the Class II material to be removed.

(a) For removing vinyl and asphalt flooring materials which contain ACM or for which in buildings constructed no later than 1980, the employer has not verified the absence of ACM ((~~pursuant~~)) according to WAC 296-62-07712 (10)(a)(ix). The employer ((~~shall~~)) must ensure that employees comply with the following work practices and that employees are trained in these practices ((~~pursuant~~)) according to WAC 296-62-07722.

(i) Flooring or its backing ((~~shall~~)) must not be sanded.

(ii) Vacuums equipped with HEPA filter, disposable dust bag, and metal floor tool (no brush) ((~~shall~~)) must be used to clean floors.

(iii) Resilient sheeting ((~~shall~~)) must be removed by cutting with wetting of the snip point and wetting during delamination. Rip-up of resilient sheet floor material is prohibited.

(iv) All scraping of residual adhesive and/or backing ((~~shall~~)) must be performed using wet methods.

(v) Dry sweeping is prohibited.

(vi) Mechanical chipping is prohibited unless performed in a negative pressure enclosure which meets the requirements of subsection (7)(a) of this section.

(vii) Tiles ((~~shall~~)) must be removed intact, unless the employer demonstrates that intact removal is not possible.

(viii) When tiles are heated and can be removed intact, wetting may be omitted.

(ix) Resilient flooring material including associated mastic and backing ((~~shall~~)) must be assumed to be asbestos-containing unless an industrial hygienist determines that it is asbestos-free using recognized analytical techniques.

(b) For removing roofing material which contains ACM the employer ((~~shall~~)) must ensure that the following work practices are followed:

(i) Roofing material ((~~shall~~)) must be removed in an intact state to the extent feasible.

(ii) Wet methods ((~~shall~~)) must be used to remove roofing materials that are not intact, or that will be rendered not intact during removal, unless such wet methods are not feasible or will create safety hazards.

(iii) Cutting machines ((~~shall~~)) must be continuously misted during use, unless a competent person determines that misting substantially decreases worker safety.

(iv) When removing built-up roofs with asbestos-containing roofing felts and an aggregate surface using a power roof cutter, all dust resulting from the cutting operation ((~~shall~~)) must be collected by a HEPA dust collector, or ((~~shall~~)) must be HEPA vacuumed by vacuuming along the cut line. When removing built-up roofs with asbestos-containing roofing felts and a smooth surface using a power roof cutter, the dust resulting from the cutting operation ((~~shall~~)) must be collected either by a HEPA dust collector or HEPA vacuuming along the cut line, or by gently sweeping and then carefully and completely wiping up the still wet dust and debris left along the cut line. The dust and debris ((~~shall~~)) must be immediately bagged or placed in covered containers.

(v) Asbestos-containing material that has been removed from a roof ((~~shall~~)) must not be dropped or thrown to the ground. Unless the material is carried or passed to the ground by hand, it ((~~shall~~)) must be lowered to the ground via covered, dust-tight chute, crane or hoist:

(A) Any ACM that is not intact ((~~shall~~)) must be lowered to the ground as soon as is practicable, but in any event no later than the end of the work shift. While the material remains on the roof it ((~~shall~~)) must either be kept wet, placed in an impermeable waste bag, or wrapped in plastic sheeting.

(B) Intact ACM ((~~shall~~)) must be lowered to the ground as soon as is practicable, but in any event no later than the end of the work shift.

(vi) Upon being lowered, unwrapped material ((~~shall~~)) must be transferred to a closed receptacle in such manner so as to preclude the dispersion of dust.

(vii) Roof level heating and ventilation air intake sources ((~~shall~~)) must be isolated or the ventilation system ((~~shall~~)) must be shut down.

(viii) Notwithstanding any other provision of this section, removal or repair of sections of intact roofing less than 25 square feet in area does not require use of wet methods or HEPA vacuuming as long as manual methods which do not render the material nonintact are used to remove the material and no visible dust is created by the removal method used. In determining whether a job involves less than 25 square feet, the employer ((~~shall~~)) must include all removal and repair work performed on the same roof on the same day.

(c) When removing cementitious asbestos-containing siding and shingles or transite panels containing ACM on building exteriors (other than roofs, where subsection (10)(b) of this section applies) the employer ((~~shall~~)) must ensure that the following work practices are followed:

(i) Cutting, abrading or breaking siding, shingles, or transite panels, ((~~shall~~)) must be prohibited unless the employer can demonstrate that methods less likely to result in asbestos fiber release cannot be used.

(ii) Each panel or shingle ((~~shall~~)) must be sprayed with amended water prior to removal.

(iii) Unwrapped or unbagged panels or shingles ((~~shall~~)) must be immediately lowered to the ground via covered dust-tight chute, crane or hoist, or placed in an impervious waste bag or wrapped in plastic sheeting and lowered to the ground no later than the end of the work shift.

(iv) Nails ((~~shall~~)) must be cut with flat, sharp instruments.

(d) When removing gaskets containing ACM, the employer ((~~shall~~)) must ensure that the following work practices are followed:

(i) If a gasket is visibly deteriorated and unlikely to be removed intact, removal ((~~shall~~)) must be undertaken within a glove bag as described in subsection (7)(b) of this section.

(ii) (Reserved.)

(iii) The gasket ((~~shall~~)) must be immediately placed in a disposal container.

(iv) Any scraping to remove residue must be performed wet.

(e) When performing any other Class II removal of asbestos-containing material for which specific controls have not been listed in subsection (10) of this section, the employer ((~~shall~~)) must ensure that the following work practices are complied with.

(i) The material ((~~shall~~)) must be thoroughly wetted with amended water prior to and during its removal.

(ii) The material ((~~shall~~)) must be removed in an intact state unless the employer demonstrates that intact removal is not possible.

(iii) Cutting, abrading or breaking the material ((~~shall~~)) must be prohibited unless the employer can demonstrate that methods less likely to result in asbestos fiber release are not feasible.

(iv) Asbestos-containing material removed, ((~~shall~~)) must be immediately bagged or wrapped, or kept wet until

transferred to a closed receptacle, no later than the end of the work shift.

(f) Alternative work practices and controls. Instead of the work practices and controls listed in subsection (10) of this section, the employer may use different or modified engineering and work practice controls if the following provisions are complied with.

(i) The employer ((~~shall~~)) must demonstrate by data representing employee exposure during the use of such method under conditions which closely resemble the conditions under which the method is to be used, that employee exposure will not exceed the PELs under any anticipated circumstances.

(ii) A competent person ((~~shall~~)) must evaluate the work area, the projected work practices and the engineering controls, and ((~~shall~~)) must certify in writing, that the different or modified controls are adequate to reduce direct and indirect employee exposure to below the PELs under all expected conditions of use and that the method meets the requirements of this standard. The evaluation ((~~shall~~)) must include and be based on data representing employee exposure during the use of such method under conditions which closely resemble the conditions under which the method is to be used for the current job, and by employees whose training and experience are equivalent to employees who are to perform the current job.

(11) Work practices and engineering controls for Class III asbestos work. Class III asbestos work ((~~shall~~)) must be conducted using engineering and work practice controls which minimize the exposure to employees performing the asbestos work and to bystander employees.

(a) The work ((~~shall~~)) must be performed using wet methods.

(b) To the extent feasible, the work ((~~shall~~)) must be performed using local exhaust ventilation.

(c) Where the disturbance involves drilling, cutting, abrading, sanding, chipping, braking, or sawing of thermal system insulation or surfacing material, the employer ((~~shall~~)) must use impermeable dropcloths, and ((~~shall~~)) must isolate the operation using mini-enclosures or glove bag systems ((~~pursuant~~)) according to subsection (7) of this section or another isolation method.

(d) Where the employer does not produce a "negative exposure assessment" for a job, or where monitoring results show the PEL has been exceeded, the employer ((~~shall~~)) must contain the area using impermeable dropcloths and plastic barriers or their equivalent, or ((~~shall~~)) must isolate the operation using a control system listed in and in compliance with subsection (7) of this section.

(e) Employees performing Class III jobs, which involve the disturbance of thermal system insulation or surfacing material, or where the employer does not produce a "negative exposure assessment" or where monitoring results show a PEL has been exceeded, ((~~shall~~)) must wear respirators which are selected, used and fitted ((~~pursuant~~)) according to provisions of WAC 296-62-07715.

(12) Class IV asbestos work. Class IV asbestos jobs ((~~shall~~)) must be conducted by employees trained ((~~pursuant~~)) according to the asbestos awareness training program set out in WAC 296-62-07722. In addition, all Class IV jobs ((~~shall~~)) must be conducted in conformity with the require-

ments set out in this section, mandating wet methods, HEPA vacuums, and prompt clean up of debris containing ACM and ACM.

(a) Employees cleaning up debris and waste in a regulated area where respirators are required ~~((shall))~~ must wear respirators which are selected, used and fitted ~~((pursuant))~~ according to provisions of WAC 296-62-07715.

(b) Employers of employees who clean up waste and debris in, and employers in control of, areas where friable thermal system insulation or surfacing material is accessible, ~~((shall))~~ must assume that such waste and debris contain asbestos.

(13) Alternative methods of compliance for installation, removal, repair, and maintenance of certain roofing and pipeline coating materials. Notwithstanding any other provision of this section, an employer who complies with all provisions of subsection (10)(a) and (b) of this section when installing, removing, repairing, or maintaining intact pipeline asphaltic wrap, or roof ~~((cements, mastics, coatings, or))~~ flashings which contain asbestos fibers encapsulated or coated by bituminous or resinous compounds ~~((shall))~~ will be deemed to be in compliance with this section. If an employer does not comply with all provisions of this subsection (13), or if during the course of the job the material does not remain intact, the provisions of subsection (10) of this section apply instead of this subsection (13).

(a) Before work begins and as needed during the job, a competent person who is capable of identifying asbestos hazards in the workplace and selecting the appropriate control strategy for asbestos exposure, and who has the authority to take prompt corrective measures to eliminate such hazards, ~~((shall))~~ must conduct an inspection of the worksite and determine that the roofing material is intact and will likely remain intact.

(b) All employees performing work covered by this subsection (13) ~~((shall))~~ must be trained in a training program that meets the requirements of WAC 296-62-07722.

(c) The material ~~((shall))~~ must not be sanded, abraded, or ground. When manual methods ~~((which do not render the material nonintact shall be))~~ are used, materials must stay intact.

(d) Material that has been removed from a roof ~~((shall))~~ must not be dropped or thrown to the ground. Unless the material is carried or passed to the ground by hand, it ~~((shall))~~ must be lowered to the ground via covered, dust-tight chute, crane or hoist. All such material ~~((shall))~~ must be removed from the roof as soon as is practicable, but in any event no later than the end of the work shift.

(e) Where roofing products which have been labeled as containing asbestos pursuant to WAC 296-62-07721, installed on nonresidential roofs during operations covered by this subsection (13), the employer ~~((shall))~~ must notify the building owner of the presence and location of such materials no later than the end of the job.

(f) All removal or disturbance of pipeline asphaltic wrap ~~((shall))~~ must be performed using wet methods.

AMENDATORY SECTION (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07713 Methods of compliance for asbestos activities in general industry.** (1) Engineering controls and work practices.

(a) The employer ~~((shall))~~ must institute engineering controls and work practices to reduce and maintain employee exposure to or below the permissible exposure limits prescribed in WAC 296-62-07705, except to the extent that such controls are not feasible. Engineering controls and work practices include but are not limited to the following:

(i) Local exhaust ventilation equipped with HEPA filter dust collection systems;

(ii) Vacuum cleaners equipped with HEPA filters;

(iii) Enclosure or isolation of processes producing asbestos dust;

(iv) Use of wet methods, wetting agents, or removal encapsulants to control employee exposures during asbestos handling, mixing, removal, cutting, application, and cleanup;

(v) Prompt disposal of wastes contaminated with asbestos in leak-tight containers; or

(vi) Use of work practices or other engineering controls that the director can show to be feasible.

(b) Wherever the feasible engineering controls and work practices that can be instituted are not sufficient to reduce employee exposure to or below the permissible exposure limits prescribed in WAC 296-62-07705, the employer ~~((shall))~~ must use them to reduce employee exposure to the lowest levels achievable by these controls and ~~((shall))~~ must supplement them by the use of respiratory protection that complies with the requirements of WAC 296-62-07715.

(c) For the following operations, wherever feasible engineering controls and work practices that can be instituted are not sufficient to reduce the employee exposure to or below the permissible exposure limits prescribed in WAC 296-62-07705, the employer ~~((shall))~~ must use them to reduce employee exposure to or below 0.5 fiber per cubic centimeter of air (as an eight-hour time-weighted average) or 2.5 fibers per cubic centimeter of air for 30 minutes (short-term exposure), and ~~((shall))~~ must supplement them by the use of any combination of respiratory protection that complies with the requirements of WAC 296-62-07715, work practices and feasible engineering controls that will reduce employee exposure to or below the permissible exposure limits prescribed in WAC 296-62-07705: Coupling cutoff in primary asbestos cement pipe manufacturing; sanding in primary and secondary asbestos cement sheet manufacturing; grinding in primary and secondary friction product manufacturing; carding and spinning in dry textile processes; and grinding and sanding in primary plastics manufacturing.

(d) Local exhaust ventilation. Local exhaust HEPA ventilation and dust collection systems ~~((shall))~~ must be designed, constructed, installed, and maintained in accordance with good practices such as those found in the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2-1979.

(e) Particular tools. All hand-operated and power-operated tools which would produce or release fibers of asbestos so as to expose employees to levels in excess of the exposure

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limits prescribed in WAC 296-62-07705, such as, but not limited to, saws, scorers, abrasive wheels, and drills, ((~~shall~~)) must be provided with local exhaust ventilation systems which comply with (d) of this subsection. High-speed abrasive disc saws that are not equipped with appropriate engineering controls ((~~shall~~)) must not be used for work related to asbestos.

(f) Wet methods. Asbestos ((~~shall~~)) must be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet saturated state to prevent the emission of airborne fibers unless the usefulness of the product would be diminished thereby.

(g) Particular products and operations. No asbestos cement, mortar, coating, grout, plaster, or similar material containing asbestos ((~~shall~~)) must be removed from bags, cartons, or other containers in which they are shipped, without being either wetted, enclosed, or ventilated so as to prevent effectively the release of airborne fibers of asbestos.

(h) Compressed air. Compressed air ((~~shall~~)) must not be used to remove asbestos or materials containing asbestos unless the compressed air is used in conjunction with an enclosed ventilation system designed to effectively capture the dust cloud created by the compressed air.

(2) Clean-up.

(a) After completion of asbestos (~~removal, demolition, and renovation operations, all surfaces in and around the work area shall be cleared of any~~) work, all surfaces in and around the work area must be cleared of asbestos debris.

(b) (~~Lock-down. Where asbestos has been removed, encapsulant shall be applied to ensure binding of remaining fibers.~~) Encapsulant must be applied to all areas where asbestos has been removed to ensure binding of any remaining fibers.

(c) The employer ((~~shall~~)) must demonstrate by monitoring that the airborne fiber concentration is below:

- The permissible exposure limits; or(;) )
- At or below the airborne fiber level existing prior to the start of the (~~removal, demolition, or renovation project~~) asbestos work; whichever level is lower.

(3) Compliance program.

(a) Where either the time weighted average and/or excursion limit is exceeded, the employer ((~~shall~~)) must establish and implement a written program to reduce employee exposure to or below the permissible exposure limits by means of engineering and work practice controls as required by subsection (1) of this section, and by the use of respiratory protection where required or permitted under this section.

(b) Such programs ((~~shall~~)) must be reviewed and updated as necessary to reflect significant changes in the status of the employer's compliance program.

(c) Written programs ((~~shall~~)) must be submitted upon request for examination and copying to the director, affected employees and designated employee representatives.

(d) The employer ((~~shall~~)) must not use employee rotation as a means of compliance with the permissible exposure limits specified in WAC 296-62-07705.

(4) Specific compliance methods for brake and clutch repair:

(a) Engineering controls and work practices for brake and clutch repair and service. During automotive brake and clutch inspection, disassembly, repair and assembly operations, the employer ((~~shall~~)) must institute engineering controls and work practices to reduce employee exposure to materials containing asbestos using a negative pressure enclosure/HEPA vacuum system method or low pressure/wet cleaning method which meets the detailed requirements set out in Appendix F to this section. The employer may also comply using an equivalent method which follows written procedures which the employer demonstrates can achieve results equivalent to Method A in Appendix F to this section. For facilities in which no more than 5 pair of brakes or 5 clutches are inspected, disassembled, repaired, or assembled per week, the method set forth in Appendix F to this section may be used.

(b) The employer may also comply by using an equivalent method which follows written procedures, which the employer demonstrates can achieve equivalent exposure reductions as do the two "preferred methods." Such demonstration must include monitoring data conducted under workplace conditions closely resembling the process, type of asbestos containing materials, control method, work practices and environmental conditions which the equivalent method will be used, or objective data, which document that under all reasonably foreseeable conditions of brake and clutch repair applications, the method results in exposure which are equivalent to the methods set out in Appendix F to this section.

AMENDATORY SECTION (Amending WSR 97-19-014, filed 9/5/97, effective 11/5/97)

**WAC 296-62-07721 Communication of hazards to employees.** (1) Communication of hazards to employees. General industry requirements.

(a) Introduction. This section applies to the communication of information concerning asbestos hazards in general industry. Asbestos exposure in industry occurs in a wide variety of industrial and commercial settings. Employees who manufacture asbestos-containing products may be exposed to asbestos fibers. Employees who repair and replace automotive brakes and clutches may be exposed to asbestos fibers. In addition, employees engaged in housekeeping activities in industrial facilities with asbestos product manufacturing operations, and in public and commercial buildings with installed asbestos-containing materials may be exposed to asbestos fibers. It should be noted that employees who perform housekeeping activities during and after construction activities are covered by asbestos construction work requirements in WAC 296-62-077. Housekeeping employees, regardless of industry designation, should know whether building components they maintain may expose them to asbestos. Building owners are often the only and/or best source of information concerning the presence of previously installed asbestos-containing building materials. Therefore they, along with employers of potentially exposed employees, are assigned specific information conveying and retention duties under this section.

(b) Installed asbestos-containing material. Employers and building owners are required to treat installed TSI and sprayed-on and troweled-on surfacing materials as ACM for the purposes of this standard. These materials are designated "presumed ACM or PACM," and are defined in WAC 296-62-07703. Asphalt and vinyl flooring installed no later than 1980 also ((shall)) must be treated as asbestos-containing. The employer or building owner may demonstrate that PACM and flooring materials do not contain asbestos by complying with WAC 296-62-07712 (10)(a)(ix).

(c) Duties of employers and building and facility owners.

(i) Building and facility owners ((shall)) must determine the presence, location, and quantity of ACM and/or PACM at the worksite. Employers and building and facility owners ((shall)) must exercise due diligence in complying with these requirements to inform employers and employees about the presence and location of ACM and PACM.

(ii) Before authorizing or allowing any construction, renovation, remodeling, maintenance, repair, or demolition project, an owner or owner's agent ((shall)) must perform, or cause to be performed, a good faith inspection to determine whether materials to be worked on or removed contain asbestos. The inspection ((shall)) must be documented by a written report maintained on file and made available upon request to the director.

(A) The good faith inspection ((shall)) must be conducted by an accredited inspector.

(B) Such good faith inspection is not required if the owner or owner's agent is reasonably certain that asbestos will not be disturbed by the project or the owner or owner's agent assumes that the suspect material contains asbestos and handles the material in accordance with WAC 296-62-07701 through 296-62-07753.

(iii) The owner or owner's agent ((shall)) must provide, to all contractors submitting a bid to undertake any construction, renovation, remodeling, maintenance, repair, or demolition project, the written statement either of the reasonable certainty of nondisturbance of asbestos or of assumption of the presence of asbestos. Contractors ((shall)) must be provided with the written report before they apply or bid to work.

(iv) Any owner or owner's agent who fails to comply with (c)(ii) and (iii) of this subsection ((shall)) must be subject to a mandatory fine of not less than two hundred fifty dollars for each violation. Each day the violation continues ((shall)) must be considered a separate violation. In addition, any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of this section ((shall)) must be halted immediately and cannot be resumed before meeting such requirements.

(v) Building and facility owners ((shall)) must inform employers of employees, and employers ((shall)) must inform employees who will perform housekeeping activities in areas which contain ACM and/or PACM of the presence and location of ACM and/or PACM in such areas which may be contacted during such activities.

(vi) Upon written or oral request, building or facility owners ((shall)) must make a copy of the written report required in this section available to the department of labor and industries and the collective bargaining representatives

or employee representatives of any employee who may be exposed to any asbestos or asbestos-containing materials. A copy of the written report ((shall)) must be posted conspicuously at the location where employees report to work.

(vii) Building and facility owners ((shall)) must maintain records of all information required to be provided ((pursuant)) according to this section and/or otherwise known to the building owner concerning the presence, location and quantity of ACM and PACM in the building/facility. Such records ((shall)) must be kept for the duration of ownership and ((shall)) must be transferred to successive owners.

(2) Communication of hazards to employees. Requirements for construction and shipyard employment activities.

(a) Introduction. This section applies to the communication of information concerning asbestos hazards in construction and shipyard employment activities. Most asbestos-related construction and shipyard activities involve previously installed building materials. Building/vessel owners often are the only and/or best sources of information concerning them. Therefore, they, along with employers of potentially exposed employees, are assigned specific information conveying and retention duties under this section. Installed Asbestos Containing Building/Vessel Material: Employers and building/vessel owners ((shall)) must identify TSI and sprayed or troweled on surfacing materials as asbestos-containing unless the employer, by complying with WAC 296-62-07721(3) determines it is not asbestos containing. Asphalt or vinyl flooring/decking material installed in buildings or vessels no later than 1980 ((shall)) must also be considered as asbestos containing unless the employer/owner, ((pursuant)) according to WAC 296-62-07712 (10)(a)(ix) determines it is not asbestos containing. If the employer or building/vessel owner has actual knowledge or should have known, through the exercise of due diligence, that materials other than TSI and sprayed-on or troweled-on surfacing materials are asbestos containing, they ((shall)) must be treated as such. When communicating information to employees ((pursuant)) according to this standard, owners and employers ((shall)) must identify "PACM" as ACM. Additional requirements relating to communication of asbestos work on multi-employer worksites are set out in WAC 296-62-07706.

(b) Duties of building/vessel and facility owners.

(i) Before work subject to this section is begun, building/vessel and facility owners ((shall)) must identify the presence, location and quantity of ACM, and/or PACM at the worksite. All thermal system insulation and sprayed on or troweled on surfacing materials in buildings/vessels or substrates constructed no later than 1980 ((shall)) must be identified as PACM. In addition, resilient flooring/decking material installed no later than 1980 ((shall)) must also be identified as asbestos containing.

(ii) Before authorizing or allowing any construction, renovation, remodeling, maintenance, repair, or demolition project, a building/vessel and facility owner or owner's agent ((shall)) must perform, or cause to be performed, a good faith inspection to determine whether materials to be worked on or removed contain asbestos. The inspection ((shall)) must be documented by a written report maintained on file and made available upon request to the director.

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(A) The good faith inspection ((~~shall~~)) must be conducted by an accredited inspector.

(B) Such good faith inspection is not required if the building/vessel and facility owner or owner's agent assumes that the suspect material contains asbestos and handles the material in accordance with WAC 296-62-07701 through 296-62-07753 or if the owner or the owner's agent is reasonably certain that asbestos will not be ((~~distributed~~)) disturbed by the project.

(iii) The building/vessel and facility owner or owner's agent ((~~shall~~)) must provide, to all contractors submitting a bid to undertake any construction, renovation, remodeling, maintenance, repair, or demolition project, the written statement either of the reasonable certainty of nondisturbance of asbestos or of assumption of the presence of asbestos. Contractors ((~~shall~~)) must be provided the written report before they apply or bid on work.

(iv) Any building/vessel and facility owner or owners agent who fails to comply with WAC ((296-62-07719)) 296-62-07721 (2)(b)(ii) and (iii) ((~~shall~~)) must be subject to a mandatory fine of not less than two hundred fifty dollars for each violation. Each day the violation continues ((~~shall~~)) must be considered a separate violation. In addition, any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of this section ((~~shall~~)) must be halted immediately and cannot be resumed before meeting such requirements.

(v) Upon written or oral request, building/vessel and facility owner or owner's agent ((~~shall~~)) must make a copy of the written report required in this section available to the department of labor and industries and the collective bargaining representatives or employee representatives of any employee who may be exposed to any asbestos or asbestos-containing materials. A copy of the written report ((~~shall~~)) must be posted conspicuously at the location where employees report to work.

(vi) Building/vessel and facility owner or owner's agent ((~~shall~~)) must notify in writing the following persons of the presence, location and quantity of ACM or PACM, at worksites in their buildings/facilities/vessels.

(A) Prospective employers applying or bidding for work whose employees reasonably can be expected to work in or adjacent to areas containing such material;

(B) Employees of the owner who will work in or adjacent to areas containing such material;

(C) On multi-employer worksites, all employers of employees who will be performing work within or adjacent to areas containing such materials;

(D) Tenants who will occupy areas containing such materials.

(c) Duties of employers whose employees perform work subject to this standard in or adjacent to areas containing ACM and PACM. Building/vessel and facility owner or owner's agents whose employees perform such work ((~~shall~~)) must comply with these provisions to the extent applicable.

(i) Before work subject to this standard is begun, building/vessel and facility owner or owner's agents ((~~shall~~)) must determine the presence, location, and quantity of ACM and/or PACM at the worksite ((~~pursuant~~)) according to WAC 296-62-07721 (2)(b).

(ii) Before work under this standard is performed employers of employees who will perform such work ((~~shall~~)) must inform the following persons of the location and quantity of ACM and/or PACM present at the worksite and the precautions to be taken to insure that airborne asbestos is confined to the area.

(A) Owners of the building/vessel or facility;

(B) Employees who will perform such work and employers of employees who work and/or will be working in adjacent areas;

(iii) Upon written or oral request, a copy of the written report required in this section ((~~shall~~)) must be made available to the department of labor and industries and the collective bargaining representatives or employee representatives of any employee who may be exposed to any asbestos or asbestos-containing materials. A copy of the written report ((~~shall~~)) must be posted conspicuously at the location where employees report to work.

(iv) Within 10 days of the completion of such work, the employer whose employees have performed work subject to this standard, ((~~shall~~)) must inform the building/vessel or facility owner and employers of employees who will be working in the area of the current location and quantity of PACM and/or ACM remaining in the former regulated area and final monitoring results, if any.

(d) In addition to the above requirements, all employers who discover ACM and/or PACM on a worksite ((~~shall~~)) must convey information concerning the presence, location and quantity of such newly discovered ACM and/or PACM to the owner and to other employers of employees working at the worksite, within 24 hours of the discovery.

(e) No contractor may commence any construction, renovation, remodeling, maintenance, repair, or demolition project without receiving a copy of the written response or statement required by WAC 296-62-07721 (2)(b). Any contractor who begins any project without the copy of the written report or statement ((~~shall~~)) will be subject to a mandatory fine of not less than two hundred fifty dollars per day. Each day the violation continues ((~~shall~~)) will be considered a separate violation.

(3) Criteria to rebut the designation of installed material as PACM.

(a) At any time, an employer and/or building/vessel owner may demonstrate, for purposes of this standard, that PACM does not contain asbestos. Building/vessel owners and/or employers are not required to communicate information about the presence of building material for which such a demonstration ((~~pursuant~~)) according to the requirements of (b) of this subsection has been made. However, in all such cases, the information, data and analysis supporting the determination that PACM does not contain asbestos, ((~~shall~~)) must be retained ((~~pursuant~~)) according to WAC 296-62-07727.

(b) An employer or owner may demonstrate that PACM does not contain asbestos by the following:

(i) Having a completed inspection conducted ((~~pursuant~~)) according to the requirements of AHERA (40 CFR Part 763, Subpart E) which demonstrates that the material is not ACM;

(ii) Performing tests of the material containing PACM which demonstrate that no asbestos is present in the material.

Such tests ~~((shall))~~ must include analysis of bulk samples collected in the manner described in 40 CFR 763.86, Asbestos-containing materials in schools. The tests, evaluation and sample collection ~~((shall))~~ must be conducted by an accredited inspector. Analysis of samples ~~((shall))~~ must be performed by persons or laboratories with proficiency demonstrated by current successful participation in a nationally recognized testing program such as the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute for Standards and Technology (NIST) or the Round Robin for bulk samples administered by the American Industrial Hygiene Associate (AIHA), or an equivalent nationally recognized Round Robin testing program.

(4) At the entrance to mechanical rooms/areas in which employees reasonably can be expected to enter and which contain TSI or surfacing ACM and PACM, the building/vessel and facility owner or owner's agent ~~((shall))~~ must post signs which identify the material which is present, its location, and appropriate work practices which, if followed, will ensure that ACM and/or PACM will not be disturbed. The employer shall ensure, to the extent feasible, that employees who come in contact with these signs can comprehend them. Means to ensure employee comprehension may include the use of foreign languages, pictographs, graphics, and awareness training.

(5) Warning signs.

(a) Warning signs that demarcate the regulated area ~~((shall))~~ must be provided and displayed at each location where a regulated area is required. In addition, warning signs ~~((shall))~~ must be posted at all approaches to regulated areas and be posted at such a distance from such a location that an employee may read the signs and take necessary protective steps before entering the area marked by the signs.

(b) The warning signs required by (a) of this subsection ~~((shall))~~ must bear the following information:

DANGER  
ASBESTOS  
CANCER AND LUNG DISEASE HAZARD  
AUTHORIZED PERSONNEL ONLY  
RESPIRATORS AND PROTECTIVE CLOTHING ARE REQUIRED IN  
THIS AREA

(c) The employer shall ensure that employees working in and contiguous to regulated areas comprehend the warning signs required to be posted by (a) of this subsection. Means to ensure employee comprehension may include the use of foreign languages, pictographs, and graphics.

(6) Warning labels.

(a) Warning labels ~~((shall))~~ must be affixed to all products containing asbestos including raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, and to their containers including waste containers. ~~((Where feasible,))~~ Installed asbestos products ~~((shall))~~ must contain a visible label, except where such a label would clearly not be feasible.

(b) Labels ~~((shall))~~ must be printed in large, bold letters on a contrasting background.

(c) The labels ~~((shall))~~ must comply with the requirements of WAC 296-62-05411, and ~~((shall))~~ must include the following information:

DANGER  
CONTAINS ASBESTOS FIBERS  
AVOID CREATING DUST  
CANCER AND LUNG DISEASE HAZARD  
AVOID BREATHING AIRBORNE ASBESTOS FIBERS

(7) The provisions for labels required by subsection (6)(a) of this section or for material safety data sheets required by subsection (8) of this section do not apply where:

(a) Asbestos fibers have been modified by a bonding agent, coating, binder, or other material, provided that the manufacturer can demonstrate that during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of fibers of asbestos in excess of the excursion limit will be released; or

(b) Asbestos is present in a product in concentrations less than ~~((0.1))~~ 1.0 percent by weight.

(8) Material safety data sheets. Employers who are manufacturers or importers of asbestos, or asbestos products ~~((shall))~~ must comply with the requirements regarding development of material safety data sheets as specified in WAC 296-62-05413, except as provided by subsection (7) of this section.

(9) When a building/vessel owner/or employer identifies previously installed PACM and/or ACM, labels or signs ~~((shall))~~ must be affixed or posted so that employees will be notified of what materials contain PACM and/or ACM. The employer ~~((shall))~~ must attach such labels in areas where they will clearly be noticed by employees who are likely to be exposed, such as at the entrance to mechanical rooms/areas. Signs required by subsection (5)(a) of this section may be posted in lieu of labels so long as they contain information required for labeling. The employer ~~((shall))~~ must ensure, to the extent feasible, that employees who come in contact with these signs can comprehend them. Means to ensure employee comprehension may include the use of foreign languages, pictographs, graphics, and awareness training.

AMENDATORY SECTION (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07722 Employee information and training.** (1) Certification.

~~((All individuals working or supervising asbestos projects, as defined in WAC 296-65-003 shall be certified as required by WAC 296-65-010, 296-65-012, and 296-65-030.~~

~~((In cases where certification requirements of chapter 296-65 WAC do not apply, all employees shall be trained according to provisions of this section regardless of their exposure levels.))~~ Only certified asbestos workers may work on an asbestos project as required in WAC 296-65-010 and 296-65-030.

(b) Only certified asbestos supervisors may supervise asbestos abatement projects as required in WAC 296-65-012 and 296-65-030.

(c) In cases where certification requirements of chapter 296-65 WAC do not apply, all employees must be trained according to the provisions of this section regardless of their exposure levels.

(d) Certification is not required for asbestos work on materials containing less than one percent asbestos.

(2) Training ((shall)) must be provided prior to or at the time of initial assignment, unless the employee has received equivalent training within the previous twelve months, and at least annually thereafter.

(3) ((Training for employees performing Class I and Class II operations:)) Asbestos projects.

(a) ((Training for)) Class I and Class II ((operations shall be the certified asbestos worker training specified in WAC 296-65-003, 296-65-010, and 296-65-030)) work must be considered an asbestos project. Only certified asbestos workers may do this work.

(b) ((Exceptions. For employees whose Class II work with intact asbestos-containing materials involves only the removal and/or disturbance of one generic category of intact building/vessel material, such as intact roofing material, bituminous or asphaltic pipeline coating, intact flooring/decking material, siding materials and ceiling tiles, or transite panels, such employers are required to train employees who perform such work by providing a training course which includes as a minimum all elements of subsection (5) of this section and in addition the specific work practices and engineering controls set forth in WAC 296-62-07712 and 296-62-07713 which specifically relate to that material category. Such course shall include "hands-on" training, and shall take at least 8 hours.

(i) For Class II operations involving intact materials not specified in (b) of this subsection, training shall include the requirements of (b) of this subsection and specific work practices and engineering controls specified in WAC 296-62-07712 which specifically relates to the category of material being removed, and shall include hands-on training in the work practices applicable to each category of material the employee removes and each removal method that the employee uses.

(ii) Employees performing Class II operations that require the use of critical barriers (or equivalent isolation methods) and/or negative pressure enclosures, shall be certified as required by WAC 296-65-010, 296-65-012, and 296-65-030:)) Only certified workers may conduct Class II asbestos work that is considered an asbestos project.

(i) The following Class II asbestos work must be considered asbestos projects:

(A) All Class II asbestos work where critical barriers, equivalent isolation methods, or negative pressure enclosures are required; or

(B) All Class II asbestos work where asbestos containing materials do not stay intact (including removal of vinyl asbestos floor (VAT) or roofing materials by mechanical methods such as chipping, grinding, or sanding).

(ii) The following Class II asbestos work is not considered an asbestos project and is excluded from asbestos worker certification:

(A) All Class II asbestos work involving intact asbestos containing materials (for example, intact roofing materials,

bituminous or asphalt pipeline coatings, and intact flooring/decking materials);

(B) All Class II asbestos work of less than one square foot of asbestos containing materials; or

(C) All Class II asbestos work involving asbestos-cement water pipe when the work is approved by the department through the asbestos certification program (see WAC 296-65-015(4)).

(iii) Asbestos work involving the removal of less than one square foot or more of intact roofing materials by mechanical sawing or heavy equipment must meet the following requirements:

(A) Only certified asbestos workers may conduct mechanical sawing of intact roofing material;

(B) Noncertified asbestos workers may handle roofing dust, material and debris;

(C) Operators of heavy equipment (such as track hoes with clam shells and excavators) do not need to be certified asbestos workers in the removal or demolition of intact roofing materials.

(c) Only certified asbestos workers may conduct all Class III and Class IV asbestos work that is considered an asbestos project.

(i) The following asbestos work is considered an asbestos project:

(A) All Class III asbestos work where one square foot or more of asbestos containing materials that do not stay intact;

(B) All Class IV asbestos work where one square foot or more of asbestos containing materials that do not stay intact; or

(C) All Class III and Class IV asbestos work with pipe insulation.

(ii) Except for a project involving pipe insulation work, any project involving only Class III or Class IV asbestos work with less than one square foot of asbestos containing materials is not considered an asbestos project.

(4) Training ((for Class III and IV operations)) requirements for asbestos work that is not considered an asbestos project or excluded from asbestos worker certification.

(a) ((Training for employees performing Class III and IV operations shall be the certified asbestos worker training specified in WAC 296-65-003, 296-65-001, and 296-65-030.

(b) Training for Class III asbestos work exempted from certification requirements in chapter 296-65 WAC, safety standards for asbestos removal and encapsulation shall be the equivalent in curriculum and training method to the 16-hour operations and maintenance course developed by EPA for maintenance and custodial workers who conduct activities that will result in the disturbance of ACM. (See 40 CFR 763.92(a)(2).) Such course shall include "hands-on" training in the use of respiratory protection and work practices and shall take at least 16 hours:)) Class II asbestos work.

(i) Employers must provide eight-hours of training to employees who perform asbestos work on one generic category of asbestos containing materials. When performing asbestos work in more than one category of asbestos containing materials, additional training must be used to supplement the first eight hour training course.

(ii) The training course must include hands-on training and include all the minimum elements of subsection (5) of

this section. The hands-on training must apply to the category of asbestos containing materials.

(iii) Training must include specific work practices and engineering controls related to the category of asbestos containing materials present as specified in WAC 296-62-07712.

(b) Class III asbestos work.

(i) For maintenance and custodial workers, employers must provide training with curriculum and training methods equivalent to the 16-hour operations and maintenance course developed by the EPA. (See 40 CFR 763.92(a)(2).)

(ii) Sixteen hours of training must include hands-on training in the use of respiratory protection and work practices. With the exception of employees who remove only intact asbestos containing materials who must be trained using the eight-hour Class II requirements.

(iii) The training must include all the minimum elements of subsection (5) of this section.

(c) ((Training for)) Class IV asbestos work ((exempted from certification requirements in chapter 296-65 WAC, safety standards for asbestos removal and encapsulation shall be the equivalent in curriculum and training method to the awareness training course developed by EPA for maintenance and custodial workers who work in buildings containing asbestos-containing material. (See 40 CFR 763.92(a)(1).) Such course shall include available information concerning the locations of PACM, ACM, and asbestos-containing flooring material, or flooring material where the absence of asbestos has not been certified; and instruction in recognition of damage, deterioration, and delamination of asbestos-containing building materials. Such a course shall take at least 2 hours)).

(i) For maintenance and custodial workers working in buildings containing asbestos-containing materials, employers must provide training with curriculum and training methods equivalent to the awareness training course developed by the EPA. The training must include all of the minimal elements of subsection (5) of this section.

(ii) Training must include available information concerning the location of PACM, ACM, asbestos-containing flooring materials or flooring materials where the absence of asbestos has not been certified; and instruction on how to recognize damaged, deteriorated, and delimitation of asbestos containing building materials.

(iii) Training must be at least two hours.

(5) The training program ((shall)) must be conducted in a manner which the employee is able to understand. The employer ((shall)) must ensure that each employee is informed of the following:

(a) The health effects associated with asbestos exposure;

(b) The relationship between smoking and exposure to asbestos producing lung cancer;

(c) Methods of recognizing asbestos and quantity, location, manner of use, release (including the requirements of WAC 296-62-07721 (1)(c) and (2)(b) to presume certain building materials contain asbestos), and storage of asbestos and the specific nature of operations which could result in exposure to asbestos;

(d) The engineering controls and work practices associated with the employee's job assignment;

(e) The specific procedures implemented to protect employees from exposure to asbestos, such as appropriate work practices, housekeeping procedures, hygiene facilities, decontamination procedures, emergency and clean-up procedures (including where Class III and IV work is performed, the contents "Managing Asbestos In Place" (EPA 20T-2003, July 1990) or its equivalent in content), personal protective equipment to be used, waste disposal procedures, and any necessary instructions in the use of these controls and procedures;

(f) The purpose, proper use, and limitations of respirators and protective clothing;

(g) The purpose and a description of the medical surveillance program required by WAC 296-62-07725;

(h) The content of this standard, including appendices;

(i) The names, addresses and phone numbers of public health organizations which provide information, materials, and/or conduct programs concerning smoking cessation. The employer may distribute the list of such organizations contained in Appendix I, to comply with this requirement; and

(j) The requirements for posting signs and affixing labels and the meaning of the required legends for such signs and labels.

(6) The employer ((shall)) must also provide, at no cost to employees who perform housekeeping operations in a facility which contains ACM or PACM, an asbestos awareness training course to all employees who are or will work in areas where ACM and/or PACM is present who work in buildings containing asbestos-containing materials, which ((shall)) must, at a minimum, contain the following elements:

- Health effects of asbestos,
- Locations of ACM and PACM in the building/facility,
- Recognition of ACM and PACM damage and deterioration,
- Requirements in this standard relating to housekeeping, and
- Proper response to fiber release episodes((, to all employees who are or will work in areas where ACM and/or PACM is present)).

Each such employee ((shall)) must be so trained at least once a year.

(7) Access to information and training materials.

(a) The employer ((shall)) must make a copy of this standard and its appendices readily available without cost to all affected employees.

(b) The employer ((shall)) must provide, upon request, all materials relating to the employee information and training program to the director.

(c) The employer ((shall)) must inform all employees concerning the availability of self-help smoking cessation program material. Upon employee request, the employer ((shall)) must distribute such material, consisting of NIH Publication No. 89-1647, or equivalent self-help material, which is approved or published by a public health organization listed in Appendix I, WAC 296-62-07751.

PROPOSED

**AMENDATORY SECTION** (Amending WSR 97-19-014, filed 9/5/97, effective 11/5/97)

**WAC 296-62-07728 Competent person.** (1) General. For all construction and shipyard work covered by this standard, the employer ((~~shall~~)) must designate a competent person, having the qualifications and authorities for ensuring worker safety and health as required by chapter 296-155 WAC.

(2) Required inspections by the competent person. WAC 296-155-110(9) which requires health and safety prevention programs to provide for frequent and regular inspections on the job sites, materials, and equipment to be made by the competent person, is incorporated.

(3) Additional inspections. In addition, the competent person ((~~shall~~)) must make frequent and regular inspections of the job sites in order to perform the duties set out below in this section. For Class I jobs, on-site inspections ((~~shall~~)) must be made at least once during each work shift, and at any time at employee request. For Class II and III jobs, on-site inspections ((~~shall~~)) must be made at intervals sufficient to assess whether conditions have changed, and at any reasonable time at employee request.

(4) On all worksites where employees are engaged in Class I or II asbestos work, the competent person designated in accordance with WAC 296-62-07712 ((~~shall~~)) must perform or supervise the following duties, as applicable:

(a) Set up the regulated area, enclosure, or other containment;

(b) Ensure (by on-site inspection) the integrity of the enclosure or containment;

(c) Set up procedures to control entry and exit from the enclosure and/or area;

(d) Supervise all employee exposure monitoring required by this section and ensure that it is conducted as required by WAC 296-62-07709;

(e) Ensure that employees working within the enclosure and/or using glovebags wear protective clothing and respirators as required by WAC 296-62-07715 and 296-62-07717;

(f) Ensure through on-site supervision, that employees set up and remove engineering controls, use work practices and personal protective equipment in compliance with all requirements;

(g) Ensure that employees use the hygiene facilities and observe the decontamination procedures specified in WAC 296-62-07719;

(h) Ensure that through on-site inspection engineering controls are functioning properly and employees are using proper work practices; and

(i) Ensure that notification requirements in WAC 296-62-07721 are met.

(5) Training for competent person.

(a) For Class I and II asbestos work the competent person ((~~shall~~)) must be trained in all aspects of asbestos removal and handling, including: Abatement, installation, removal and handling, the contents of this standard, the identification of asbestos, removal procedures where appropriate, and other practices for reducing the hazard. Such training ((~~shall~~)) must be the certified asbestos supervisor training specified in WAC 296-65-003, 296-65-012, and 296-65-030.

(b) For Class III and IV asbestos work:

(i) The competent person ((~~shall~~)) must be certified as an asbestos supervisor as prescribed in WAC 296-65-012 and 296-65-030 for Class III and IV work involving an asbestos project of 3 square feet or 3 linear feet or more of asbestos containing material.

(ii) For Class III and IV asbestos work involving less than 3 square feet or 3 linear feet of asbestos containing material, and asbestos work exempted from certification requirements in chapter 296-65 WAC, the competent person ((~~shall~~)) must be trained in aspects of asbestos handling appropriate for the nature of the work, to include procedures for setting up glove bags and mini-enclosures, practices for reducing asbestos exposures, use of wet methods, the contents of this standard, and the identification of asbestos. Such training ((~~shall~~)) must include successful completion of a course equivalent in curriculum and training method to the 16-hour Operations and Maintenance course developed by EPA for maintenance and custodial workers (see 40 CFR 763.92 (a)(2)) or its equivalent in stringency, content and length.

**AMENDATORY SECTION** (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07735 Appendix A—WISHA reference method—Mandatory.** This mandatory appendix specifies the procedure for analyzing air samples for asbestos, tremolite, anthophyllite, and actinolite and specifies quality control procedures that must be implemented by laboratories performing the analysis. The sampling and analytical methods described below represent the elements of the available monitoring methods (such as Appendix B to this section, the most current version of the WISHA method ID-60, or the most current version of the NIOSH 7400 method) which WISHA considers to be essential to achieve adequate employee exposure monitoring while allowing employers to use methods that are already established within their organizations. All employers who are required to conduct air monitoring under WAC 296-62-07709 are required to utilize analytical laboratories that use this procedure, or an equivalent method, for collecting and analyzing samples.

(1) Sampling and analytical procedure.

(a) The sampling medium for air samples ((~~shall~~)) must be mixed cellulose ester filter membranes. These ((~~shall~~)) must be designated by the manufacturer as suitable for asbestos, tremolite, anthophyllite, and actinolite counting. See below for rejection of blanks.

(b) The preferred collection device ((~~shall~~)) must be the 25-mm diameter cassette with an open-faced 50-mm electrically conductive extension cowl. The 37-mm cassette may be used if necessary but only if written justification for the need to use the 37-mm filter cassette accompanies the sample results in the employee's exposure monitoring record. Do not reuse or reload cassettes for asbestos sample collection.

(c) An air flow rate between 0.5 liter/min and ((~~2.5~~)) 4.0 liters/min ((~~shall~~)) must be selected for the 25-mm cassette. If the 37-mm cassette is used, an air flow rate between 1 liter/min and 4.0 liters/min ((~~shall~~)) must be selected.

PROPOSED

(d) Where possible, a sufficient air volume for each air sample ((shall)) must be collected to yield between one hundred and one thousand three hundred fibers per square millimeter on the membrane filter. If a filter darkens in appearance or if loose dust is seen on the filter, a second sample ((shall)) must be started.

(e) Ship the samples in a rigid container with sufficient packing material to prevent dislodging the collected fibers. Packing material that has a high electrostatic charge on its surface (e.g., expanded polystyrene) cannot be used because such material can cause loss of fibers to the sides of the cassette.

(f) Calibrate each personal sampling pump before and after use with a representative filter cassette installed between the pump and the calibration devices.

(g) Personal samples ((shall)) must be taken in the "breathing zone" of the employee (i.e., attached to or near the collar or lapel near the worker's face).

(h) Fiber counts ((shall)) must be made by positive phase contrast using a microscope with an 8 to 10 X eyepiece and a 40 to 45 X objective for a total magnification of approximately 400 X and a numerical aperture of 0.65 to 0.75. The microscope shall also be fitted with a green or blue filter.

(i) The microscope ((shall)) must be fitted with a Walton-Beckett eyepiece graticule calibrated for a field diameter of one hundred micrometers (+/-2 micrometers).

(j) The phase-shift detection limit of the microscope ((shall)) must be about 3 degrees measured using the HSE phase shift test slide as outlined below.

(i) Place the test slide on the microscope stage and center it under the phase objective.

(ii) Bring the blocks of grooved lines into focus.

Note: The slide consists of seven sets of grooved lines (ca. 20 grooves to each block) in descending order of visibility from sets one to seven, seven being the least visible. The requirements for asbestos, tremolite, anthophyllite, and actinolite counting are that the microscope optics must resolve the grooved lines in set three completely, although they may appear somewhat faint, and that the grooved lines in sets six and seven must be invisible. Sets four and five must be at least partially visible but may vary slightly in visibility between microscopes. A microscope that fails to meet these requirements has either too low or too high a resolution to be used for asbestos, tremolite, anthophyllite, and actinolite counting.

(iii) If the image deteriorates, clean and adjust the microscope optics. If the problem persists, consult the microscope manufacturer.

(k) Each set of samples taken will include ten percent blanks or a minimum of two blanks. These blanks must come from the same lot as the filters used for sample collection. The field blank results ((shall)) must be averaged and subtracted from the analytical results before reporting. Any samples represented by a blank having a fiber count in excess of the detection limit of the method being used ((shall)) must be rejected.

(l) The samples ((shall)) must be mounted by the acetone/triacetin method or a method with an equivalent index of refraction and similar clarity.

(m) Observe the following counting rules.

(i) Count only fibers equal to or longer than five micrometers. Measure the length of curved fibers along the curve.

(ii) Count all particles as asbestos, tremolite, anthophyllite, and actinolite that have a length-to-width ratio (aspect ratio) of three to one or greater.

(iii) Fibers lying entirely within the boundary of the Walton-Beckett graticule field ((shall)) must receive a count of one. Fibers crossing the boundary once, having one end within the circle, ((shall)) must receive the count of one-half. Do not count any fiber that crosses the graticule boundary more than once. Reject and do not count any other fibers even though they may be visible outside the graticule area.

(iv) Count bundles of fibers as one fiber unless individual fibers can be identified by observing both ends of an individual fiber.

(v) Count enough graticule fields to yield 100 fibers. Count a minimum of 20 fields; stop counting at 100 fields regardless of fiber count.

(n) Blind recounts ((shall)) must be conducted at the rate of ten percent.

(2) Quality control procedures.

(a) Intralaboratory program. Each laboratory and/or each company with more than one microscopist counting slides ((shall)) must establish a statistically designed quality assurance program involving blind recounts and comparisons between microscopists to monitor the variability of counting by each microscopist and between microscopists. In a company with more than one laboratory, the program ((shall)) must include all laboratories and ((shall)) must also evaluate the laboratory-to-laboratory variability.

(b) Interlaboratory program.

(i) Each laboratory analyzing asbestos, tremolite, anthophyllite, and actinolite samples for compliance determination shall implement an interlaboratory quality assurance program that as a minimum includes participation of at least two other independent laboratories. Each laboratory ((shall)) must participate in round robin testing at least once every six months with at least all the other laboratories in its interlaboratory quality assurance group. Each laboratory ((shall)) must submit slides typical of its own work load for use in this program. The round robin shall be designed and results analyzed using appropriate statistical methodology.

(ii) All laboratories should participate in a national sample testing scheme such as the Proficiency Analytical Testing Program (PAT), the Asbestos Registry sponsored by the American Industrial Hygiene Association (AIHA).

(c) All individuals performing asbestos, tremolite, anthophyllite, and actinolite analysis must have taken the NIOSH course for sampling and evaluating airborne asbestos, tremolite, anthophyllite, and actinolite dust or an equivalent course, recognized by the department.

(d) When the use of different microscopes contributes to differences between counters and laboratories, the effect of the different microscope ((shall)) must be evaluated and the microscope ((shall)) must be replaced, as necessary.

(e) Current results of these quality assurance programs ((shall)) must be posted in each laboratory to keep the microscopists informed.

AMENDATORY SECTION (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07737 Appendix B—Detailed procedure for asbestos sampling and analysis—Nonmandatory.**

Air

Matrix:

WISHA Permissible Exposure Limits:

Time Weighted Average	0.1 fiber/cc
Excursion Level (30 minutes)	1.0 fiber/cc

Collection Procedure:

A known volume of air is drawn through a 25-mm diameter cassette containing a mixed-cellulose ester filter. The cassette must be equipped with an electrically conductive 50-mm extension cowl. The sampling time and rate are chosen to give a fiber density of between 100 to 1,300 fibers/mm<sup>2</sup> on the filter.

Recommended Sampling Rate 0.5 to ~~(5-10)~~ 4.0 liters/minute (L/min)

Recommended Air Volumes:

Minimum	25 L
Maximum	2,400 L

Analytical Procedure: A portion of the sample filter is cleared and prepared for asbestos fiber counting by Phase Contrast Microscopy (PCM) at 400X. Commercial manufacturers and products mentioned in this method are for descriptive use only and do not constitute endorsements by WISHA. Similar products from other sources can be substituted.

Introduction.

This method describes the collection of airborne asbestos fibers using calibrated sampling pumps with mixed-cellulose ester (MCE) filters and analysis by phase contrast microscopy (PCM). Some terms used are unique to this method and are defined below:

**Asbestos:** A term for naturally occurring fibrous minerals. Asbestos includes chrysotile, crocidolite, amosite (cummingtonite-grunerite asbestos), tremolite asbestos, actinolite asbestos, anthophyllite asbestos, and any of these minerals that have been chemically treated and/or altered. The precise chemical formulation of each species will vary with the location from which it was mined. Nominal compositions are listed:

Chrysotile	Mg <sub>3</sub> Si <sub>2</sub> O <sub>5</sub> (OH) <sub>4</sub>
Crocidolite	Na <sub>2</sub> Fe <sub>3</sub> <sup>2+</sup> +Fe <sub>2</sub> <sup>3+</sup> +Si <sub>8</sub> O <sub>22</sub> (OH) <sub>2</sub>
Amosite	(Mg,Fe) <sub>7</sub> Si <sub>8</sub> O <sub>22</sub> (OH) <sub>2</sub>
Tremolite-actinolite	Ca <sub>2</sub> (Mg,Fe) <sub>5</sub> Si <sub>8</sub> O <sub>22</sub> (OH) <sub>2</sub>
Anthophyllite	(Mg,Fe) <sub>7</sub> Si <sub>8</sub> O <sub>22</sub> (OH) <sub>2</sub>

**Asbestos Fiber:** A fiber of asbestos which meets the criteria specified below for a fiber.

**Aspect Ratio:** The ratio of the length of a fiber to its diameter (e.g. 3:1, 5:1 aspect ratios).

**Cleavage Fragments:** Mineral particles formed by comminution of minerals, especially those characterized by parallel sides and a moderate aspect ratio (usually less than 20:1).

**Detection Limit:** The number of fibers necessary to be 95% certain that the result is greater than zero.

**Differential Counting:** The term applied to the practice of excluding certain kinds of fibers from the fiber count because they do not appear to be asbestos.

**Fiber:** A particle that is 5 μm or longer, with a length-to-width ratio of 3 to 1 or longer.

**Field:** The area within the graticule circle that is superimposed on the microscope image.

**Set:** The samples which are taken, submitted to the laboratory, analyzed, and for which, interim or final result reports are generated.

**Tremolite, Anthophyllite, and Actinolite:** The non-asbestos form of these minerals which meet the definition of a fiber. It includes any of these minerals that have been chemically treated and/or altered.

**Walton-Beckett Graticule:** An eyepiece graticule specifically designed for asbestos fiber counting. It consists of a circle with a projected diameter of 100 ± 2 μm (area of about 0.00785 mm<sup>2</sup>) with a crosshair having tic-marks at 3-μm intervals in one direction and 5-μm in the orthogonal direction. There are marks around the periphery of the circle to demonstrate the proper sizes and shapes of fibers. The disk is placed in one of the microscope eyepieces so that the design is superimposed on the field of view.

1. History.

(a) Early surveys to determine asbestos exposures were conducted using impinger counts of total dust with the counts expressed as million particles per cubic foot. The British Asbestos Research Council recommended filter membrane counting in 1969. In July 1969, the Bureau of Occupational Safety and Health published a filter membrane method for counting asbestos fibers in the United States. This method was refined by NIOSH and published as P & CAM 239. On May 29, 1971, OSHA specified filter membrane sampling with phase contrast counting for evaluation of asbestos exposures at worksites in the United States. The use of this technique was again required by OSHA in 1986. Phase contrast microscopy has continued to be the method of choice for the measurement of occupational exposure to asbestos.

(b) Principle. Air is drawn through a MCE filter to capture airborne asbestos fibers. A wedge shaped portion of the filter is removed, placed on a glass microscope slide and made transparent. A measured area (field) is viewed by PCM. All the fibers meeting a defined criteria for asbestos are counted and considered a measure of the airborne asbestos concentration.

(c) Advantages and Disadvantages

(i) There are four main advantages of PCM over other methods:

(A) The technique is specific for fibers. Phase contrast is a fiber counting technique which excludes non-fibrous particles from the analysis.

PROPOSED

(B) The technique is inexpensive and does not require specialized knowledge to carry out the analysis for total fiber counts.

(C) The analysis is quick and can be performed on-site for rapid determination of air concentrations of asbestos fibers.

(D) The technique has continuity with historical epidemiological studies so that estimates of expected disease can be inferred from long-term determinations of asbestos exposures.

(ii) The main disadvantage of PCM is that it does not positively identify asbestos fibers. Other fibers which are not asbestos may be included in the count unless differential counting is performed. This requires a great deal of experience to adequately differentiate asbestos from non-asbestos fibers. Positive identification of asbestos must be performed by polarized light or electron microscopy techniques. A further disadvantage of PCM is that the smallest visible fibers are about 0.2 μm in diameter while the finest asbestos fibers may be as small as 0.02 μm in diameter. For some exposures, substantially more fibers may be present than are actually counted.

(d) Workplace Exposure. Asbestos is used by the construction industry in such products as shingles, floor tiles, asbestos cement, roofing felts, insulation and acoustical products. Non-construction uses include brakes, clutch facings, paper, paints, plastics, and fabrics. One of the most significant exposures in the workplace is the removal and encapsulation of asbestos in schools, public buildings, and homes. Many workers have the potential to be exposed to asbestos during these operations. About 95% of the asbestos in commercial use in the United States is chrysotile. Crocidolite and amosite make up most of the remainder. Anthophyllite and tremolite or actinolite are likely to be encountered as contaminants in various industrial products.

(e) Physical Properties. Asbestos fiber possesses a high tensile strength along its axis, is chemically inert, non-combustible, and heat resistant. It has a high electrical resistance and good sound absorbing properties. It can be weaved into cables, fabrics or other textiles, and also matted into asbestos papers, felts, or mats.

2. Range and Detection Limit.

(a) The ideal counting range on the filter is 100 to 1,300 fibers/mm<sup>2</sup>. With a Walton-Beckett graticule this range is equivalent to 0.8 to 10 fibers/field. Using NIOSH counting statistics, a count of 0.8 fibers/field would give an approximate coefficient of variation (CV) of 0.13.

(b) The detection limit for this method is 4.0 fibers per 100 fields or 5.5 fibers/mm<sup>2</sup>. This was determined using an equation to estimate the maximum CV possible at a specific concentration (95% confidence) and a Lower Control Limit of zero. The CV value was then used to determine a corresponding concentration from historical CV vs fiber relationships. As an example:

$$\text{Lower Control Limit (95\% Confidence)} = AC - 1.645(CV)(AC)$$

Where:

$$\begin{aligned} AC &= \text{Estimate of the airborne fiber concentration (fibers/cc) Setting the Lower Control Limit}=0 \text{ and solving for CV;} \\ 0 &= AC - 1.645(CV)(AC) \\ CV &= 0.61 \end{aligned}$$

This value was compared with CV vs. count curves. The count at which CV= 0.61 for Leidel-Busch counting statistics 8(i) or for an OSHA Salt Lake Technical Center (OSHA-SLTC) CV curve (see Appendix A for further information) was 4.4 fibers or 3.9 fibers per 100 fields, respectively. Although a lower detection limit of 4 fibers per 100 fields is supported by the OSHA-SLTC data, both data sets support the 4.5 fibers per 100 fields value.

3. Method Performance—Precision and Accuracy. Precision is dependent upon the total number of fibers counted and the uniformity of the fiber distribution on the filter. A general rule is to count at least 20 and not more than 100 fields. The count is discontinued when 100 fibers are counted, provided that 20 fields have already been counted. Counting more than 100 fibers results in only a small gain in precision. As the total count drops below 10 fibers, an accelerated loss of precision is noted. At this time, there is no known method to determine the absolute accuracy of the asbestos analysis. Results of samples prepared through the Proficiency Analytical Testing (PAT) Program and analyzed by the OSHA-SLTC showed no significant bias when compared to PAT reference values. The PAT samples were analyzed from 1987 to 1989 (N=36) and the concentration range was from 120 to 1,300 fibers/mm<sup>2</sup>.

4. Interferences. Fibrous substances, if present, may interfere with asbestos analysis. Some common fibers are:

Fiber glass	Perlite veins.
Anhydrite plant fibers gypsum	Some synthetic fibers.
Membrane structures	Sponge spicules and diatoms.
Microorganisms	Wollastonite.

The use of electron microscopy or optical tests such as polarized light, and dispersion staining may be used to differentiate these materials from asbestos when necessary.

5. Sampling.

(a) Equipment.

(i) Sample assembly. Conductive filter holder consisting of a 25-mm diameter, 3-piece cassette having a 50-mm long electrically conductive extension cowl. Backup pad, 25-mm, cellulose. Membrane filter, mixed-cellulose ester (MCE), 25-mm, plain, white, 0.8-to 1.2-μm pore size.

Notes: (A) DO NOT RE-USE CASSETTES.

(B) Fully conductive cassettes are required to reduce fiber loss to the sides of the cassette due to electrostatic attraction.

(C) Purchase filters which have been selected by the manufacturer for asbestos counting or analyze representative

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filters for fiber background before use. Discard the filter lot if more than ((4)) 5 fibers/100 fields are found.

(D) To decrease the possibility of contamination, the sampling system (filter-backup pad-cassette) for asbestos is usually preassembled by the manufacturer.

(ii) Gel bands for sealing cassettes.

(iii) Sampling pump. Each pump must be a battery operated, self-contained unit small enough to be placed on the monitored employee and not interfere with the work being performed. The pump must be capable of sampling at 2.5 liters per minute (L/min) for the required sampling time.

(iv) Flexible tubing, 6-mm bore.

(v) Pump calibration. Stopwatch and bubble tube/burette or electronic meter.

(b) Sampling Procedure.

(i) Seal the point where the base and cowl of each cassette meet with a gel band or tape.

(ii) Charge the pumps completely before beginning.

(iii) Connect each pump to a calibration cassette with an appropriate length of 6-mm bore plastic tubing. Do not use luer connectors—the type of cassette specified above has built-in adapters.

(iv) Select an appropriate flow rate for the situation being monitored. The sampling flow rate must be between 0.5 and ((5-0)) 4.0 L/min for personal sampling and is commonly set between 1 and 2 L/min. Always choose a flow rate that will not produce overloaded filters.

(v) Calibrate each sampling pump before and after sampling with a calibration cassette in-line (Note: This calibration cassette should be from the same lot of cassettes used for sampling). Use a primary standard (e.g. bubble burette) to calibrate each pump. If possible, calibrate at the sampling site.

**Note:** If sampling site calibration is not possible, environmental influences may affect the flow rate. The extent is dependent on the type of pump used. Consult with the pump manufacturer to determine dependence on environmental influences. If the pump is affected by temperature and pressure changes, use the formula in ((Appendix B-to)) subsection (10) of this section to calculate the actual flow rate.

(vi) Connect each pump to the base of each sampling cassette with flexible tubing. Remove the end cap of each cassette and take each air sample open face. Assure that each sample cassette is held open side down in the employee's breathing zone during sampling. The distance from the nose/mouth of the employee to the cassette should be about 10 cm. Secure the cassette on the collar or lapel of the employee using spring clips or other similar devices.

(vii) A suggested minimum air volume when sampling to determine TWA compliance is 25 L. For Excursion Limit (30 min sampling time) evaluations, a minimum air volume of 48 L is recommended.

(viii) The most significant problem when sampling for asbestos is overloading the filter with non-asbestos dust. Suggested maximum air sample volumes for specific environments are:

((Type of asbestos-	Index of refraction
Amosite.....	n=1.670 r 1.680.
Crocidolite.....	n=1.690.
Anthophyllite.....	n=1.605 nd 1.620.
Tremolite.....	n=6.05 and 1.620
Actinolite.....	n=1.620))

Environment	Air Vol. (L)
Asbestos removal operations (visible dust)	100
Asbestos removal operations (little dust)	240
Office environments	400 to 2,400

**Caution:** Do not overload the filter with dust. High levels of non-fibrous dust particles may obscure fibers on the filter and lower the count or make counting impossible. If more than about 25 to 30% of the field area is obscured with dust, the result may be biased low. Smaller air volumes may be necessary when there is excessive non-asbestos dust in the air. While sampling, observe the filter with a small flashlight. If there is a visible layer of dust on the filter, stop sampling, remove and seal the cassette, and replace with a new sampling assembly. The total dust loading should not exceed 1 mg.

(ix) Blank samples are used to determine if any contamination has occurred during sample handling. Prepare two blanks for the first 1 to 20 samples. For sets containing greater than 20 samples, prepare blanks as 10% of the samples. Handle blank samples in the same manner as air samples with one exception: Do not draw any air through the blank samples. Open the blank cassette in the place where the sample cassettes are mounted on the employee. Hold it open for about 30 seconds. Close and seal the cassette appropriately. Store blanks for shipment with the sample cassettes.

(x) Immediately after sampling, close and seal each cassette with the base and plastic plugs. Do not touch or puncture the filter membrane as this will invalidate the analysis.

(xi) Attach a seal (OSHA-21 or equivalent) around each cassette in such a way as to secure the end cap plug and base plug. Tape the ends of the seal together since the seal is not long enough to be wrapped end-to-end. Also wrap tape around the cassette at each joint to keep the seal secure.

(c) Sample Shipment.

(i) Send the samples to the laboratory with paperwork requesting asbestos analysis. List any known fibrous interferences present during sampling on the paperwork. Also, note the workplace operation(s) sampled.

(ii) Secure and handle the samples in such that they will not rattle during shipment nor be exposed to static electricity. Do not ship samples in expanded polystyrene peanuts, vermiculite, paper shreds, or excelsior. Tape sample cassettes to sheet bubbles and place in a container that will cushion the samples without rattling.

(iii) To avoid the possibility of sample contamination, always ship bulk samples in separate mailing containers.

((Type of asbestos-	Index of refraction
Chrysotile.....	n=1.550.

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## 6. Analysis.

## (a) Safety Precautions.

(i) Acetone is extremely flammable and precautions must be taken not to ignite it. Avoid using large containers or quantities of acetone. Transfer the solvent in a ventilated laboratory hood. Do not use acetone near any open flame. For generation of acetone vapor, use a spark free heat source.

(ii) Any asbestos spills should be cleaned up immediately to prevent dispersal of fibers. Prudence should be exercised to avoid contamination of laboratory facilities or exposure of personnel to asbestos. Asbestos spills should be cleaned up with wet methods and/or a High Efficiency Particulate-Air (HEPA) filtered vacuum.

Caution: Do not use a vacuum without a HEPA filter—It will disperse fine asbestos fibers in the air.

## (b) Equipment.

(i) Phase contrast microscope with binocular or trinocular head.

(ii) Widefield or Huygenian 10X eyepieces (NOTE: The eyepiece containing the graticule must be a focusing eyepiece. Use a 40X phase objective with a numerical aperture of 0.65 to 0.75).

(iii) Kohler illumination (if possible) with green or blue filter.

(iv) Walton-Beckett Graticule, type G-22 with  $100 \pm 2$   $\mu\text{m}$  projected diameter.

(v) Mechanical stage. A rotating mechanical stage is convenient for use with polarized light.

(vi) Phase telescope.

(vii) Stage micrometer with 0.01-mm subdivisions.

(viii) Phase-shift test slide, mark II (Available from PTR optics Ltd., and also McCrone).

(ix) Precleaned glass slides, 25 mm X 75 mm. One end can be frosted for convenience in writing sample numbers, etc., or paste-on labels can be used.

(x) Cover glass #1-1/2.

(xi) Scalpel (#10, curved blade).

(xii) Fine tipped forceps.

(xiii) Aluminum block for clearing filter.

(xiv) Automatic adjustable pipette, 100-to 500- $\mu\text{L}$ .

(xv) Micropipette, 5  $\mu\text{L}$ .

## (c) Reagents.

(i) Acetone (HPLC grade).

(ii) Triacetin (glycerol triacetate).

(iii) Lacquer or nail polish.

(d) Standard Preparation. A way to prepare standard asbestos samples of known concentration has not been developed. It is possible to prepare replicate samples of nearly equal concentration. This has been performed through the PAT program. These asbestos samples are distributed by the AIHA to participating laboratories. Since only about one-fourth of a 25-mm sample membrane is required for an asbestos count, any PAT sample can serve as a "standard" for replicate counting.

## (e) Sample Mounting.

Note: See Safety Precautions in (6)(a) before proceeding. The objective is to produce samples with a smooth (non-grainy) background in a medium with a refractive index of approximately

1.46. The technique below collapses the filter for easier focusing and produces permanent mounts which are useful for quality control and interlaboratory comparison. An aluminum block or similar device is required for sample preparation.

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(i) Heat the aluminum block to about 70°C. The hot block should not be used on any surface that can be damaged by either the heat or from exposure to acetone.

(ii) Ensure that the glass slides and cover glasses are free of dust and fibers.

(iii) Remove the top plug to prevent a vacuum when the cassette is opened. Clean the outside of the cassette if necessary. Cut the seal and/or tape on the cassette with a razor blade. Very carefully separate the base from the extension cowl, leaving the filter and backup pad in the base.

(iv) With a rocking motion cut a triangular wedge from the filter using the scalpel. This wedge should be one-sixth to one-fourth of the filter. Grasp the filter wedge with the forceps on the perimeter of the filter which was clamped between the cassette pieces. DO NOT TOUCH the filter with your finger. Place the filter on the glass slide sample side up. Static electricity will usually keep the filter on the slide until it is cleared.

(v) Place the tip of the micropipette containing about 200  $\mu\text{L}$  acetone into the aluminum block. Insert the glass slide into the receiving slot in the aluminum block. Inject the acetone into the block with slow, steady pressure on the plunger while holding the pipette firmly in place. Wait 3 to 5 seconds for the filter to clear, then remove the pipette and slide from the aluminum block.

(vi) Immediately (less than 30 seconds) place 2.5 to 3.5  $\mu\text{L}$  of triacetin on the filter (Note: Waiting longer than 30 seconds will result in increased index of refraction and decreased contrast between the fibers and the preparation. This may also lead to separation of the cover slip from the slide).

(vii) Lower a cover slip gently onto the filter at a slight angle to reduce the possibility of forming air bubbles. If more than 30 seconds have elapsed between acetone exposure and triacetin application, glue the edges of the cover slip to the slide with lacquer or nail polish.

(viii) If clearing is slow, warm the slide for 15 min on a hot plate having a surface temperature of about 50°C to hasten clearing. The top of the hot block can be used if the slide is not heated too long.

(ix) Counting may proceed immediately after clearing and mounting are completed.

(f) Sample Analysis. Completely align the microscope according to the manufacturer's instructions. Then, align the microscope using the following general alignment routine at the beginning of every counting session and more often if necessary.

## (i) Alignment.

(A) Clean all optical surfaces. Even a small amount of dirt can significantly degrade the image.

(B) Rough focus the objective on a sample.

(C) Close down the field iris so that it is visible in the field of view. Focus the image of the iris with the condenser focus. Center the image of the iris in the field of view.

(D) Install the phase telescope and focus on the phase rings. Critically center the rings. Misalignment of the rings results in astigmatism which will degrade the image.

(E) Place the phase-shift test slide on the microscope stage and focus on the lines. The analyst must see line set 3 and should see at least parts of 4 and 5 but, not see line set 6 or 6. A microscope/microscopist combination which does not pass this test may not be used.

## (ii) Counting Fibers.

(A) Place the prepared sample slide on the mechanical stage of the microscope. Position the center of the wedge under the objective lens and focus upon the sample.

(B) Start counting from one end of the wedge and progress along a radial line to the other end (count in either direction from perimeter to wedge tip). Select fields randomly, without looking into the eyepieces, by slightly advancing the slide in one direction with the mechanical stage control.

(C) Continually scan over a range of focal planes (generally the upper 10 to 15  $\mu\text{m}$  of the filter surface) with the fine focus control during each field count. Spend at least 5 to 15 seconds per field.

(D) Most samples will contain asbestos fibers with fiber diameters less than 1  $\mu\text{m}$ . Look carefully for faint fiber images. The small diameter fibers will be very hard to see. However, they are an important contribution to the total count.

(E) Count only fibers equal to or longer than 5  $\mu\text{m}$ . Measure the length of curved fibers along the curve.

(F) Count fibers which have a length to width ratio of 3:1 or greater.

(G) Count all the fibers in at least 20 fields. Continue counting until either 100 fibers are counted or 100 fields have been viewed; whichever occurs first. Count all the fibers in the final field.

(H) Fibers lying entirely within the boundary of the Walton-Beckett graticule field ((~~shall~~) must receive a count of 1. Fibers crossing the boundary once, having one end within the circle ((~~shall~~) must receive a count of 1/2. Do not count any fiber that crosses the graticule boundary more than once. Reject and do not count any other fibers even though they may be visible outside the graticule area. If a fiber touches the circle, it is considered to cross the line.

(I) Count bundles of fibers as one fiber unless individual fibers can be clearly identified and each individual fiber is clearly not connected to another counted fiber.

(J) Record the number of fibers in each field in a consistent way such that filter non-uniformity can be assessed.

(K) Regularly check phase ring alignment.

(L) When an agglomerate (mass of material) covers more than 25% of the field of view, reject the field and select another. Do not include it in the number of fields counted.

(M) Perform a "blind recount" of 1 in every 10 filter wedges (slides). Re-label the slides using a person other than the original counter.

(g) Fiber Identification. As previously mentioned in (1)(c), PCM does not provide positive confirmation of asbestos fibers. Alternate differential counting techniques should be used if discrimination is desirable. Differential counting may include primary discrimination based on morphology, polarized light analysis of fibers, or modification of PCM data by Scanning Electron or Transmission Electron Microscopy. A great deal of experience is required to routinely and correctly perform differential counting. It is discouraged unless it is legally necessary. Then, only if a fiber is obviously not asbestos should it be excluded from the count. Further discussion of this technique can be found in reference 8(j). If there is a question whether a fiber is asbestos or not, follow the rule: "WHEN IN DOUBT, COUNT."

(h) Analytical Recommendations—Quality Control System.

(i) All individuals performing asbestos analysis must have taken the NIOSH course for sampling and evaluating airborne asbestos or an equivalent course.

(ii) Each laboratory engaged in asbestos counting ((~~shall~~) must set up a slide trading arrangement with at least two other laboratories in order to compare performance and eliminate inbreeding of error. The slide exchange occurs at least semiannually. The round robin results ((~~shall~~) must be posted where all analysts can view individual analyst's results.

(iii) Each laboratory engaged in asbestos counting ((~~shall~~) must participate in the Proficiency Analytical Testing Program, the Asbestos Analyst Registry or equivalent.

(iv) Each analyst ((~~shall~~) must select and count prepared slides from a "slide bank". These are quality assurance counts. The slide bank ((~~shall~~) must be prepared using uniformly distributed samples taken from the workload. Fiber densities should cover the entire range routinely analyzed by the laboratory. These slides are counted blind by all counters to establish an original standard deviation. This historical distribution is compared with the quality assurance counts. A counter must have 95% of all quality control samples counted within three standard deviations of the historical mean. This count is then integrated into a new historical mean and standard deviation for the slide. The analyses done by the counters to establish the slide bank may be used for an interim quality control program if the data are treated in a proper statistical fashion.

## 7. Calculations.

(a) Calculate the estimated airborne asbestos fiber concentration on the filter sample using the following formula:

$$AC = \frac{\left[ \left( \frac{FB}{FL} \right) - \left( \frac{BFB}{BFL} \right) \right] \times ECA}{1000 \times FR \times T \times MFA}$$

Where:

- AC = Airborne fiber concentration
- FB = Total number of fibers greater than 5 μm counted
- FL = Total number of fields counted on the filter
- BFB = Total number of fibers greater than 5μm counted in the blank
- BFL = Total number of fields counted on the blank
- ECA = Effective collecting area of filter (385 mm<sup>2</sup> nominal for a 25-mm filter.)
- FR = Pump flow rate (L/min)
- MFA = Microscope count field area (mm<sup>2</sup>). This is 0.00785 mm<sup>2</sup> for a Walton-Beckett Graticule.
- T = Sample collection time (min)
- 1,000 = Conversion of L to cc

Note: The collection area of a filter is seldom equal to 385 mm<sup>2</sup>. It is appropriate for laboratories to routinely monitor the exact diameter using an inside micrometer. The collection area is calculated according to the formula: Area= π(d/2)<sup>2</sup>

(b) Short-cut Calculation

Since a given analyst always has the same interpupillary distance, the number of fields per filter for a particular analyst will remain constant for a given size filter. The field size for that analyst is constant (i.e. the analyst is using an assigned microscope and is not changing the reticle). For example, if the exposed area of the filter is always 385 mm<sup>2</sup> and the size of the field is always 0.00785 mm<sup>2</sup>, the number of fields per filter will always be 49,000. In addition it is necessary to convert liters of air to cc. These three constants can then be combined such that ECA/(1,000 X MFA)= 49. The previous equation simplifies to:

$$AC = \frac{\left(\frac{FB}{FL}\right) - \left(\frac{BFB}{BFL}\right) \times 4}{FR \times T}$$

(c) Recount Calculations. As mentioned in step 13 of 6 (f)(ii), a "blind recount" of 10% of the slides is performed. In all cases, differences will be observed between the first and second counts of the same filter wedge. Most of these differences will be due to chance alone, that is, due to the random variability (precision) of the count method. Statistical recount criteria enables one to decide whether observed differences can be explained due to chance alone or are probably due to systematic differences between analysts, microscopes, or other biasing factors. The following recount criterion is for a pair of counts that estimate AC in fibers/cc. The criterion is given at the type-I error level. That is, there is 5% maximum risk that we will reject a pair of counts for the reason that one

might be biased, when the large observed difference is really due to chance. Reject a pair of counts if:

$$\left| \sqrt{AC_2} - \sqrt{AC_1} \right| > 2.78 \times \left( \sqrt{AC_{avg}} \right) \times CV_F$$

Where:

- AC<sub>1</sub> = lower estimated airborne fiber concentration
- AC<sub>2</sub> = higher estimated airborne fiber concentration
- AC<sub>avg</sub> = average of the two concentration estimates
- CV<sub>FB</sub> = CV for the average of the two concentration estimates

If a pair of counts are rejected by this criterion then, recount the rest of the filters in the submitted set. Apply the test and reject any other pairs failing the test. Rejection shall include a memo to the industrial hygienist stating that the sample failed a statistical test for homogeneity and the true air concentration may be significantly different than the reported value.

(d) Reporting Results. Report results to the industrial hygienist as fibers/cc. Use two significant figures. If multiple analyses are performed on a sample, an average of the results is to be reported unless any of the results can be rejected for cause.

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9. Quality Control. The OSHA asbestos regulations require each laboratory to establish a quality control program. The following is presented as an example of how the OSHA-SLTC constructed its internal CV curve as part of meeting this requirement. Data for the CV curve shown below is from 395 samples collected during OSHA compliance inspections and analyzed from October 1980 through April 1986. Each sample was counted by 2 to 5 different counters independently of one another. The standard deviation and the CV statistic was calculated for each sample. This data was then plotted on a graph of CV vs. fibers/mm<sup>2</sup>. A least squares regression was performed using the following equation:

$$CV = \text{antilog}_{10}[A(\log_{10}(x))^2 + B(\log_{10}(x)) + C]$$

Where:

x = the number of fibers/mm<sup>2</sup>

Application of least squares gave:

A = 0.182205

B = -0.973343

C = 0.327499

Using these values, the equation becomes:

$$CV = \text{antilog}_{10}[0.182205(\log_{10}(x))^2 - 0.973343(\log_{10}(x)) + 0.327499]$$

10. Sampling Pump Flow Rate Corrections. This correction is used if a difference greater than 5% in ambient temperature and/or pressure is noted between calibration and sampling sites and the pump does not compensate for the differences.

$$Q_{\text{act}} = Q_{\text{cal}} \times \sqrt{\left(\frac{P_{\text{cal}}}{P_{\text{act}}}\right) \times \left(\frac{T_{\text{act}}}{T_{\text{cal}}}\right)}$$

Where:

$Q_{\text{act}}$  = actual flow rate

$Q_{\text{cal}}$  = calibrated flow rate (if a rotameter was used, the rotameter value)

$P_{\text{cal}}$  = uncorrected air pressure at calibration

$P_{\text{act}}$  = uncorrected air pressure at sampling site

$T_{\text{act}}$  = temperature at sampling site (K)

$T_{\text{cal}}$  = temperature at calibration (K)

11. Walton-Beckett Graticule

When ordering the Graticule for asbestos counting, specify the exact disc diameter needed to fit the ocular of the microscope and the diameter (mm) of the circular counting area. Instructions for measuring the dimensions necessary are listed:

(a) Insert any available graticule into the focusing eyepiece and focus so that the graticule lines are sharp and clear.

(b) Align the microscope.

(c) Place a stage micrometer on the microscope object stage and focus the microscope on the graduated lines.

(d) Measure the magnified grid length, PL (μm), using the stage micrometer.

(e) Remove the graticule from the microscope and measure its actual grid length, AL (mm). This can be accomplished by using a mechanical stage fitted with verniers, or a jeweler's loupe with a direct reading scale.

(f) Let D = 100 μm. Calculate the circle diameter,  $d_c$  (mm), for the Walton-Beckett graticule and specify the diameter when making a purchase:

$$d_c = \frac{AL \times D}{PL}$$

Example: If PL = 108 μm, AL = 2.93 mm and D = 100 μm, then,

$$d_c = (2.93 \times 100) / 108 = 2.71 \text{ mm}$$

(g) Each eyepiece-objective-reticle combination on the microscope must be calibrated. Should any of the three be changed (by zoom adjustment, disassembly, replacement, etc.), the combination must be recalibrated. Calibration may change if interpupillary distance is changed. Measure the field diameter, D (acceptable range: 100 ± 2 μm) with a stage micrometer upon receipt of the graticule from the manufacturer. Determine the field area (mm<sup>2</sup>).

$$\text{Field Area} = \pi(D/2)^2$$

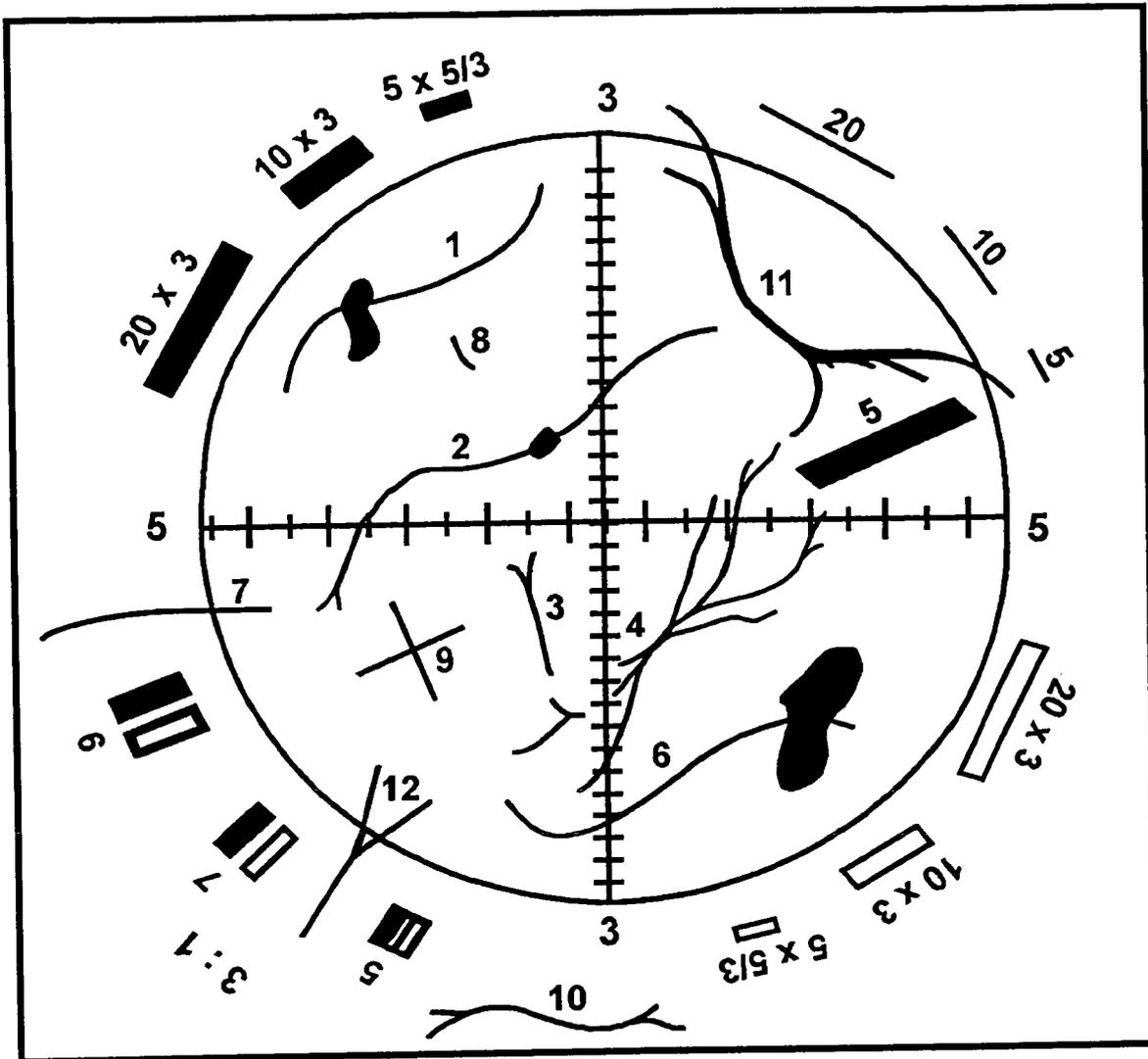
If D = 100 μm = 0.1 mm, then

$$\text{Field Area} = \pi(0.1 \text{ mm}/2)^2 = 0.00785 \text{ mm}^2$$

The Graticule is available from: Graticules Ltd., Morley Road, Tonbridge TN9 1RN, Kent, England (Telephone 011-44-732-359061). Also available from PTR Optics Ltd., 145 Newton Street, Waltham, MA 02154 [telephone (617) 891-6000] or McCrone Accessories and Components, 2506 S. Michigan Ave., Chicago, IL 60616 [phone (312) 842-7100]. The graticule is custom made for each microscope.

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Figure 1: Walton-Beckett Graticule with some explanatory fibers.  
 Counts for the Fibers in the Figure

Structure No.	Count	Explanation
1 to 6	1	Single fibers all contained within the circle.
7	1/2	Fiber crosses circle once.
8	0	Fiber too short.
9	2	Two crossing fibers.
10	0	Fiber outside graticule.
11	0	Fiber crosses graticule twice.
12	1/2	Although split, fiber only crosses once.

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

**WSR 99-08-072**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed April 5, 1999, 10:12 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 97-10-071.

**Title of Rule:** Safety standards for logging operations chapter 296-54 WAC.

**Purpose:** **Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 99-09 issue of the Register.

**Statutory Authority for Adoption:** RCW 49.17.040.

**Statute Being Implemented:** Chapter 49.17 RCW.

**Summary:** See Purpose above.

**Reasons Supporting Proposal:** See Purpose above.

**Name of Agency Personnel Responsible for Drafting:** Tracy Spencer, Tumwater, (360) 902-5530; **Implementation and Enforcement:** Michael A. Silverstein, Tumwater, (360) 902-5495.

**Name of Proponent:** Department of Labor and Industries, governmental.

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

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

**Proposal Changes the Following Existing Rules:** See Purpose above.

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

**Small Business Economic Impact Statement**

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 99-09 issue of the Register.

A copy of the statement may be obtained by writing to Department of Labor and Industries, WISHA Services Division, Attn: Tracy Spencer, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5530, fax (360) 902-5529.

RCW 34.05.328 applies to this rule adoption. This rule is a significant legislative rule that does not meet exempt criteria outlined in RCW 34.05.328(5).

**Hearing Location:** Department of Labor and Industries Building, S 118 and S 119, 7273 Linderson Way, Tumwater, WA, on May 25, 1999, at 9:30 a.m.; and at Cavanaugh's Inn at the Park, Ballroom B, 303 West North River Drive, Spokane, WA, on May 26, 1999, at 9:30 a.m.

**Assistance for Persons with Disabilities:** Contact Josh Swanson by May 11, 1999, at (360) 902-5484.

**Submit Written Comments to:** Tracy Spencer, Standards Manager, WISHA Services Division, P.O. Box 44620, Olympia, WA, 98507-4620, by 5:00 p.m., June 2, 1999. In addition to written comments, the department will accept comments submitted to fax (360) 902-5529. Comments submitted by fax must be ten pages or less.

Date of Intended Adoption: August 18, 1999.

April 6 [5], 1999

Gary Moore  
Director

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 99-09 issue of the Register.

**WSR 99-08-075**  
**PROPOSED RULES**  
**BOARD OF**  
**PILOTAGE COMMISSIONERS**

[Filed April 6, 1999, 8:02 a.m.]

**Original Notice.**

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

**Title of Rule:** Pilotage rates for the Puget Sound pilotage district.

**Purpose:** To establish a Puget Sound pilotage district annual tariff.

**Other Identifying Information:** WAC 363-116-300.

**Statutory Authority for Adoption:** RCW 88.16.035.

**Statute Being Implemented:** RCW 88.16.035.

**Summary:** The proposed rule reflects a 5.55% increase in all categories except transportation to be charged for pilotage services in the Puget Sound pilotage district for the 1999-00 tariff year. A modification is proposed in the "sailing delay" category.

**Reasons Supporting Proposal:** RCW 88.16.035 requires that a tariff be set annually.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Pilotage Commission, 2911 2nd Avenue, Seattle, WA, (206) 515-3904.

**Name of Proponent:** Puget Sound pilots, private.

**Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters:** Current rates for the Puget Sound pilotage district expire on June 30, 1999. New rates must be set annually.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** The rule as proposed by the Puget Sound pilots would increase the tariff for pilotage services in the Puget Sound pilotage district by 5.55% over the present tariff in all categories except transportation. In the "sailing delay" category new language is proposed to limit the standby fee in a twenty-four hour period.

**Proposal Changes the Following Existing Rules:** The proposed rule is a 5.55% increase over the existing tariff in all categories except transportation. In the "sailing delay" category new language is proposed as follows: The assessment of the standby fee shall not exceed a period of twelve hours in any twenty-four hour period. The board may adopt a rule that varies from the proposed rule upon consideration of presentations and written comments from other interested parties and the public.

PROPOSED

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule is being considered in the context of the required annual revision to the rates charged for pilotage services. The application of the 5.55% increase is clear in the attached proposed tariff and represents a minor economic impact on shipping costs.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: 2911 2nd Avenue, Level B Conference Room, Seattle, WA 98121, on May 13, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Peggy Larson, by May 10, 1999, (206) 515-3904.

Submit Written Comments to: Mr. Larry Vognild, Chairman, fax (206) 515-3969, by May 6, 1999.

Date of Intended Adoption: May 13, 1999.

April 5, 1999  
Peggy Larson  
Administrator

**AMENDATORY SECTION** (Amending WSR 98-12-008, filed 5/22/98, effective 7/1/98)

**WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district.** Effective 0001 hours July 1, ~~((1998))~~ 1999, through 2400 hours June 30, ~~((1999))~~ 2000.

CLASSIFICATION	RATE
Ship length overall (LOA)	
Charges:	per LOA rate schedule in this section
Boarding fee:	<del>((35.00))</del> <u>\$37.00</u>
Per each board- ing/deboarding at the Port Angeles pilot sta- tion.	
Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift Dead ship	Double LOA Zone I
Dead ship towing charge:	Double LOA
LOA of tug+ LOA of tow+ beam of tow	Zone

Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.

**Waterway and bridge charges:**

Ships up to 90' beam:

A charge of ~~((185.00))~~ \$195.00 shall be in addition to bridge fees for any vessel movements both inbound and

outbound required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of ~~((88.00))~~ \$93.00 per bridge.

**Ships 90' beam and/or over:**

A charge of ~~((248.00))~~ \$262.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of ~~((174.00))~~ \$184.00 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	<del>((247.00))</del> <u>\$261.00</u>
Radio direction finder calibration	<del>((247.00))</del> <u>\$261.00</u>
Launching vessels	<del>((372.00))</del> <u>\$393.00</u>
Trial trips, 6 hours <del>((6))</del> or less (Minimum <del>((696.00))</del> )	<del>((116.00))</del> <u>\$122.00</u> <u>\$732.00</u> per hr.
Trial trips, over 6 hours (two pilots)	<del>((233.00))</del> <u>\$244.00</u> per hr.
Shilshole Bay – Salmon Bay	<del>((145.00))</del> <u>\$153.00</u>
Salmon Bay – Lake Union	<del>((113.00))</del> <u>\$119.00</u>
Lake Union – Lake Washington (plus LOA zone from Webster Point)	<del>((145.00))</del> <u>\$153.00</u>
Cancellation charge	LOA Zone I
Cancellation charge— Port Angeles (when a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stop- ping for pilot or when a pilot order is cancelled less than twelve hours prior to the original ETA.)	LOA Zone II
Docking delay after anchoring:	<del>((116.00))</del> <u>\$122.00</u> per hr.

Applicable harbor shift rate to apply, plus ~~((116.00))~~ \$122.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ~~((116.00))~~ \$122.00 for every hour or fraction thereof.

PROPOSED

PROPOSED

Sailing delay: ((~~\$116.00~~))  
\$122.00 per hour

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ((~~\$116.00~~)) \$122.00 for every hour or fraction thereof. The assessment of the standby fee shall not exceed a period of twelve hours in any twenty-four hour period.

Slowdown: ((~~\$116.00~~))  
\$122.00 per hour

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of ((~~\$116.00~~)) \$122.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Tonnage charges:

0 to 20,000 gross tons:

Additional charge to LOA zone mileage of ((~~\$0.0059~~)) \$0.0062 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:

Additional charge to LOA zone mileage of ((~~\$0.0601~~)) \$0.0634 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:

In excess of 50,000 gross tons, the charge shall be ((~~\$0.0719~~)) \$0.0759 per gross ton.

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

Delayed arrival-Port Angeles: ((~~\$116.00~~))  
\$122.00 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 ((~~\$116.00~~)) \$122.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Transportation to vessels on Puget Sound:

March Point or Anacortes \$ 144.00

Bangor	84.00
Bellingham	158.00
Bremerton	44.00
Cherry Point	175.00
Dupont	85.00
Edmonds	27.00
Everett	52.00
Ferndale	173.00
Manchester	66.00
Mukilteo	52.00
Olympia	108.00
Point Wells	27.00
Port Gamble	77.00
Port Townsend (Indian Island)	109.00
Seattle	15.00
Semiahmoo (Blaine)	196.00
Tacoma	56.00
Tacoma Smelter	66.00
Winslow	42.00

- (a) Intraharbor transportation for the Port Angeles port area -transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.
- (b) Interport shifts: Transportation paid to and from both points.
- (c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is cancelled on or before scheduled reporting time, transportation paid one way only.
- (d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.
- (e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$1.80 per mile. Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Nonuse of pilots: Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage fees on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

LOA rate schedule

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

(LOA	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
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	Intra-Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
Up to 449	174	272	472	707	955	1241
450-459	180	278	475	718	970	1247
460-469	184	282	482	729	984	1252
470-479	189	290	489	745	987	1255
480-489	194	296	491	759	993	1261
490-499	197	299	497	772	1005	1266
500-509	207	304	505	782	1012	1275
510-519	209	310	510	793	1023	1279
520-529	212	321	518	797	1032	1291
530-539	220	326	525	806	1049	1304
540-549	223	331	536	815	1066	1316
550-559	227	341	540	827	1073	1329
560-569	236	355	550	834	1084	1342
570-579	241	359	554	837	1095	1351
580-589	252	366	566	845	1103	1365
590-599	263	372	569	849	1118	1380
600-609	272	384	577	851	1131	1387
610-619	289	388	588	855	1143	1399
620-629	300	393	594	865	1156	1416
630-639	315	400	601	867	1165	1428
640-649	328	409	607	870	1177	1439
650-659	351	417	618	877	1191	1454
660-669	358	421	623	881	1203	1465
670-679	370	432	629	896	1217	1473
680-689	376	441	638	907	1228	1489
690-699	388	448	647	922	1241	1519
700-719	405	462	659	931	1265	1536
720-739	430	475	676	945	1291	1563
740-759	448	497	690	955	1316	1590
760-779	465	515	705	970	1342	1612
780-799	489	537	718	984	1365	1640
800-819	508	554	732	989	1387	1664
820-839	525	572	750	1005	1416	1684
840-859	548	597	763	1016	1439	1714
860-879	567	618	778	1043	1465	1737
880-899	588	636	793	1068	1489	1763
900-919	605	656	807	1093	1519	1789
920-939	624	676	827	1118	1536	1811
940-959	647	694	838	1143	1563	1835
960-979	662	715	853	1165	1590	1862
980-999	686	732	868	1191	1612	1885
1000 & over))	705	757	882	1217	1640	1911

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	184	287	498	746	1008	1310
450 - 459	190	293	501	758	1024	1316
460 - 469	194	298	509	769	1039	1321
470 - 479	199	306	516	786	1042	1325
480 - 489	205	312	518	801	1048	1331
490 - 499	208	316	525	815	1061	1336
500 - 509	218	321	533	825	1068	1346
510 - 519	221	327	538	837	1080	1350
520 - 529	224	339	547	841	1089	1363
530 - 539	232	344	554	851	1107	1376
540 - 549	235	349	566	860	1125	1389
550 - 559	240	360	570	873	1133	1403
560 - 569	249	375	581	880	1144	1416
570 - 579	254	379	585	883	1156	1426
580 - 589	266	386	597	892	1164	1441
590 - 599	278	393	601	896	1180	1457
600 - 609	287	405	609	898	1194	1464
610 - 619	305	410	621	902	1206	1477
620 - 629	317	415	627	913	1220	1495
630 - 639	332	422	634	915	1230	1507
640 - 649	346	432	641	918	1242	1519
650 - 659	370	440	652	926	1257	1535
660 - 669	378	444	658	930	1270	1546
670 - 679	391	456	664	946	1285	1555
680 - 689	397	465	673	957	1296	1572
690 - 699	410	473	683	973	1310	1603
700 - 719	427	488	696	983	1335	1621
720 - 739	454	501	714	997	1363	1650
740 - 759	473	525	728	1008	1389	1678
760 - 779	491	544	744	1024	1416	1701
780 - 799	516	567	758	1039	1441	1731
800 - 819	536	585	773	1044	1464	1756
820 - 839	554	604	792	1061	1495	1777
840 - 859	578	630	805	1072	1519	1809
860 - 879	598	652	821	1101	1546	1833
880 - 899	621	671	837	1127	1572	1861
900 - 919	639	692	852	1154	1603	1888
920 - 939	659	714	873	1180	1621	1912
940 - 959	683	733	885	1206	1650	1937
960 - 979	699	755	900	1230	1678	1965

PROPOSED

<u>LOA</u>	<u>ZONE</u> <u>I</u> <u>Intra</u> <u>Harbor</u>	<u>ZONE</u> <u>II</u> <u>0-30</u> <u>Miles</u>	<u>ZONE</u> <u>III</u> <u>31-50</u> <u>Miles</u>	<u>ZONE</u> <u>IV</u> <u>51-75</u> <u>Miles</u>	<u>ZONE</u> <u>V</u> <u>76-100</u> <u>Miles</u>	<u>ZONE</u> <u>VI</u> <u>101</u> <u>Miles</u> <u>&amp;</u> <u>Over</u>
<u>980 - 999</u>	<u>724</u>	<u>773</u>	<u>916</u>	<u>1257</u>	<u>1701</u>	<u>1990</u>
<u>1000 &amp;</u> <u>over</u>	<u>744</u>	<u>799</u>	<u>931</u>	<u>1285</u>	<u>1731</u>	<u>2017</u>

**WSR 99-08-082**

**WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF TRANSPORTATION**

(By the Code Reviser's Office)

[Filed April 6, 1999, 12:57 p.m.]

WAC 468-34-010, 468-34-020, 468-34-100, 468-34-120, 468-34-150 and 468-34-330, proposed by the Department of Transportation in WSR 99-19-129 appearing in issue 98-19 of the State Register, which was distributed on October 7, 1998, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 99-08-080**

**WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(By the Code Reviser's Office)

[Filed April 6, 1999, 12:56 p.m.]

WAC 388-543-1000, 388-543-1100, 388-543-1200, 388-543-1300, 388-543-1400, 388-543-1500, 388-543-1600, 388-543-1700, 388-543-1800, 388-543-1900, 388-543-2000, 388-543-2100, 388-543-2200, 388-543-2300, 388-543-2400, 388-543-2500, 388-543-2600, 388-543-2700, 388-543-2800, 388-543-2900, 388-543-3000, 388-86-100 and 388-86-200, proposed by the Department of Social and Health Services in WSR 98-19-014 appearing in issue 98-19 of the State Register, which was distributed on October 7, 1998, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 99-08-084**

**WITHDRAWAL OF PROPOSED RULES  
PARKS AND RECREATION  
COMMISSION**

(By the Code Reviser's Office)

[Filed April 6, 1999, 1:02 p.m.]

WAC 352-37-020 and 352-37-190, proposed by the Parks and Recreation Commission in WSR 98-19-112 appearing in issue 98-19 of the State Register, which was distributed on October 7, 1998, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 99-08-081**

**WITHDRAWAL OF PROPOSED RULES  
STATE BOARD OF EDUCATION**

(By the Code Reviser's Office)

[Filed April 6, 1999, 12:56 p.m.]

WAC 180-82-302, 180-82-306, 180-82-338, 180-82-340 and 180-82-362, proposed by the State Board of Education in WSR 98-19-134 appearing in issue 98-19 of the State Register, which was distributed on October 7, 1999, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 99-08-085**

**WITHDRAWAL OF PROPOSED RULES  
UTILITIES AND TRANSPORTATION  
COMMISSION**

(By the Code Reviser's Office)

[Filed April 6, 1999, 1:02 p.m.]

WAC 480-12-100 and 480-12-375, proposed by the Utilities and Transportation Commission in WSR 98-19-060 appearing in issue 98-19 of the State Register, which was distributed on October 7, 1998, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

PROPOSED

**WSR 99-08-087**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

[Filed April 6, 1999, 2:34 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-09-077.

Title of Rule: Chapter 308-19 WAC, Bail bond agencies and bail bond agents.

Purpose: Rule revisions on this subject are needed to better meet the intention of the law and to clarify the procedures required by statute.

Statutory Authority for Adoption: RCW 18.185.120(1).

Summary: Housekeeping and clarification of the rules.

Reasons Supporting Proposal: Rule revisions on this subject are needed to better meet the intention of the law and to clarify the procedures required by statute. The proposed changes are a result of a regulatory improvement review designed to streamline and eliminate irrelevant information or rules.

Name of Agency Personnel Responsible for Drafting and Implementation: Mary Haglund, Olympia, (360) 586-4567; and Enforcement: Pat Brown, Olympia, (360) 664-2356.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The agency anticipates fewer questions from the licensees regarding requirements for obtaining a license.

Proposed Changes the Following Existing Rules: The existing rule changes streamline and eliminate irrelevant information.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule changes did not result in significant impact.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Licensing is not one of the named agencies in this statute.

Hearing Location: Department of Licensing, 405 Black Lake Boulevard, Building 2, Olympia, WA 98507, on June 7, 1999, at 1:30 to 3:00 p.m.

Assistance for Persons with Disabilities: Mary Haglund by May 31, 1999, TDD (360) 586-2788, or (360) 664-2199.

Submit Written Comments to: Mary Haglund, Department of Licensing, P.O. Box 9649, Olympia, WA 98507, fax (360) 753-3747, by May 31, 1999.

Date of Intended Adoption: June 14, 1999.

April 1, 1999

Pat Brown  
 Administrator

AMENDATORY SECTION (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-010 Promulgation—Authority.** The director of the department of licensing, state of Washington, pursuant to the authority vested in the director by chapter

~~((260, Laws of 1993))~~ 18.185 RCW, does hereby promulgate the following rules and regulations relating to the licensing of bail bond agencies and bail bond agents.

AMENDATORY SECTION (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-020 Organization.** The department of licensing administers the Washington bail bond license law, chapter ~~((260, Laws of 1993))~~ 18.185 RCW. Submissions and requests for information regarding bail bond agency licenses and bail bond agent licenses may be sent in writing to the Bail Bond Program, Business and Professions Division, Department of Licensing, P.O. Box 9649, Olympia, Washington 98507-9649.

AMENDATORY SECTION (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-030 Definitions.** (1) Words and terms used in these rules shall have the same meaning as each has under chapter ~~((260, Laws of 1993))~~ 18.185 RCW unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning. Also see RCW 18.185.010 for other definitions.

(2) "Principal partner" means the partner who is the qualified agent of a bail bond agency and who exercises operational control over the agency.

(3) "Bail bond" means the contract between the defendant, the surety and the court to insure the appearance of the accused before the court(s) at such time as the court may direct. These bonds require annual renewal.

(4) "Security in the form of personal real estate" means an owner, sole proprietor, corporation or business that receives approval in a court to be a surety, and guarantees a bail bond, commonly called a property, or professional bail bond.

(5) "Surety" means the depositor/owner of cash or cash bonds, the property owner(s) of a property bond, the guarantor of a person bond, or the insurance company if a surety bond, that guarantees the bail bond contract for profit.

(6) "Defendant" means the principal/accused, that a bail bond contract may be provided for to secure release while awaiting court hearings.

(7) "Bond" means an insurance surety contract made payable to the state of Washington provided by each agency or branch office, or bail bond agent to protect the collateral of the indemnitors of this state. This bond is not for the forfeitures of any court.

(8) "Premium" means all sums charged, received, or deposited as a consideration for procurement, issuance, and activation of a bail bond.

(9) "Exonerate" means the discharging of the bail bond by the court.

(10) "Indemnitor" means the responsible party placing in trust, security with an agency/agent, to secure the agency against loss for the release of a defendant(s) on a bail bond.

(11) "Clients" means defendants and indemnitors.

PROPOSED

(12) "Client records" means defendant's application, indemnitor's agreement, and indemnity agreements, premium receipts, receipt for collateral deposited, forfeiture notice(s) from court(s) or surrender(s) and affidavit(s), if surrendered before a forfeiture has occurred, and any other form of information or communication that may have influence on the bail bond or collateral placed for the bail bond.

(13) "Affidavit" means a written statement made under oath as stated in RCW 10.19.160.

(14) "Indemnity agreement" means the contract signed by the indemnitor that states the obligations the indemnitor(s) are assuming.

(15) "Collateral receipt" means an accurate description of the security given to an indemnitor by the receiving agency's agent, in their fiduciary capacity, listing all collateral given as security for a bail bond and held by the agency/agent until the bail bond is exonerated by the court or a forfeiture occurs. The receipt shall name the owner of the collateral, the defendant, and the bond number, and specify the terms for redemption of the collateral including any fees charged as storage.

(16) "Surrender form" means the excepted form used to return to custody a defendant for violation of bond conditions, indemnitor's withdraw from a bail bond with an affidavit in accordance to RCW 10.19.160, or a letter of forfeiture from a court in accordance to the bail contract.

(17) "Letter of forfeiture" means a notice in varied forms, sent to a bail bond agency/branch office, advising the agency/branch office that a defendant on bail by that agency has failed to appear on a given date in a given court in accordance to RCW 10.19.090. The court has made a demand for the surrender of the defendant, or payment of the face amount of the bond by a given date.

(18) "Letter of demand" means any form of notice to the indemnitor/defendant that the collateral placed in trust has come under jeopardy because of a failure to appear or violation of bail.

(19) "Reinstated" means that the court of jurisdiction has set aside a failure to appear by scheduling a new court date for the defendant. The bail bond is now not in forfeiture, but restored to its previous position. All courts do not set aside the warrant until the defendant appears before the court.

(20) "Commission" means the criminal justice training commission established in chapter 43.101 RCW.

(21) "Corporate surety bail bonds" means a bail bond contract that is guaranteed by a domestic, foreign or alien insurance company which has been qualified to transact surety insurance business in Washington state by the insurance commissioner.

**AMENDATORY SECTION** (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-100** (~~**Bail bond agency applications—Conditions.**~~) **How do I apply for a bail bond agent license?** ((Any person desiring to obtain a bail bond agency license must substantiate the experience requirements in chapter 260, Laws of 1993, section 4 or pass an examination as provided in this chapter. Persons meeting the experience requirements shall make application for a license on a form

prescribed by the director. Persons who do not meet the experience requirements shall make application for an examination and for a license on a form prescribed by the director. Concurrently, the applicant shall:

(1) Pay a fee or fees as prescribed by WAC 308-19-130.

(2) If the applicant is the qualified agent of a corporation, he or she shall furnish a copy of its articles of incorporation, and a list of its officers and directors and their addresses. If the applicant is the qualified agent of a foreign corporation, he or she shall furnish a copy of certificate of authority to conduct business in the state of Washington, a list of its officers and directors and their addresses, and evidence of current registration with the secretary of state. If the applicant is a partnership or limited partnership, each partner shall apply, qualify and furnish their addresses.

(3) When an agency license is issued to a sole proprietorship, the owner shall act as the qualified agent of the agency without the payment of additional license fees. When an agency license is issued to a corporation, the manager, officer, or chief operating officer shall act as the qualified agent of the agency without the payment of additional fees. When a license is issued to a partnership the principal partner shall act as the qualified agent of the agency without the payment of additional fees.) Any person desiring to obtain a bail bond agent license must first meet the requirements stated in the bail bond agents law, RCW 18.185.020. After the applicant meets the requirements they shall:

(1) Complete an application for a license on a form provided by the department of licensing.

(2) Applicant will inform the department if they have an insurance surety license and to whom they are affiliated.

(3) Pay a fee or fees as listed in WAC 308-19-130.

#### NEW SECTION

**WAC 308-19-105 How do I apply for a bail bond agency license?** To qualify for a bail bond agency license you must:

(1) Meet and complete the requirements of the bail bond agent license and; prove your work experience as stated in the bail bond agent law under RCW 18.185.030 (1)(b). Work related experience shall include: Bail bonds, insurance, trust accounts, receiving collateral in a fiduciary capacity, and forms of underwriting. If you do not have the required work experience you must train and pass an examination that shall follow the training and examination requirements as stated under Part D, WAC 308-19-300.

(2) The applicant shall complete an application for an agency license on a form provided by the department of licensing.

(3) Pay a fee or fees as listed in WAC 308-19-130.

(4) The applicant for a bail bond agency must obtain a bond for the main office according to the requirements stated in RCW 18.185.070.

(5) The qualified agent is responsible for all transactions, recordkeeping, and employees of each office they are licensed as the qualified agent for.

(6) If the agency or branch agency is to be a corporate surety, the agency, or branch agency shall disclose the

PROPOSED

surety(s) name, address, the attorney in fact, and in whose name the build-up fund is in.

(a) If an agency changes or takes another corporate surety, the director shall be advised immediately.

(b) If the agency is a property agency, the qualified agency will disclose the name of the court(s) that has given approval and advise the director if the agency is both.

(7) If the applicant is the qualified agent of a corporation, he or she shall furnish a copy of its articles of incorporation, and a list of its officers and directors and their addresses.

(a) If the applicant is the qualified agent of a foreign corporation, he or she shall furnish a copy of certificate of authority to conduct business in the state of Washington, a list of its officers and directors and their addresses, and evidence of current registration with the secretary of state.

(b) If the applicant is a partnership or limited partnership, each partner shall apply, qualify and furnish their addresses.

(8) When an agency license is issued to a sole proprietorship, the owner shall act as the qualified agent of the agency without the payment of additional license fees.

(a) When an agency license is issued to a corporation, the manager, officer, or chief operating officer shall act as the qualified agent of the agency without the payment of additional fees.

(b) When a license is issued to a partnership the principal partner shall act as the qualified agent of the agency without the payment of additional fees.

(9) Any agency going out of business in the state of Washington shall continue with the surety bond until the director receives notification from the jurisdiction in which the agency/branch offices are located that all bonds have been exonerated and the department of licensing has received no complaints from indemnitor about the return of collateral. The director may require an audit of the closing agency at any time upon notification of the closing of the agency.

**AMENDATORY SECTION** (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-110 How do I apply for a bail bond agency branch office license?** ~~(Conditions?)~~ A licensed bail bond agency ~~(desiring to)~~ may establish a branch office ~~(must apply and obtain a bail bond branch office license and pay the required fee)~~ by completing the following procedures:

(1) Complete an application of a form provided by the department of licensing.

Each branch office shall have a licensed qualified agent.

(2) Pay the required fee or fees as stated in WAC 308-19-130.

**AMENDATORY SECTION** (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-140 ~~(Expiration and renewal of licenses)~~ When will my license expire and how do I renew my license?** (1) Licenses issued to bail bond agents expire on their respective birthdates. However, if an application for the bail bond agent license is received by the department of licensing within ninety days from the applicant's

birthdate, the license issued shall not expire until the next birthdate.

(2) Licenses issued to bail bond agencies expire on December 31 each year. Licenses must be renewed each year on or before the date established herein and a renewal license fee as prescribed by the director in WAC 308-19-130 must be paid.

(3) If the application for a license renewal is not received by the director on or before the renewal date, a penalty fee as prescribed by the director in WAC 308-19-130 shall be paid. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency.

(4) A license shall be cancelled if an application for a renewal of that license is not received by the director within one year from the date of expiration. A person may obtain a new license by satisfying the procedures and qualifications for licensing, including the successful completion of any current examination and education requirements.

(5) No agent or agency shall perform the activity of bail bonds if their license has expired.

(6) When the director receives verification that a bail bond agency license has expired, the director shall advise correction centers that the bail bonds from the expired agency licensee can not be accepted.

**AMENDATORY SECTION** (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-150 ~~(Bail bond agent—Termination of services)~~ What happens to my agent license when I leave the bail bond agency I work for?** (1) A person licensed as a bail bond agent may perform duties and activities as licensed only under the direction and supervision of a licensed qualified agent and as a representative of a bail bond agency. ~~(This relationship may be terminated unilaterally by either the agency or the agent. Notice of such termination shall be by the agency's qualified agent to the director without delay and such notice shall be accompanied by, and include the surrender of, the agent's license held by the agency. Notice of termination shall be provided by signature of the agency's qualified agent on the surrendered license. The termination date shall be the postmark date or date the license is hand delivered to the department. If the license held by the agency cannot be surrendered to the department because the license has been lost, the qualified agent shall complete and submit an affidavit of lost license on a form approved by the department.)~~

(2) Either the agency or agent may cancel this relationship. The agency's qualified agent must send a written notice of the cancellation to the department of licensing without delay. The agency must also send to the department of licensing the agent's license held by the agency. Notice of cancellation shall be provided by signature of the agency's qualified agent on the surrendered license. The cancellation date shall be the postmark date or date the license is hand delivered to the department. If the license held by the agency cannot be surrendered to the department because the license has been lost, the qualified agent shall complete and submit an affidavit of lost license on a form approved by the department.

ment explaining why and for how long the license has not been on display.

AMENDATORY SECTION (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-160** (~~(Inactive license.)~~) What happens to my agent license when I am not working? (1) Any license issued under chapter ~~((260, Laws of 1993))~~ 18.185 RCW, and not otherwise revoked or suspended shall be deemed "inactive" at any time it is delivered to the director. Until reissued, the holder of an inactive license shall be deemed to be unlicensed.

(2) An inactive license may be placed in an active status upon completion of an application as provided by the director and upon compliance with ~~((the rules adopted pursuant to chapter 260, Laws of 1993))~~ chapter 18.185 RCW.

(3) An inactive license may not be renewed. The inactive license will be cancelled if not activated by the expiration date. To obtain a new license the person must satisfy the procedures and qualifications for initial licensing, including the successful completion of any examination and education requirements.

(4) The provisions of chapter ~~((260, Laws of 1993))~~ 18.185 RCW relating to the denial, suspension, and revocation of a license shall be applicable to an inactive license as well as an active license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed.

AMENDATORY SECTION (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-200** (~~(Filing of licenses.)~~) Where do I keep the agency and agent's licenses for my bail bond business? Licenses of all bail bond agency and bail bond agents shall be ~~((on file))~~ kept in the office located at the address appearing on the license.

AMENDATORY SECTION (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-210** (~~(Change of office location.)~~) What do I need to do if I move my office? The qualified agent of a bail bond agency shall notify the department of any change of location and mailing address of the agency office within ten working days by filing a completed change of address form approved or provided by the department.

AMENDATORY SECTION (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-220** (~~(Licensee's responsibilities.)~~) What are my responsibilities as a licensee? It is the responsibility of each and every licensee to obtain a copy of and be knowledgeable of and keep current with the rules implementing chapter ~~((260, Laws of 1993))~~ 18.185 RCW.

AMENDATORY SECTION (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-230** (~~(Complaint notification.)~~) What is my bail bond agency or a bail bond agent is the subject of a criminal complaint or action? Every licensee shall notify in writing, within twenty days after service or knowledge thereof, the office of the bail bond program, business and professions division, department of licensing of any criminal complaint, information, indictment, or conviction (including a plea of guilty or nolo contendere) in which the licensee is named as a defendant.

AMENDATORY SECTION (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-240** (~~(Records.)~~) What records are a bail bond agency and branch office required to keep? The following requirements and prohibitions apply to all records and documents required to be maintained by chapter ~~((260, Laws of 1993))~~ 18.185 RCW, or in these rules:

(1) They shall be maintained in accordance with generally accepted accounting practices.

(2) No person shall make any false or misleading statement, or make false or misleading entry, or willfully fail to make any entry required to be maintained or made, in any such record or document.

(3) No person shall willfully fail to produce any such record or document for inspection by the department.

(4) The minimum records the qualified agent or principal partner of a bail bond agency shall be required to keep are:

- (a) Bank trust account records;
- (b) Duplicate receipt book or receipt journal;
- (c) Prenumbered checks;
- (d) Check register or cash disbursement journal;
- (e) Validated bank deposit slips;
- (f) Reconciled bank monthly statement (client liability vs bank statement);
- (g) All cancelled checks;
- (h) All voided checks;

(i) Client's information file which indicates client's name, dates of transactions, amount received, amount disbursed, current balance, check number, receipt number, and item(s) covered;

(j) A transaction folder or file containing a copy of all agreements and related correspondence for each transaction;

(k) Records or description of all collaterals, securities, or monetary instruments received or held in the bail bond business transactions ~~((and))~~;

(l) Records of training and/or continuing education for each bail bond agents employed in that agency~~((-))~~;

(m) Records of exoneration of all bail bond transactions which include: (i) Court, citation or case number (ii) date of issuance of the bail (iii) the defendant's name, address and telephone number (iv) amount of the bond (vi) name of the court (vii) date of exoneration of the bond~~((-))~~; and

(n) The above records shall be maintained for a minimum period of three years.

(5) All funds and monetary instruments received by the agency from the customers or clients in the business transac-

tions shall be deposited into the trust account within three working days of receipt.

**AMENDATORY SECTION** (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-250** (~~(Inspection and audit.)~~) **Is a bail bond agency subject to audit and inspections?** All records required to be maintained by a qualified agent of a bail bond agency by chapter (~~(260, Laws of 1993)~~) 18.185 RCW, or these rules, together with any other business or other types of records of a licensee which may be related to the bail bond activity, together with any personal property which may be the subject of, or related to, a bail bond business transaction shall be subject to inspection and audit at any reasonable time, with or without notice upon demand by the department of licensing, for the purposes of determining compliance or noncompliance with the provisions of chapter (~~(260, Laws of 1993)~~) 18.185 RCW, and these rules.

If records requested by the department are not immediately available because they are not physically present upon the premises at the time the demand is made, they shall be procured and produced to the department as soon as possible, but in any event within twenty-four hours, by the licensee.

A reasonable time for the conduct of such inspection and audit shall be:

(1) If the records or items to be inspected or audited are located anywhere upon a premise any portion of which is open for business or to the public (or members and guests), then at any time the premises are so open, or at which they are usually open; or

(2) If the records or items to be inspected or audited are not located upon a premise set out in (~~(section)~~) subsection (1) (~~(above)~~) of this section, then any time between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday.

**AMENDATORY SECTION** (Amending WSR 93-21-053, filed 10/18/93, effective 11/18/93)

**WAC 308-19-300** (~~(Minimum)~~) **What are the prelicense training and examination requirements?** (1) The training and examination requirements for bail bond agent license applicants under (~~(chapter 260, Laws of 1993, section 7)~~) RCW 18.185.060, shall include, as a minimum:

- (a) Four hours of training in the following subjects:
- (i) Bail bond licensing laws;
  - (ii) Court procedures relating to bail bonds;
  - (iii) Criminal procedure, Title 10 RCW;
  - (iv) Contracts and bail bond agreements;
  - (v) Preparation of promissory notes, mortgages, deeds of trust, assignments and other documents affecting property;
  - (vi) Care and storage of personal property;
  - (vii) Forfeiture of collateral, judgements and collection;
  - (viii) Washington Insurance Code, Title 48 RCW;
  - (ix) Laws relating to notary publics, chapter 42.44 RCW;
  - (x) Contact with clients, courts and law enforcement;
  - (xi) Sexual harassment.
- (b) A licensed qualified agent shall certify on each bail bond agent's license application that the training required in this section has been completed.

(2) The examination requirement for bail bond agency or qualified bail bond agent license applicants under (~~(chapter 260, Laws of 1993, section 4(a))~~) RCW 18.185.030 (1)(a), shall include, as a minimum:

(a) All of the subjects as listed in (~~(section)~~) subsection (1)(a) (~~(above)~~) of this section; and

- (b) As a minimum, the following subjects:
- (i) Recordkeeping and filing;
  - (ii) Business licensing, taxation and related reporting and recordkeeping requirements.
  - (iii) Personnel management;
  - (iv) Laws relating to employment;
  - (v) The Americans with Disabilities Act;

(3) The examination for bail bond agency or qualified bail bond agent license applicants shall consist of a minimum of fifty questions covering the subjects listed above in subsection (2)(a) and (b) of this section. A score of eighty-five percent must be achieved in order to pass the examination. Applicants who fail to achieve an eighty-five percent score will be required to wait a minimum of fourteen days before reexamination.

(4) The director will certify training and examination programs for bail bond qualified agents and bail bond agents license applications.

(5) Every bail bond agent shall present to the director a letter stating training they have received while working as a trainee for an agency, and who the principal instructor has been before the director gives the person a bail bond license. This certificate shall be signed by the qualified agent assuring the director this qualified agent is aware that they are taking responsibility for the agent.

**AMENDATORY SECTION** (Amending WSR 97-10-047, filed 5/1/97, effective 6/1/97)

**WAC 308-19-400** (~~(Application of)~~) **What is the brief adjudicative proceeding?** The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of matters set forth below. Brief adjudicative proceedings will be limited to a determination of one or more of the following issues:

(1) Whether an applicant for a license meets the minimum criteria for a license to practice as a bail bond agency, qualified agent, branch office or bail bond agent in this state and the department proposes to deny the application;

(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department;

(3) Whether an education course or curriculum meets the criteria for approval when approval by the department is required or authorized by statute or rule;

(4) Whether a license holder requesting renewal has submitted all required information and whether a license holder meets minimum criteria for renewal; and

(5) Whether a license holder has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship.

AMENDATORY SECTION (Amending WSR 97-10-047, filed 5/1/97, effective 6/1/97)

**WAC 308-19-410** (~~(Preliminary record in)~~) **What are the records used for a brief adjudicative proceeding**~~((s))~~?

(1) The preliminary record with respect to an application for an original or renewal license or for approval of an education course or curriculum shall consist of:

(a) The application for the license, renewal, or approval and all associated documents;

(b) All documents relied upon by the department in proposing to deny the license, renewal, or approval; and

(c) All correspondence between the applicant for license, renewal, or approval and the department regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the department regarding compliance with the final order or agreement; and

(d) All documents relied upon by the department showing that the license holder has failed to comply with the previously issued final order or agreement.

(3) The preliminary record with respect to the determination of nonpayment or default by the license holder on a federally or state-guaranteed educational loan or service-conditional scholarship shall consist of:

(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state-guaranteed educational loan or service-conditional scholarship; or

(b) A written release, if any, issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.

AMENDATORY SECTION (Amending WSR 97-10-047, filed 5/1/97, effective 6/1/97)

**WAC 308-19-420** (~~(Conduct of)~~) **What is the process of a brief adjudicative proceeding**~~((s))~~?

(1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the director. The presiding officer for brief adjudicative proceedings shall not have personally participated in the decision, which resulted in the request for a brief adjudicative proceeding.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ department expertise as a basis for the decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

#### NEW SECTION

**WAC 308-19-430 False or misleading advertising.** (1) The department has authority to discipline bail bonds agents for advertising that is false, fraudulent or misleading, RCW 18.185.110(5). Every advertisement by a licensee that solicits or advertises business shall contain the name of business exactly as stated on the bail bond agency license, the physical address of the business location as stated on the bail bond agency license and, the bail bond agency license number. For purposes of providing the business name and telephone number only, single line telephone directory listings are not required to include the license number.

(2) No bail bond agency shall use fictitious or trade names in any advertising, or telephone directory.

#### NEW SECTION

**WAC 308-19-440 Standards of professional conduct.** (1) No bail bond agent shall fail to report any collateral taken as security on any bond to the principal, indemnitor, or depositor of such collateral.

(2) No bail bond agent shall fail to preserve, or to retain separately, or both, any collateral taken as security on any bond.

(3) No bail bond agent shall have an outstanding judgment on a bail forfeiture, which judgment is or has been subject to execution on demand.

(4) No bail bond agent shall use a relationship with any person employed by a jail facility to obtain referrals, or pay a fee or rebate or give or promise anything of value to any person having the power of arrest or having anything to do with the control of federal, state, county, or municipal prisoners, trustees or prisoners incarcerated in any jail, prison or any other place used for the incarceration of persons.

(5) No bail bond agent shall require as a condition of his executing a bail bond that the principal or defendant agree to engage the services of a specified attorney.

(6) No bail bond agent shall prepare or issue forged bonds or power of attorney.

(7) No bail bond agent shall arrest or make a threat of arrest to a defendant when the defendant or the indemnitor fails to fulfill on a promise to pay credit provided by the bail bond agent.

(8) No bail bond agent shall pay a fee or rebate or give or promise anything of value to the principal or anyone in his or her behalf.

(9) No bail bond agent shall suggest or advise the employment of or name for employment any particular attorney to represent his/her principal or defendant. No bail bond agent shall pay a fee or rebate or give anything of value to an

attorney in bail bond matters, except for legal services actually rendered.

(10) No bail bond agent shall pay a fee or rebate or give or promise anything of value to any person in order to secure a settlement, compromise, remission or reduction of the amount of any undertaking or bail bonds.

### WSR 99-08-088

#### PROPOSED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed April 6, 1999, 3:21 p.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 98-20-076.

Title of Rule: Food inspection, food establishment inspection criteria.

Purpose: The purpose of the rules is to: (1) Establish an inspection criteria and a rating system that will be used to determine whether food processing establishments which process, handle or store food in intrastate commerce, are in compliance with chapters 16.49, 69.04, 69.07 and 69.10 RCW, and regulations adopted thereunder, including Title 21 CFR; (2) identify steps leading to enforcement actions by the department; and (3) establish criteria for licensing food establishments under chapters 69.07 and 69.10 RCW.

Statutory Authority for Adoption: RCW 16.49.680, 19.32.030, 69.04.730, 69.07.020, and 69.10.055.

Statute Being Implemented: Chapters 16.49, 19.32, 69.04, 69.07, and 69.10 RCW.

Summary: The rules adopted in WAC 16-165-100 through 16-165-160 apply to food establishments being inspected under authority of chapter 16.49 RCW, Custom slaughtering, 19.32 RCW, Food lockers, chapter 69.04 RCW, Intrastate commerce in food, drugs, and cosmetics, chapter 69.07 RCW, Washington Food Processing Act, and chapter 69.10 RCW, Food storage warehouses. The rule consists of seven sections which include the purpose of the rule, food processor licensing, definitions and interpretations applicable to terms used in the rule, tables listing the inspection criteria including critical, significant and licensing criteria and the debit value assigned for violations of the criteria, the food establishment scoring system and the basis for taking enforcement action.

Reasons Supporting Proposal: An inspection criteria and rating system that can determine if food establishments are in compliance with sanitation, labeling and good manufacturing practices and that food in commerce in Washington is not adulterated or misbranding is fundamental to protecting the health of the consuming public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michael J. Donovan, 2nd Floor, Department of Natural Resources Building, 1111 Washington Street, Olympia, (360) 902-1883.

Name of Proponent: Food Safety Program, Washington State Department of Agriculture, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fis-

cal Matters: The agency will implement the rule by applying it routinely to inspections and licensing of food establishments. The agency intends to inform and educate the affected persons by department letter to affected parties, through information exchange at meetings and by personal contact during routine inspections of food establishments.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This is a rule that establishes an inspection criteria and a rating system that will be used to determine whether food processing establishments which process, handle or store food in intrastate commerce, are in compliance with chapters 16.49, 69.04, 69.07, and 69.10 RCW, and rules adopted thereunder, including Title 21 CFR as adopted in rule. It also identifies steps leading up to enforcement actions initiated by the department and establishes licensing criteria for food establishments subject to the provisions of chapters 69.07 and 69.10 RCW. Having the inspection criteria in rule insures that we use a fair and equitable process when licensing facilities, taking enforcement action, assessing penalties, etc. The anticipated effects of the rule would be improved uniformity in the application of inspection and licensing requirements, as well as consistency in initiating enforcement action for violations of the food regulations.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The adoption of this rule would have no economic impact on any person who complies with state food laws and rules.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Department of Natural Resources Building, 1111 Washington Street, 2nd Floor, Room 205, Olympia, WA 98504-2560, on May 13, 1999, at 10 a.m.

Assistance for Persons with Disabilities: Contact Julie Carlson by May 6, 1999, TDD (360) 902-1996.

Submit Written Comments to: Michael J. Donovan, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1883, fax (360) 902-2087, by May 13, 1999.

Date of Intended Adoption: June 3, 1999.

April 6, 1999

Dr. Dan Jemelka

Acting Assistant Director

### Chapter 16-165 WAC

### FOOD INSPECTION

#### NEW SECTION

**WAC 16-165-100 Food establishments—Inspection criteria—Purpose.** The purpose of the following rules is to:

(1) Establish an inspection criteria and a rating system that will be used to determine whether food processing establishments which process, handle or store food in intrastate commerce, are in compliance with chapters 16.49, 69.04, 69.07 and 69.10 RCW, and regulations adopted thereunder, including Title 21 CFR.

PROPOSED

(2) Identify steps leading to enforcement actions by the department.

(3) Establish criteria for licensing food establishments under chapters 69.07 and 69.10 RCW.

#### NEW SECTION

**WAC 16-165-110 Food processor licensing—New application—Inspection criteria.** To qualify for a new food processing plant license issued under chapter 69.07 RCW, the Washington Food Processing Act, a food processing facility must first make application to the department. After the department receives a complete application, the department will inspect the facility. The facility must be in compliance with the following requirements prior to issuance of a license:

The food processing facility must achieve a score of ninety points or higher on the prelicensing inspection AND be in compliance with licensing criteria. Refer to WAC 16-165-140 for the inspection criteria. For the purposes of licensing, a food processing facility may incur a one-point debit of a licensing criteria that has sliding scale.

#### NEW SECTION

##### **WAC 16-165-120 Food establishments—Definitions.**

(1) Definitions for terms used in this chapter may be found in chapters 69.04, 69.07 and 69.10 RCW, and Title 21 CFR as adopted, unless otherwise provided in this chapter.

(2) For the purposes of this chapter, the following definitions apply:

(a) "Adequate" means that which is needed to accomplish the intended purpose in keeping with good public health practice.

(b) "Critical violation" means a violation of the inspection criteria that is a direct violation of RCW 69.04.040 (1), (2), (3) or (4) with respect to adulterated food or a violation that results in food adulteration that could cause injury or illness in consumers, or that has the potential to contribute to conditions resulting in such adulteration.

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

(d) "Director" means the director of agriculture.

(e) "Establishment or food establishment" means any premise, plant, building, room, area, or facility which processes, prepares, handles or stores food or food products for sale in intrastate commerce including food processors, food storage warehouses, custom slaughter operations, refrigerated lockers, and dairy manufacturing plants.

(f) "Licensing criteria violation" means any violation of the inspection criteria required to be in compliance prior to the issuance of a food processor's license under chapter 69.07 RCW.

(g) "Sanitize" means to adequately treat food contact surfaces by a process that is effective in destroying vegetative cells of microorganisms of public health significance, and in substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.

(h) "Significant violation" means any violation of the inspection criteria not deemed to be a critical violation as defined in WAC 16-165-140(2).

#### NEW SECTION

**WAC 16-165-130 Food establishments—Inspection criteria definitions—Interpretations.** WSDA will use the definitions and interpretations in this section to determine if a food establishment inspection complies with the inspection criteria.

(1) "**Clean and adequate protective clothing and hair restraints**" means the clothing or the outside layer of clothing, which can occasionally or incidentally contact food, either directly or indirectly, is:

(a) Clean at the start of the work shift; and

(b) Changed when the clothing becomes so soiled during the course of the work shift that contamination of food, food packaging or food contact surfaces becomes imminent; and

(c) Suitable to the specific food processing operation for protection against the contamination of food, food packaging, and food contact surfaces.

Clean and effective hair restraints, such as hairnets, or beard nets if appropriate, are worn for the protection of food from contamination. Hats, caps, scarves or other head cover are acceptable if the hair is properly contained to protect food from contamination. Hair spray and/or tying back the hair in ponytails, etc., are not considered effective hair restraints.

(2) "**Adequate washing and sanitizing of hands as necessary**" means washing and sanitizing hands thoroughly to protect against contamination of food from undesirable microorganisms in an adequate hand wash facility by:

(a) Using proper hand washing methods which consist of:

(i) Applying soap to hands;

(ii) Using warm water;

(iii) Scrubbing hands thoroughly;

(iv) Rinsing and drying hands using methods that prevent food contamination;

(b) Washing hands before beginning work, after each absence from the work station, and any time hands become soiled or contaminated; and

(c) Sanitizing hands when appropriate in addition to, but not in place of, the proper hand washing methods.

(3) "**Garments and personal belongings stored appropriately; not a source of contamination**" means personal belongings and garments, either personal or plant supplied, are stored or kept separately from food processing, handling and storage operations such as in an area, locker, cupboard, or other closeable unit that is dedicated to the storing or hanging of personal belongings and clothing so not to become a source of contamination to food, food packaging or food contact surfaces; and

No food, packaging materials, utensils or equipment used in the food processing operation are kept, stored or commingled with personal belongings or garments.

(4) "**Processes separated as required**" means there is a separation of processes for the purpose of reducing potential contamination in food processing operations where contami-

nation is likely to occur. One or more of the following means may accomplish this:

- (a) Location;
- (b) Time;
- (c) Partition;
- (d) Air flow;
- (e) Enclosed systems; or
- (f) Other effective method.

(5) "**Adequate light**" means a minimum of 25 foot candles at the working surfaces of food processing areas and a minimum of 10 foot candles at the floor level in all other food processing areas.

(6) "**Detergents, sanitizers and toxic materials properly identified**" means:

- (a) Labeling any container containing detergent, sanitizer or toxic material with the:
  - (i) Product name;
  - (ii) Chemical description;
  - (iii) Directions for use;
  - (iv) Any required precautionary and warning statements;
  - (v) First aid instructions;
  - (vi) Name and address of the manufacturer or distributor;

and

(vii) Any other additional information required by the federal Environmental Protection Agency or other laws or rules; or

(b) Small transport or use containers for detergents, sanitizers or toxic materials are used only under the following conditions:

- (i) The contents are properly identified on the container. Labeling the container with the common name is acceptable if the original storage container is on hand and properly identified;
- (ii) No food container is used as a container for detergents, sanitizers or toxic materials;
- (iii) No container used for detergents, sanitizers or toxic materials, is used as a food container.

(7) "**Product contact surfaces clean and maintained in a sanitary condition, cleaned and sanitized prior to each use or as essential**" means:

- (a) Product contact surfaces of equipment, utensils, containers and other articles used in the processing of food, when its continued use is apparent, are not soiled with any residue or contaminant that could adulterate food products as defined in RCW 69.04.210; and
- (b) Food residues are removed from food product contact surfaces frequently, enough to prevent residues from becoming unwholesome or unfit for food, decomposed, filthy, putrid, or injurious to health; and
- (c) The food product contact surfaces are sanitized prior to use and after cleaning.

(8) "**Product contact surfaces clean and maintained in a sanitary condition, cleaned and sanitized prior to each use or as essential: Critical violation**" means it is a critical violation if a food product contact surface comes into contact with potentially hazardous food and the surface is not sanitized after cleaning or prior to use.

Product contact surfaces that become contaminated, but are cleaned and sanitized prior to use are not considered a critical violation.

(9) "**Nonproduct contact surfaces of equipment cleaned and maintained in a sanitary condition**" means nonproduct contact surfaces of equipment used in the processing of food are kept reasonably free from dirt, old food residues, foreign material, dust, mold, mildew, slime and other accumulations that occur because of day-to-day food processing operations.

(10) "**In-use food contact equipment and utensils appropriately stored: Protected from contamination between uses**" means the utensils used in the processing of foods, such as knives, scrapers, scoops, shovels, cutters, and other hand tools and equipment, are placed or stored in a manner to prevent food contact surfaces from being contaminated with filth. Filth includes, but is not limited to, microorganisms, unsuitable toxic chemicals, and microscopic physical contaminants.

Storage and placement of utensils or equipment in the following manner is considered inappropriate storage:

- (a) In contact with the floor, dirty equipment frames, other insanitary nonfood contact surfaces;
- (b) In contact with containers of nonpotable water (other than sterilizing solutions); and
- (c) In contact with other contaminants.

(11) "**In-use food contact equipment and utensils appropriately stored: Protected from contamination between uses: Critical violation**" means that it is a critical violation when a utensil or piece of equipment is or has been stored in such a manner that it becomes obviously contaminated with filth and its continued use is apparent.

Utensils and equipment that become contaminated are not considered a critical violation if the utensils and equipment are cleaned and sanitized prior to the next use.

(12) "**Water supply—Safe and of sanitary quality**" means the water supply used in the processing of food is potable from an approved source and is monitored in accordance with applicable laws and rules. Water from an approved source and monitored in accordance with applicable laws and rules means:

- (a) Food processors who produce bottled water meet the requirements of 21 CFR, Part 129 and comply with the state department of health, division of drinking water requirements for a group A water system (chapter 246-290 WAC).
- (b) Food processors who produce ice comply with the state department of health, division of drinking water requirements for a group A water system (chapter 246-290 WAC).
- (c) Food processors with twenty-five or more employees and operating sixty days or more annually comply with the state department of health, division of drinking water requirements for a group A water system (chapter 246-290 WAC).
- (d) Processors with less than twenty-five employees or operating less than sixty days annually, except single-family residences employing only household members, comply with the state department of health, division of drinking water requirements for a group B water system (chapter 246-291 WAC).

(e) Processors that operate from single-family residences on private water supplies meet the department of health, division of drinking water requirements for a group B water system (chapter 246-291 WAC) with respect to monitoring for bacteriological, chemical and physical properties. Processors that do not use water as an ingredient or incorporate water into their product need only meet the bacteriological testing requirements.

(f) Water used for certain purposes within the food processing operation (such as circulated water used in the washing of soil from raw agricultural commodities or fluming) is acceptable if:

(i) The water does not impart harmful or deleterious substances or additives to food products; and

(ii) The food products in contact with the water undergo a final potable water wash/rinse; and

(iii) The water meets the requirements of the good manufacturing practices under 21 CFR, Part 110.

(13) **"Current satisfactory water test"** means analysis verifying the bacteriological, physical and chemical safety of the water has been conducted according to appropriate group A or B water system monitoring schedules or, in the case of bottled water operations, according to the requirements of Title 21 CFR, Part 129 and that reports of such analysis are on file at the processing facility and available for review by WSDA during routine facility inspection.

(14) **"Ice from an approved source"** means:

(a) Ice is manufactured on the premises of a food establishment with water that is safe and of sanitary quality; or

(b) Ice is supplied by an establishment that is under license and inspection of a federal, state or local government agency, and proof of the water's potability is on file with the food processing plant using the ice.

(15) **"Ice properly handled"** means ice is processed, handled and held according to sanitary practices provided in 21 CFR, Part 110, and ice used in the processing of food is protected from contamination by taking the necessary precautions during its manufacture, storage, transport and use. Necessary precautions include, but are not limited to:

(a) Storage bins and containers of water are covered;

(b) All storage and packaging containers, including ice house or storage room contact surfaces, are sanitary, readily cleanable, and do not impart deleterious materials to the ice. Wooden totes are not to be used for the transporting or holding of ice;

(c) Scoops, shovels and other utensils used in the handling of ice are in a sanitary condition, properly stored, readily cleanable, and do not impart deleterious materials to the ice;

(d) The ice does not come into contact with floor areas where foot traffic is possible; and

(e) Equipment used to manufacture ice is in a sanitary condition, readily cleanable and does not impart any deleterious or other foreign substances to the ice.

(16) **"No cross connections, no back siphonage"** means there is no backflow from or cross connection between piping systems that discharge waste water sewage and piping systems that carry water for food manufacturing. This includes any cross connection between a potable water system and:

(a) A system in which the water contains boiler additives; or

(b) A CIP (clean in place) system; or

(c) A recirculating system used to wash or flume food products, such as raw fruits or vegetables.

(17) **"Adequate floor drains and plumbing to convey wastes and sewage from the plant, into approved sewage disposal system"** means:

(a) Plumbing is designed, sized, installed and maintained in accordance with applicable state and local plumbing codes so that sewage and liquid disposable waste is readily conveyed from the plant;

(b) Floor drainage is sufficient to prevent excessive pooling of water or other disposable waste;

(c) Plumbing and drains do not provide a source of contamination to food, potable water, food contact surfaces or food packaging material or create any insanitary condition; and

(d) Sewage is disposed into a municipal sewer system or other system approved by a federal, state or local agency having jurisdiction.

(18) **"Adequate, readily accessible toilet facilities"** means:

(a) A food establishment provides its employees with toilet facilities that are located within a reasonable distance to the work area, and the toilet facilities are maintained in accordance with 21 CFR, Part 110.37, and:

(i) Toilet facilities are located on the premises of a licensed food establishment; or

(ii) If the food establishment shares space in a multiple building complex, toilet facilities are located within the complex and within a reasonable distance from the work area; or

(iii) A domestic toilet facility is sufficient if the food processing operation is a family operation where only family members are employed and if the domestic toilet facility meets applicable requirements provided in 21 CFR, Part 110.37.

(b) Outhouses, chemical toilets or other nonflush toilets may not be used in a food establishment.

(19) **"Toilets clean, in good repair, not opening directly into process areas, self-closing doors"** means toilet rooms are kept clean, free of trash and litter, in good repair and all toilet room doors are self-closing and do not open directly into a food processing area.

(20) **"Hand wash facilities adequate and convenient, with hot and cold or tempered water"** means food handlers in a food establishment have access to one or more hand washing facilities with hot, cold, or tempered running water, and:

(a) There is at least one hand wash facility located in the food processing area in a location convenient to each food handling area when hands come into contact with or manipulate unwrapped or unpackaged ready to eat food. (Hand sanitizing stations may be required if appropriate); or

(b) Hand wash facilities are located in rest rooms or other areas in operations where food is not manipulated by hand and hands do not contact the food; or

(c) Hand wash facilities are located in rest rooms or other areas and hand sanitizing stations are located in food process-

ing areas in operations where food would normally undergo further preparation (for example washing, cleaning, cooking or other processing) either in the plant or by the consumer that would adequately eliminate physical, chemical and microbiological contaminants introduced by handling.

(21) "**Hand dips provided as necessary**" means hand sanitizing stations are provided, and properly positioned and maintained in all food operations as provided in subsection (20)(c) of this section.

(a) For the purposes of this subsection "properly positioned" means:

(i) Food handlers have ready access to hand sanitizing stations when returning from the toilet, hand wash stations, lunch and breaks and whenever necessary while working; and

(ii) At least one hand sanitizing station is inside the process room entryways on each side of the processing table, lines and equipment where food is manipulated by hand, and at least one hand sanitizing station for every ten food handlers at processing tables, lines and equipment.

(b) For the purposes of this subsection "properly maintained" means sanitizing solutions are checked and recharged to a strength equal to 10 PPM chlorine or 25 PPM iodine, and changed every four hours while in use.

(c) Hand sanitizing stations are recommended for all food operations provided for in subsection (20)(c) of this section.

(22) "**Food protected from contamination in storage**" means food is stored under conditions that protect food against physical, chemical and microbial contamination, as well as against deterioration of the food and the container.

(23) "**Food protected from contamination in storage: Critical violation**" means it is a critical violation when:

(a) A storage situation allows potential contamination of products. This includes, but is not limited to, the storing of raw materials in such a fashion that they cross-contaminate finished food products, particularly ready to eat food. For example, the storage of raw fish and seafood, meat, poultry and other food which inherently contains pathogenic and spoilage microorganisms, as well as soil and other foreign material, is in direct contact with other food in the same container or in any other cross-contaminating circumstance with finished food products; or

(b) Raw materials or food products from unapproved or uncertified sources are used that are inherently associated with food-borne illnesses. Raw products include, but are not limited to:

- (i) Unpasteurized milk and dairy products;
- (ii) Unpasteurized eggs used in products which are not heated to pasteurization temperatures during processing;
- (iii) Home canned low-acid foods;
- (iv) Raw uncertified shellfish; and
- (v) Uninspected meat products.

(24) "**Adequate records maintained as required**" means all records are maintained as provided under Title 21 CFR, Part 113 Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers; Part 114, Acid Foods; Part 129, Bottled Water; and any other law or rule requiring recordkeeping, EXCEPT that water tests under Part

129 are covered under subsection (13) of this section, "Current satisfactory water test."

(25) "**Adequate records maintained as required: Critical violation**" means it is a critical violation when a record is not maintained on any food process and/or controls as provided for in subsection (24) of this section, or so poorly maintained that the information intended to be conveyed by the record is lacking or cannot be determined.

(26) "**Products coded as required**" means all products are coded as provided under Title 21 CFR, Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers; Part 114, Acidified Foods; Part 129, Processing and Bottling of Bottled Drinking Water; and any other law or rule requiring that products be coded.

(27) "**Products coded as required: Critical violation**" means it is a critical violation when a product is not coded as required in subsection (26) of this section, or so inadequately coded with respect to the food product, the plant where manufactured, the date manufactured, time or batch manufactured, cannot be readily identified.

(28) "**Packaging material properly handled and stored**" means:

A food contact surface of food packaging material is protected from potential sources of contamination during handling and storage. This includes, but is not limited to:

(a) Boxes, liners and other primary containers are stored off floors or other insanitary surfaces;

(b) Top containers in a nested stack of lined or primary containers are inverted or otherwise protected;

(c) All single service containers, caps, roll stock, liner jars, bottles, jugs and other preformed containers are stored in closed sanitary tubes, wrappings, boxes or cartons prior to use;

(d) The forming, make-up or other package assembly is conducted in a manner that precludes contamination; and

(e) The handling of packaging material and containers prior to filling or wrapping is conducted so not to expose them to contamination by dust, foreign material or other contaminants.

(29) "**Potentially hazardous food**" means any food, whole or in part, capable of supporting the germination, growth and/or toxin production by infectious or toxic microorganisms is at temperatures between 38°F and 145°F, and/or food is otherwise harmful to health.

## NEW SECTION

**WAC 16-165-140 Food establishment—Inspection criteria.** The food inspection criteria shall be in accordance with the following table for determining:

(1) If a food establishment is in compliance with chapters 16.49, 69.04, 69.07 and 69.10 RCW, and rules adopted thereunder;

(2) The debit value for each significant violation; and

(3) Whether a violation is critical, or a licensing requirement:

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INSPECTION CRITERIA Critical Inspection Criteria		
Criteria Item-Critical*		Licensing Requirement?
1.	Food products free from adulteration.	Yes
2.	Persons with apparent infections or communicable diseases properly restricted.	Yes
3.	Adequate washing and sanitizing of hands as necessary, gloves used in food handling sanitary conditions.	Yes
4.	Product contact surfaces clean and maintained in a sanitary condition; cleaned and sanitized prior to each use or as essential.	Yes
5.	In use food contact equipment and utensils appropriately stored; protected from contamination between uses.	No
6.	Water used safe and of adequate sanitary quality; from approved source.	Yes
7.	No cross connections; no back-siphonage.	Yes
8.	Ice from approved source.	Yes
9.	Hot and cold water, under pressure, in areas where foods are processed or equipment washed.	Yes
10.	Adequate, readily accessible toilet facilities provided.	Yes
11.	No evidence of human defecation or urination about the premises.	Yes
12.	Handwash facilities adequate and convenient, including hot and cold or tempered water.	Yes
13.	Food protected from contamination in storage.	No
14.	Critical control points and factors such as time, temperature, pressure, flow rate, pH, Aw, inhibitors adequate to ensure safety of product.	Yes
15.	Process registered as required; processes approved as required.	Yes

INSPECTION CRITERIA Critical Inspection Criteria		
Criteria Item-Critical*		Licensing Requirement?
16.	Persons involved in LACF, acidified food, pasteurized operation licensed or certified as required.	No
17.	Adequate records maintained as required.	No
18.	Products coded as required.	No
19.	Required critical control point monitoring devices such as retort thermometers, recorder/controllers, pH meters, approved, accurate and in place.	Yes
20.	Required critical control point monitoring, measurements, test, and analysis on products and containers performed as required.	No
21.	Potentially hazardous foods maintained at proper temperatures.	Yes
*A critical violation results in an establishment not being in substantial compliance, therefore no debit values are assigned.		

INSPECTION CRITERIA Significant Inspection Criteria			
Criteria Item-Significant		Debit Value	Licensing Requirement?
1.	Jewelry, watches other personal items not a source of contamination.	1	No
2.	Clean and adequate protective clothing and hair restraints.	1-2	No
3.	Use of tobacco, eating and drinking of food and beverages and gum chewing restricted to appropriate areas.	1	No
4.	Garments and personal belongings stored appropriately, not a source of potential contamination.	2	No

INSPECTION CRITERIA			
Significant Inspection Criteria			
Criteria Item-Significant	Debit Value	Licensing Requirement?	
5. Employee work procedures preclude contamination.	1-2	No	
6. Grounds: Free from pest attractions, breeding places, harborage, excessive dust and other contaminants.	1	No	
7. Suitable size and location, construction including walls, floors, ceiling, counters, shelving, other fixtures, smooth, readily cleanable and in good repair.	1-5	Yes	
8. Processes separated as required.	1-2	Yes	
9. No operations in domestic living or sleeping quarters (including domestic kitchens).	0	Yes	
10. Adequate light.	1-2	Yes	
11. Lights; glass over food protected; breakproof.	1	No	
12. Adequate ventilation to minimize vapors, steams, noxious fumes.	1-2	Yes	
13. Drip or condensate from ceiling, fixtures, pipes, ducts not a potential source of contamination.	1-3	No	
14. Screened or protected to exclude pests.	1-2	No	
15. Building, fixtures, facilities clean; including transport vehicles.	1-5	Yes	
16. Detergents, sanitizers, toxic materials safely used and stored.	1-3	No	

INSPECTION CRITERIA			
Significant Inspection Criteria			
Criteria Item-Significant	Debit Value	Licensing Requirement?	
17. Detergents, sanitizers and toxic materials properly identified.	1-2	No	
18. Product contact surfaces clean and maintained in a sanitary condition; cleaned and sanitized prior to each use or as essential.	1-2	No	
19. Nonproduct contact surfaces of equipment clean and maintained in a sanitary condition.	1-2	No	
20. In use food contact equipment and utensils appropriately stored; protected from contamination between uses.	1-2	No	
21. Effective measures taken to exclude pests from the facility. No harborage/breeding areas.	1-2	No	
22. Pesticides safely used and stored.	1-3	No	
23. No evidence of rodents, insects, birds or other animals.	1-5	Yes	
24. Current satisfactory water supply test.	5	Yes	
25. Water supply sufficient in quantity for intended operations.	2	Yes	
26. Adequate floor drains and plumbing to convey wastes and sewage from plant.	1-2	Yes	
27. Sewage and waste lines protected not a source of contamination.	1-2	Yes	
28. Adequate offal, rubbish and waste disposal.	1-2	Yes	

**PROPOSED**

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INSPECTION CRITERIA			
Significant Inspection Criteria			
Criteria Item-Significant		Debit Value	Licensing Requirement?
29.	Toilet facilities clean and in good repair, no direct opening to process area, self-closing door.	1-2	Yes
30.	Soap and single service towels or suitable drying devices provided at handwash facilities. Adequate refuse receptacles provided.	1-2	No
31.	Readily understandable handwash signs provided at handwash facilities.	1	No
32.	Hand dips provided as necessary.	1-2	No
33.	Design, material and workmanship durable, readily cleanable and in good repair. Contact surfaces nontoxic and corrosion resistant.	1-3	Yes
34.	Design and use preclude contamination with lubricants, fuel, contaminated water, paint, rust, compressed air/gas and other contaminants.	1-3	No
35.	Freezers and cold storage units equipped with adequate thermometers.	1	No

INSPECTION CRITERIA			
Significant Inspection Criteria			
Criteria Item-Significant		Debit Value	Licensing Requirement?
36.	Incoming raw materials, ingredients or processed food from an approved source, in an obvious sanitary condition. Items inspected on receipt, suitable for intended use, segregated as necessary and properly stored (clean storage containers, facilities, products properly covered), frozen foods stored frozen, properly thawed; ingredients properly identified; raw materials washed or cleaned as required.	1-5	No
37.	Adequate records maintained as required - noncritical.	1	No
38.	Products coded as required - noncritical.	1	No
39.	Required monitoring, measurements, tests, analysis on products and containers performed as required - noncritical.	1	No
40.	No contaminating material used, stored or transported with supplies, ingredients or processed foods.	1-2	No
41.	Packing material properly handled and stored.	1	No
42.	Food products not misbranded, including pull dates.	1	Yes
43.	Cleaning operations - conducted to minimize contamination.	1-3	No

NEW SECTION

**WAC 16-165-150 Food establishment inspection rating system—Inspection score.** (1) A food establishment is rated as follows at the completion of an inspection conducted by the department:

(a) A food establishment will be debited the point value assigned to the inspection item listed in WAC 16-165-140 for each violation found during an inspection.

(b) The sum of the points debited for an inspection are subtracted from the maximum point value of one hundred. The remaining sum is the establishment's score for that inspection.

(c) When the department on a food establishment inspection identifies a critical violation, no score will be listed unless the critical violation is satisfactorily corrected during the inspection.

(2) An establishment is considered in substantial compliance with the inspection criteria if:

- No critical violations are found, or if critical violations are found and corrected prior to completion of the inspection; and
- The establishment's inspection score is ninety points or above.

NEW SECTION

**WAC 16-165-160 Food establishments—Basis for enforcement action.** (1) The department may issue a notice of correction for:

(a) Food establishments that score less than ninety points on an inspection; or

(b) Critical violations found during an inspection of a food establishment.

(2) The department may review and consider initiating enforcement action, such as license suspension, civil penalties, and/or other penalties provided in chapters 16.49, 69.04, 69.07, or 69.10 RCW when:

(a) Food establishments score less than ninety points on two separate inspections within a consecutive three-year period; or

(b) Food establishments fail to correct critical violations during an inspection.

(3) Nothing herein shall prevent the department from:

(a) Choosing not to pursue a case administratively.

(b) Issuing a notice of correction in lieu of pursuing administrative action.

(c) Negotiating settlement(s) of cases on such terms and for such reasons as it deems appropriate.

**WSR 99-08-091**  
**PROPOSED RULES**  
**BOARD OF**  
**TAX APPEALS**

[Filed April 6, 1999, 3:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-02-021.

Title of Rule: Chapter 456-12 WAC, Public records.

Purpose: The purpose of this chapter is to provide the Board of Tax Appeals (board) with rules that comply with chapter 42.17 RCW regarding public records.

Statutory Authority for Adoption: RCW 82.03.170.

Statute Being Implemented: RCW 42.17.250.

Summary: This chapter describes the organization of the board and the procedures whereby the public may obtain information, make submittals or requests, or obtain copies of the board's public records and indexes.

Reasons Supporting Proposal: This chapter is required by chapter 42.17 RCW.

Name of Agency Personnel Responsible for Drafting: Susan Riddle, 910 5th Avenue S.E., Olympia, WA 98504-0915, (360) 753-5446; Implementation and Enforcement: Richard Virant, 910 5th Avenue S.E., Olympia, WA 98504-0915, (360) 753-5446.

Name of Proponent: Board of Tax Appeals, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This chapter, 456-12 WAC, is an update of an existing chapter regarding the board's public records. It describes the board's organization and the procedures whereby the public may obtain information, make submittals or requests, or obtain copies of the board's public records and indexes. This revision of chapter 456-12 WAC will make it easier for the public to contact the board and to inspect or request copies of the board's public records and indexes.

Proposal Changes the Following Existing Rules: The existing rules have been rewritten to make them easier to read and understand. The information on contacting the board by mail, telephone, fax, and e-mail has been updated.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules are exempt from the statute because the rules are procedural in nature and have no significant impact on business or industry.

RCW 34.05.328 does not apply to this rule adoption. This proposed revision is exempt from RCW 34.05.328 by RCW 34.05.328 (5)(b)(iv) which states that this section does not apply to rules that "make address or name changes, or clarify language of a rule without changing its effect."

Hearing Location: Board of Tax Appeals, 910 5th Avenue S.E., Olympia, WA 98504-0915, on June 10, 1999, at 10 a.m.

Assistance for Persons with Disabilities: Rose Gaona by June 1, 1999, TDD (360) 753-5446, or (360) 753-5446.

Submit Written Comments to: Board of Tax Appeals, 910 5th Avenue S.E., P.O. Box 40915, Olympia, WA 98504-0915, fax (360) 586-9020, by June 1, 1999.

Date of Intended Adoption: June 10, 1999.

April 6, 1999

R. A. Virant

Executive Director

NEW SECTION

**WAC 456-12-015 Purpose of this chapter.** The purpose of this chapter is to provide the board of tax appeals with

rules that comply with chapter 42.17 RCW regarding public records.

#### NEW SECTION

**WAC 456-12-025 Definitions.** The definitions contained in chapter 42.17 RCW apply to this chapter.

"Appellant name" means the name of the person who files an appeal with the board of tax appeals.

"Board" means the board of tax appeals.

"Docket number" means the identifying number assigned to each appeal filed with the board of tax appeals.

#### NEW SECTION

**WAC 456-12-035 Description of the board.** (1) As an independent state agency, the board reviews, holds hearings on, and decides state tax appeals filed by taxpayers and taxing authorities. The board consists of three members, an executive director, tax referees, and staff hired by the board. The three members of the board are appointed by the governor, with the consent of the senate, for a term of six years.

(2) The executive director is the board's chief executive officer and is responsible for implementing board directions and for directing the board's staff.

(3) The board holds regular meetings at 10:00 a.m. on the second Thursday of each March, June, September, and December. The meetings are held at the board's office at 910 5th Avenue S.E., Olympia, WA 98504-0915.

#### NEW SECTION

**WAC 456-12-045 Public records available.** Unless exempt under chapter 42.17 RCW or other law, all public records and indexes of the board are available for public inspection and copying at the board's office from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays. The board's office is located at 910 5th Avenue S.E., Olympia, WA 98504-0915.

#### NEW SECTION

**WAC 456-12-055 Public records officer.** The board's executive director is identified as the board's public records officer and is responsible for reviewing requests for public records.

#### NEW SECTION

**WAC 456-12-065 Communications with the board.** The board's office is located at 910 5th Avenue SE, Olympia, WA 98504-0915. The board's mailing address is Post Office Box 40915, Olympia, WA 98504-0915. The board's telephone number is (360) 753-5446. The board's FAX number is (360) 586-9020. The board's e-mail address is bta@bta.state.wa.us.

#### NEW SECTION

**WAC 456-12-075 Records indexes.** (1) The board maintains current indexes which provide identifying information for the following:

- (a) Final decisions and orders of the board, including concurring and dissenting opinions;
- (b) Proposed decisions and orders of the board;
- (c) Policy statements adopted by the board; and
- (d) Budget documents which include the board's strategic plans and goals.

(2) The board's current indexes are available to all persons for inspection and copying under the same rules and on the same conditions that apply to the board's public records.

(3) The board's final decisions, issued after January 1, 1990, are also available on its internet home page at bta.state.wa.us, where the board's custom index program will allow a search by subject matter, word, phrase, statute, or rule.

#### NEW SECTION

**WAC 456-12-085 Fees.** (1) No fee will be charged for inspecting the board's public records.

(2) The board will charge ten cents per page for copies of requested public records. Payment will be made by check payable to the board. The board may require that all charges be paid before the copies are released. The executive director may decide that no fee will be charged for the copies if the expense of processing the payment is greater than the cost of providing the copies.

#### NEW SECTION

**WAC 456-12-095 Requesting public records.** (1) A person may make an informal request to inspect or copy the board's public records, or to receive a copy of an identifiable public record, by contacting the board's office. The board will accept informal requests that are received in person or by mail, telephone, FAX, or e-mail.

(2) The board may require a person making an informal request to submit a formal written request.

(3) All formal written requests will include the following information:

- (a) The name and address of the person making the request.
- (b) The date on which the request is made.
- (c) A description of the requested records by docket number, appellant name, subject matter, or other means that will allow the board's staff to identify the requested records and make them available.

(d) A signed statement that the requested records will not be used for commercial purposes if a list of individuals is included in the material requested.

(4) The board's staff will assist any person making an informal or a formal request in identifying the requested records.

(5) No public record will be removed from the board's office.

(6) No public record will be marked or damaged in any way during inspection or copying.

(7) Within five business days of receiving a request for public records, the board will respond by either:

- (a) Providing the records;
- (b) Acknowledging in writing that the board has received the request and providing a reasonable estimate of the time the board will need to respond to the request; or
- (c) Denying the request.

**NEW SECTION**

**WAC 456-12-105 Denying requests for public records.** (1) The board may determine that a requested public record is exempt under chapter 42.17 RCW or other law and may not be inspected or copied.

(2) All denials of a request for public records will contain a written statement from the executive director stating the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

(3) The board may remove identifying details when it makes available or publishes any public record when there is reason to believe that revealing such details would be an invasion of personal privacy protected by chapter 42.17 RCW.

**NEW SECTION**

**WAC 456-12-115 Reviewing denials of requests for public records.** (1) Any person objecting to a denial of a request for public records may submit a written request for review to the board.

(2) Upon receiving the written request for review, the executive director will call a meeting of the board to review the denial.

(3) The board will issue a written decision within two business days of receiving the request for review.

(4) The board's written decision regarding the request for review will be the final action by the agency.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 456-12-010	Purpose.
WAC 456-12-020	Definitions.
WAC 456-12-030	Description of organization and public meeting.
WAC 456-12-040	Public records available.
WAC 456-12-050	Communications with the board.
WAC 456-12-060	Public records officer.
WAC 456-12-070	Office hours.
WAC 456-12-080	Requests for public records.
WAC 456-12-090	Copying.

WAC 456-12-100	Exemptions.
WAC 456-12-110	Review of denials of public records requests.
WAC 456-12-120	Protection of public records.
WAC 456-12-130	Records index.
WAC 456-12-140	Adoption of form.

**WSR 99-08-093  
PROPOSED RULES  
GAMBLING COMMISSION**

[Filed April 6, 1999, 4:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-088 with a published date of December 16, 1998.

Title of Rule: Card room rules.

Purpose: To implement legislation that passed in 1996 and 1997 enabling card rooms to offer the following: Increased number of tables, alternative collection of fees, jackpot schemes and house-banked card games. These rules set forth the regulatory and licensing requirements for card rooms to offer these activities.

At the March meeting, the commissioners voted to file alternative versions to five of the rules in this package and depending on testimony at upcoming hearings, one version for each rule will be selected for adoption.

WAC 230-40-030:

Version #1 15 tables in a card room; 7 players and 9 betting spots allowed at house-banked card tables.

Version #2 15 tables in a card room; 7 players and/or betting spots allowed at house-banked card tables.

Version #3 10 tables in a card room; 7 players and 9 betting spots allowed at house-banked card tables.

WAC 230-40-120:

Version #1 Phase II wagering limits set at \$100.

Version #2 Phase II wagering limits set at \$50, furthermore, for nonhouse-banked card games, a cap of \$250 would be placed on a player's hand.

WAC 230-40-400:

Version #1 Owners of multiple card rooms located within one mile of each other must utilize the same operating hours.

Version #2 Local law enforcement must agree with an operator's proposed change of hours.

Version #3 Owners of multiple card rooms adjacent to each other must utilize the same operating hours.

Version #4 All card rooms will close between 2:00 a.m. and 4:00 a.m.

Version #5 All card rooms will close between 4:00 a.m. and 8:00 a.m.

WAC 230-40-820: Alternative version would require that for reviews contracted out, the contractor must be a licensed certified public accountant and knowledgeable of gaming in Washington state.

WAC 230-40-845: Alternative version clarifies no third party checks can be accepted at card rooms.

**PROPOSED**

Statutory Authority for Adoption: RCW 9.46.070.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Lacey, (360) 438-7654, ext. 374; Implementation: Ben Bishop, Lacey, (360) 438-7640; and Enforcement: Sherri Winslow, Lacey, (360) 438-7654, ext. 301.

Name of Proponent: Staff, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2), therefore, a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662, (360) 254-6100, on May 14, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Susan Yeager by May 3, 1999, TDD (360) 438-7638, or (360) 438-7654, ext. 302.

Submit Written Comments to: Susan Arland Mailstop 42400, Olympia, WA 98504-2400, fax (360) 438-8652, by May 3, 1999.

Date of Intended Adoption: May 14, 1999.

April 6, 1999

Susan Arland

Rules Coordinator

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 230-40-060      Persons shall not share in winnings or charge additional fee for playing cards.
- WAC 230-40-150      Side bets prohibited.
- WAC 230-40-160      Wagers by other than participants prohibited.
- WAC 230-40-900      Public card room enhancement program—Pilot study.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

- WAC 230-02-400      Card game.

AMENDATORY SECTION (Amending WSR 96-11-073, filed 5/13/96, effective 7/1/96)

**WAC 230-40-010 Types of card games authorized**

Only card games that have been specifically authorized are allowed to be played in public or social card rooms licensed by the commission. The commission hereby authorizes the following card games:

(1) Poker - Any poker game described in *Hoyle's Modern Encyclopedia of Card Games*, by Walter B. Gibson, published by Doubleday and Company, Inc., April 1974, 1st edition, pages 219 through 277 (~~:- Provided, That only a maximum of five betting rounds per hand are permitted~~).

- (2) Hearts.
- (3) Pinochle.
- (4) Cribbage.
- (5) Rummy.
- (6) (~~Mah-jongg (tiles)~~).
- (~~7~~)) Pan.

(~~(8))~~ (7) Pitch.

(~~(9))~~ (8) Washington blackjack - as set forth in WAC 230-40-125.

(~~(10) Pai-Gow poker~~).

(~~(11))~~ (9) Pan-9.

(~~(12))~~ (10) Bid Whist.

(~~(13) Dominos~~).

(~~(14))~~ (11) House-banked card games in which each participant is dealt cards and competes against the house. The following house-banked card games are authorized:

- (a) Blackjack.
- (b) Let It Ride.
- (c) Caribbean Stud.
- (d) Progressive Blackjack.
- (e) Spanish 21.
- (f) Match The Dealer Blackjack.
- (g) Casino War.
- (h) Paulson's Draw Poker.
- (i) Pai-Gow Poker.

(12) Those games the director approves on a temporary, case-by-case basis (~~(upon application by a licensee for approval of a particular game)~~). An application for approval of a game (~~(not specifically authorized)~~) must be in writing, and include the rules of play and all wagering schemes. Temporary approvals granted are valid for no more than six months or until adopted by the commission, whichever occurs first.

AMENDATORY SECTION (Amending Order 125, filed 11/15/82)

**WAC 230-40-015 Rules by which the authorized card games shall be played.** (1) Card games authorized by the commission shall be played only in the manner set out for that game in *Hoyle's Modern Encyclopedia of Card Games*, by Walter B. Gibson, published by Doubleday and Company, Inc., April 1974 1st Edition: Provided, That each licensee may make immaterial modifications to the rules of each authorized game set out in that publication: Provided Further, That approved card games not referenced in Hoyle's

PROPOSED

Modern Encyclopedia of Card Games shall be played in a manner as approved by the commission.

Each such immaterial modification, or rule of conduct, shall be (~~conspicuously~~) posted in plain view on the premises where it can be clearly seen by the players in the card game.

(2) Each licensee may establish rules of conduct for the card players on its premises.

(3) Where other of the commission's rules are inconsistent in any respect with the above-referenced publication, or with any modification or rule of conduct of the licensee, the commission's rule shall prevail over such inconsistent requirement.

AMENDATORY SECTION (Amending Order 184, filed 10/24/88)

**WAC 230-40-030 Number of tables and players limited.** (~~((+))~~) No licensee (~~(to allow)~~) with a public card room on its premises shall allow more than (~~(five)~~) fifteen separate tables at which card games are played(~~(, nor)~~). No licensee shall allow more than ten players for nonhouse-banked card games and seven players for house-banked card games to participate at any one table at any given time((-); Provided(~~(:~~ When poker is played, additional players are authorized to participate at the card table(s) as follows;

- (a) Class E-1 2 players
- (b) Class E-2 thru E-5  
and Class D 4 players

Provided further, that no table shall have more than twelve players:

(2) ~~No licensee to allow a social card room on its premises shall allow more than ten players to participate at any one table at any given time. Provided, when poker is played, they may have two tables with 12 players at each table.~~

(3) ~~The commission may permit a licensee to exceed the player limits on specific occasions for good cause shown. Requests to exceed the limit shall be submitted to the commission in writing not less than 30 days preceding the date upon which the licensee wishes to exceed the limit. The request shall indicate the date(s) involved, the reasons why the request is made, and the number of games and players in the games which the licensee desires to allow on that occasion).~~ That the number of spots for wagers at house-banked card tables shall not exceed nine. Each table shall be permanently numbered and readily identifiable by the licensee's surveillance system.

AMENDATORY SECTION (Amending Order 184, filed 10/24/88)

**WAC 230-40-030 Number of tables and players limited.** (~~((+))~~) No licensee (~~(to allow)~~) with a public card room on its premises shall allow more than (~~(five)~~) fifteen separate tables at which card games are played(~~(, nor)~~). No licensee shall allow more than ten players for nonhouse-banked card games and seven players and/or spots for wagering at house-banked card games to participate at any one table at any given time. ((Provided: When poker is played, additional players are authorized to participate at the card table(s) as follows;

- (a) Class E-1 2 players
- (b) Class E-2 thru E-5  
and Class D 4 players

Provided further, that no table shall have more than twelve players:

(2) ~~No licensee to allow a social card room on its premises shall allow more than ten players to participate at any one table at any given time. Provided, when poker is played, they may have two tables with 12 players at each table.~~

(3) ~~The commission may permit a licensee to exceed the player limits on specific occasions for good cause shown. Requests to exceed the limit shall be submitted to the commission in writing not less than 30 days preceding the date upon which the licensee wishes to exceed the limit. The request shall indicate the date(s) involved, the reasons why the request is made, and the number of games and players in the games which the licensee desires to allow on that occasion.)~~

AMENDATORY SECTION (Amending Order 184, filed 10/24/88)

**WAC 230-40-030 Number of tables and players limited.** (~~((+))~~) No licensee (~~(to allow)~~) with a public card room on its premises shall allow more than (~~(five)~~) ten separate tables at which card games are played(~~(, nor)~~). No licensee shall allow more than ten players for nonhouse-banked card games and seven players for house-banked card games to participate at any one table at any given time((-); Provided(~~(:~~ When poker is played, additional players are authorized to participate at the card table(s) as follows;

- (a) Class E-1 2 players
- (b) Class E-2 thru E-5  
and Class D 4 players

Provided further, that no table shall have more than twelve players:

(2) ~~No licensee to allow a social card room on its premises shall allow more than ten players to participate at any one table at any given time. Provided, when poker is played, they may have two tables with 12 players at each table.~~

(3) ~~The commission may permit a licensee to exceed the player limits on specific occasions for good cause shown. Requests to exceed the limit shall be submitted to the commission in writing not less than 30 days preceding the date upon which the licensee wishes to exceed the limit. The request shall indicate the date(s) involved, the reasons why the request is made, and the number of games and players in the games which the licensee desires to allow on that occasion).~~ That the number of spots for wagers at house-banked card tables shall not exceed nine. Each table shall be permanently numbered and readily identifiable by the licensee's surveillance system.

AMENDATORY SECTION (Amending Order 300, filed 9/18/96, effective 10/19/96)

**WAC 230-40-050 Fees for card playing—Method of assessment and collection—Maximum fees.** (~~(Except as provided in WAC 230-40-055 for card tournaments, no time based or per hand fee shall be charged a person, directly or~~

indirectly, to play in a card game except as set forth in this section. Each type of fee shall be maintained and recorded separately from all other fees as set forth in WAC 230-08-090, and be available for audit by the commission and local law enforcement and taxing authorities.

(1) For all card games, the following procedures apply to collection of such fees:

(a) Fees shall be collected in advance by the licensee in cash, or in wagering chips, directly from the player;

(b)) No person shall be charged a fee directly or indirectly, to play in a card game in excess of those fees set forth in this section. Each type of fee shall be maintained and recorded separately from all other fees as set forth in WAC 230-08-090, and be available for audit by commission staff, local law enforcement, and taxing authorities.

(1) The following are authorized methods of assessing fees for playing social card games. Only one method of assessing fees may be used at a table at any given time:

(a) Fees based on a period of time - A specific fee of not more than ten dollars per hour, per player, may be charged to play social card games: Provided, That a licensee may collect the hourly fee in thirty-minute increments;

(b) Fees for each hand played - A specific fee of not more than one dollar per hand, per player, may be charged to play social card games: Provided, That WAC 230-40-825 requirements for surveillance shall apply for licensees utilizing this fee assessment method;

(c) Fees based on the amounts wagered during a hand (rake) - A portion of the total amount wagered by a player, not to exceed five dollars per hand or ten percent of total wagers for a hand, whichever is less, may be collected for playing social card games: Provided, That WAC 230-40-825 requirements for surveillance shall apply for licensees utilizing this fee assessment method and the surveillance system shall be approved prior to operation;

(d) An administrative fee not to exceed ten percent of the amount collected for player-supported progressive prize contests may be imposed by the card room operator;

(e) Fees to enter tournaments shall be as set forth in WAC 230-40-055; or

(f) A commission on the winning hand for a pai-gow poker game not to exceed five percent.

(2) Fees shall be collected by a licensed card room employee in the following manner:

(a) Fees assessed on a period of time shall be collected directly from each player by the dealer or floor supervisor responsible for that particular section of the card room. The "direct collection," "chip rack," or "drop box" methods set forth in this section may be used for collection of fees assessed on a period of time;

(b) Fees assessed on a per-hand basis shall be placed in a designated area of the table by the player and collected by the dealer before the first round of cards has been dealt. After collection, the dealer shall deposit all chips or coins in the chip rack or drop box, as applicable;

(c) Fees assessed on the amounts wagered during a game, or for progressive jackpots shall be collected by the dealer during play of the hand and placed in a designated area of the table. Once the maximum fee for a hand or jackpot is accumulated, the dealer shall spread the chips or coins to

allow players and the surveillance system the ability to verify the amount collected. After verification, chips shall be deposited in the dealer's chip rack or drop box, as applicable

(d) All fees to enter tournaments shall be collected in advance of the start of play in accordance with WAC 230-40-055; or

(e) Licensees may apply to the director for approval of alternate fee collection methods. If approved, the method of collection shall be set forth in the letter granting approval.

(3) All fees collected from players shall be controlled and recorded in a method prescribed by the commission as set forth in WAC 230-08-090. All collections shall be in wagering chips and kept separate from all other chips and cash in the card room until recorded in the daily card room records and deposited in the cashier's cage. All chips and cash in the cashier's cage shall be kept separate from all other chips and cash located on the licensed premises at all times card games are conducted. The following methods may be used for control of fees collected for card games and player-supported progressive prize contests:

(a) Direct collection method - Fees are collected directly from each player by a licensed card room employee responsible for that particular section of the card room and deposited in the card room cage serving the area of the card room from which collections are made. Collections shall be made at least once per hour, at times designated by the licensee. All fees shall be recorded immediately upon collection, per WAC 230-08-090. This collection method may only be used when assessing fees based on a period of time.

(b) Chip rack method - This method is allowed for Class E-1 through E-3 licensees only. It requires a licensed center dealer, a designated area for player fees, and a chip rack separated into sections for each type of fee collected. Fees are temporarily stored in the chip rack and controlled by a licensed dealer until collected by the floor supervisor. All chips collected as fees shall be removed from the dealer's chip rack at least every four hours by the licensed card room employee responsible for that particular section of the card room. The collection process shall include the counting of chips and coins in the presence of players and immediately recording the totals on a count slip. The dealer and the supervisor making the collection shall each initial the count slip verifying its accuracy.

(c) Drop box method - Fees are temporarily stored in a numbered, locked drop box. The drop box method requires a center dealer, a table with a designated area for each type of player fee and/or fees removed from the pot, and a separate drop box for each type of fee. Drop box movement, storage, and counting shall be conducted as prescribed in WAC 230-40-840. The drop box shall be located in a position that is isolated from the pot area and in plain view of all players and the surveillance system.

(4) No player shall be required to pay for or purchase any other goods or services as a condition of playing cards except as authorized by this section;

((e)) (5) A schedule setting forth all fees to participate in card games shall be posted in plain view where it can be seen by the players in the card games((-));

((2)) (6) A person requesting a new deck of cards beyond those regularly furnished by the operator, as required

by WAC 230-40-070(2), may be charged a fee not to exceed the actual cost to the licensee of the deck. Further, Class D licensees may charge a fee not to exceed actual cost to the licensee per deck for each deck of playing cards furnished to a table as required by these rules, or as requested by any player at the table. The fee shall be collected in cash directly from the players, or the player requesting the deck, at the time the deck is introduced into the game((-);

~~((3) This rule shall not prevent a bona fide nonprofit or charitable organization which has been established and operated for purposes other than card playing from charging its usual membership fee to belong to the organization.~~

~~(4)) (7) The licensee shall collect the same fee from all players at a table ((except licensed card room employees or the licensed owner)). If the licensee elects to allow free play, then all players at a table must be allowed to play for free((-~~

~~(5) The amount collected shall be recorded by the licensee each half hour on forms supplied by the commission.~~

~~(6) All records required by this rule shall be maintained for a period of three years from the end of the licensee's fiscal year for which the record is kept.~~

~~(7))): Provided, That a licensee may allow licensed card room employees and owners to play without a fee if fees are based on time, as authorized by subsection (1)(a) of this section;~~

~~(8) This rule shall not prevent a licensee from collecting an admission fee for entry into that portion of the licensed premises conducting entertainment, provided that the same fee is charged to all patrons.~~

AMENDATORY SECTION (Amending Order 192, filed 5/16/89)

**WAC 230-40-070 Licensee to furnish all cards, chips and other services.** Each public card room licensee shall furnish ~~((the following items and services))~~ all cards in connection with all card games conducted on its premises at no additional charge to the players((-;

~~(1) Chips. Chips for use in wagering shall be of generally conventional size and design).~~ All chips and cards shall be of generally conventional size and design, and include safeguards that maximize the integrity of the card games. The following standards and procedures apply to this section:

(1) For nonhouse-banked card games, the licensee shall furnish chips and cards that meet the following requirements:

(a) Chips furnished by a licensee shall be so designed that they are readily identifiable as having been furnished by that particular licensee.

~~((2) Cards or mah-jongg tiles.)) (b) For poker, the deck, or decks of cards being used at a given table ((where any poker game is being played)) shall be changed at a minimum every half hour by the licensee.~~

~~((Playing cards or mah-jongg tiles furnished shall be of generally conventional size and design. Playing cards or tiles that have been shaved, sanded, cut, carved, or otherwise marked in any manner which may make certain cards or tiles identifiable to players other than as allowed by the rules of the particular game are prohibited.)) (2) For house-banked card games, the licensee shall furnish chips and cards that meet the following requirements:~~

(a) Chips. Chips must include the house name, clearly denote the chip value, be produced by a licensed manufacturer, and purchased from a licensed manufacturer or distributor. All house-banked card rooms that conduct poker games which utilize the same cashier shall meet the house-banked requirements for all banked and nonbanked games.

(b) Cards. The deck or decks of cards must include the house name or logo, be produced by a licensed manufacturer, and be purchased from a licensed manufacturer or distributor.

(3) Bank services. The licensee shall sell its chips to all players desiring to buy them not in excess of any limits set by the commission and redeem all chips at the value for which they were sold. The value at which the various types of chips are sold and redeemed shall be conspicuously posted and visible to each person prior to that person purchasing chips. ((Money taken in on chips sold and table fees collected shall be kept)) The licensee shall collect the money taken in on chips sold and fees collected and shall keep these funds separate and apart from all other money received by the licensee.

(4) Chips may be sold for cash only and an operator shall extend no credit of any nature ((shall be extended by an operator)) to a person purchasing chips: Provided, That an operator may accept a check in accordance with WAC 230-12-053 and 230-40-845. Counter checks are prohibited. Each receipt by a person of a quantity of chips from the operator shall be a separate transaction for the purpose of this rule. Checks received for chips retained by the operator after close of business shall be deposited by the operator not later than the second day following receipt upon which the operator's bank is open for business.

(5) ((No licensee shall allow)) The licensee shall safeguard all chips and cards to assure integrity of games and banking services and no licensee shall allow:

(a) Playing cards that have been shaved, sanded, cut, carved, or otherwise marked in any manner which may make certain cards identifiable to players other than as allowed by the rules of the particular game.

(b) Any cards or chips not furnished by the licensee ((on that business day)) to be used in any card game conducted upon its premises. ((No licensee shall allow))

(c) Any cards or chips furnished in connection with any card game to be used, unless they are furnished by the licensee that same business day.

(d) Any other person to buy or sell chips for use in card games upon its premises nor provide any other item or service for use in connection with the game.

AMENDATORY SECTION (Amending Order 252, filed 6/15/94, effective 7/16/94)

**WAC 230-40-120 Limits on wagers in card games.** Social and public card room licensees shall not allow wagering limits set by the commission to be exceeded in any card game. The number and value of wagers in card games are limited as follows:

~~(1) ((The maximum number of wagers in any betting round shall be three, comprised of an initial wager plus two raises.~~

~~(2) The maximum number of a wager in any betting round shall be as follows:~~

PROPOSED

~~(a) Games with a single betting round—ten dollars per wager;~~

~~(b) Games with multiple betting rounds:~~

~~(i) Two betting round games—wagers for the first round shall not exceed five dollars, and the second round shall not exceed ten dollars;~~

~~(ii) Three betting round games—wagers for the first two betting rounds shall not exceed five dollars, and wagers for the third betting round shall not exceed ten dollars;~~

~~(iii) Four betting round games—the wagers for each round may be structured by house rule: Provided, That the total wagers for all four betting rounds shall not exceed twenty-five dollars, and any single wager shall not exceed ten dollars; and~~

~~(iv) Five betting round games—the wagers for each round may be structured by house rule: Provided, That the total wagers for all five betting rounds shall not exceed thirty dollars, and any single wager shall not exceed ten dollars.~~

~~(e) Games that do not allow raises—single wager not to exceed ten dollars for each betting round.~~

~~(3)) Nonhouse-banked card games:~~

~~(a) Poker:~~

~~(i) There shall be no more than five betting rounds in any one game;~~

~~(ii) The maximum number of wagers in any betting round shall be four, comprised of an initial wager plus three raises; and~~

~~(iii) The maximum amount of a single wager shall not exceed twenty-five dollars.~~

~~(b) Games based on achieving a specific number of points - each point shall not exceed five cents in value.~~

~~((4)) (c) An ante, except for panguingue (pan), shall not be more than ten dollars. The ante may, by house rule, be made by one or more players, but the total ante may not exceed ten dollars. ((No one player can ante more than the maximum wager allowed in the first round.)) An ante, by house rule, may be used as part of a player's wager.~~

~~((5)) (d) Panguingue (pan) - maximum value of a chip for payoff will not exceed four dollars. Ante will not exceed one chip. No doubling of conditions. Players going out may collect not more than two chips from each participating player.~~

~~((6) Provided;) (e) Washington blackjack shall be subject to the rules and wagering limits set forth in WAC 230-40-125.~~

~~(2) House-banked card games:~~

~~(a) Operators authorized to conduct Phase I house-banked card games shall not allow a single wager to exceed twenty-five dollars;~~

~~(b) Operators authorized to conduct Phase II house-banked card games shall not allow a single wager to exceed one hundred dollars; and~~

~~(c) A single wager may be made on each separate element of chance. In addition, for blackjack, an additional wager may be placed for doubling down.~~

~~(3) The wager to enter a player-supported progressive prize contest shall not exceed one dollar per hand.~~

~~(4) House rules establishing wagering limits for the betting rounds of each type of game played shall be posted in~~

plain view where it can be seen by the players in the card game.

~~(5) Side bets between and against players and against the house are prohibited. Only persons actually playing in the card game may wager upon the outcome of the game. Wagers by persons other than those playing which in any way involves the outcome of the game, or of any aspect of the game, are prohibited: Provided, That gratuity wagers made by a player for a dealer shall not be considered a side bet.~~

AMENDATORY SECTION (Amending Order 252, filed 6/15/94, effective 7/16/94)

**WAC 230-40-120 Limits on wagers in card games.**

Social and public card room licensees shall not allow wagering limits set by the commission to be exceeded in any card game. The number and value of wagers in card games are limited as follows:

~~(1) ((The maximum number of wagers in any betting round shall be three, comprised of an initial wager plus two raises.~~

~~(2) The maximum number of a wager in any betting round shall be as follows:~~

~~(a) Games with a single betting round—ten dollars per wager;~~

~~(b) Games with multiple betting rounds:~~

~~(i) Two betting round games—wagers for the first round shall not exceed five dollars, and the second round shall not exceed ten dollars;~~

~~(ii) Three betting round games—wagers for the first two betting rounds shall not exceed five dollars, and wagers for the third betting round shall not exceed ten dollars;~~

~~(iii) Four betting round games—the wagers for each round may be structured by house rule: Provided, That the total wagers for all four betting rounds shall not exceed twenty-five dollars, and any single wager shall not exceed ten dollars; and~~

~~(iv) Five betting round games—the wagers for each round may be structured by house rule: Provided, That the total wagers for all five betting rounds shall not exceed thirty dollars, and any single wager shall not exceed ten dollars.~~

~~(e) Games that do not allow raises—single wager not to exceed ten dollars for each betting round.~~

~~(3)) Nonhouse-banked card games:~~

~~(a) Poker:~~

~~(i) There shall be no more than five betting rounds in any one hand;~~

~~(ii) The maximum number of wagers in any betting round shall be four, comprised of an initial wager plus three raises; and~~

~~(iii) The maximum amount of a single wager shall not exceed twenty-five dollars and the amount wagered per player shall not exceed two hundred fifty dollars per hand. For purposes of this subsection, the hand shall mean a complete set of betting rounds.~~

~~(b) Games based on achieving a specific number of points - each point shall not exceed five cents in value.~~

~~((4)) (c) An ante, except for panguingue (pan), shall not be more than ten dollars. The ante may, by house rule, be made by one or more players, but the total ante may not~~

exceed ten dollars. ~~((No one player can ante more than the maximum wager allowed in the first round.))~~ An ante, by house rule, may be used as part of a player's wager.

~~((5))~~ (d) Panguingue (pan) - maximum value of a chip for payoff will not exceed four dollars. Ante will not exceed one chip. No doubling of conditions. Players going out may collect not more than two chips from each participating player.

~~((6) Provided,))~~ (e) Washington blackjack shall be subject to the rules and wagering limits set forth in WAC 230-40-125.

(2) House-banked card games:

(a) Operators authorized to conduct Phase I house-banked card games shall not allow a single wager to exceed twenty-five dollars;

(b) Operators authorized to conduct Phase II house-banked card games shall not allow a single wager to exceed fifty dollars; and

(c) A single wager may be made on each separate element of chance. In addition, for blackjack, an additional wager may be placed for doubling down.

(3) The wager to enter a player-supported progressive prize contest shall not exceed one dollar per hand.

(4) House rules establishing wagering limits for the betting rounds of each type of game played shall be posted in plain view where it can be seen by the players in the card game.

(5) Side bets between and against players and against the house are prohibited. Only persons actually playing in the card game may wager upon the outcome of the game. Wagers by persons other than those playing which in any way involves the outcome of the game, or of any aspect of the game, are prohibited: Provided, That gratuity wagers made by a player for a dealer shall not be considered a side bet.

AMENDATORY SECTION (Amending WSR 95-23-109, filed 11/22/95, effective 1/1/96)

**WAC 230-40-125 Washington blackjack—Rules of play—Wagering limits.** Washington blackjack is a non-house-banking card game permitted in Class A and E card rooms. Washington blackjack shall be played in the following manner:

(1) Fees to play Washington blackjack shall only be assessed on a time basis and collected using the direct collection method as defined in WAC 230-40-050.

(2) Up to six standard fifty-two-card decks shall be used with suits disregarded and each card valued numerically only as follows: Ace equal 1 or 11; face cards (King, Queen, Jack) equal 10 each; others according to their spots, 10 to 2. The number of decks used shall be established by house rule. The cards shall be dealt from a shoe at all times. The game is played with ~~((either a house dealer and a player/banker or))~~ a player who is ~~((a))~~ both the dealer~~((/))~~ and banker (dealer/banker).

~~((2))~~ (3) When starting a new table the cards are cut to determine who the first dealer/banker will be. The dealer/banker shall announce the amount of money that he or she will put into the bank. If a minimum bank ~~((may be))~~ is established as per individual house rule it shall not exceed

five hundred dollars. ~~((If a house dealer is used, the banker delivers the bank to the dealer and the dealer shall place a marker reading "banker" on the bet line in front of the banker.~~

~~((3))~~ (4) Once the bank has been established, the player to the immediate left of the dealer/banker places his/her wager on the bet line and the dealer/banker covers that wager by matching it with a like amount of chips. Each player makes their wager in turn and each wager is immediately matched by the dealer/banker. The maximum and minimum wager may be set by house rule but in no event shall the maximum wager exceed twenty-five dollars. If the bank runs out of money (tapped out) prior to the commencement of the deal, then only those players with a wager covered will be dealt a hand.

~~((4))~~ (5) The play begins with the dealer/banker dealing one card face up to each covered player including himself/herself, one more card face up to each covered player, and then one down card to himself/herself. A player may be dealt more than one hand by house rule. ~~((When a house dealer is used, no cards are dealt to the banker.))~~ If a player holds an ace and a face card or a ten, it is a "natural" 21 and the player collects 1.5 times the amount of their bet from the dealer/banker, unless the dealer/banker also has a natural which results in a tie (push). All ties result in the players and the dealer/banker recovering their wagers.

~~((5))~~ (6) If the dealer/banker has a "natural," he/she collects the wagers from players who do not have a "natural." If the dealer/banker does not have a "natural," he/she pays off any player with a "natural" starting with the first one to the left of the dealer/banker. Should the dealer/banker not have enough money in the bank to make up the 1.5 for one payoff due on a "natural," then those hands and wagers will be frozen in place until the additional wagers are made up or the hand is over. If after the hand is over, a dealer/banker cannot cover the 1.5 for one, the player shall get the amount of wager that was covered by the dealer/banker.

~~((6))~~ (7) If the dealer/banker does not have a "natural," play continues with the player on the dealer/banker's immediate left. The dealer/banker deals cards face up, one by one, as that player calls for them. The player's aim is to total 21 or as close to 21 without going over. When a player is satisfied with their total, they shall declare "stand." If the player wants more cards, the player declares "hit." If a player goes over a 21 point count, the hand is a "bust" and they must turn the hand down, while the dealer/banker collects the bet. The dealer/banker does the same with each remaining player. Any player who stands must wait while the dealer/banker draws his or her cards. If the dealer/banker goes bust, each standing player is paid the amount of their wager. If the dealer/banker "stands," the down card is turned up and players whose totals are higher than the dealer~~((s))~~/banker's are paid. The dealer/banker collects from any player whose total is less. Action is always to the left of the dealer/banker. Any frozen wagers needing to be "made up" will be done in order, to the left of the dealer/banker from losing wagers the dealer/banker collects.

~~((7))~~ (8) Should the dealer/banker not be able to cover all frozen wagers then those frozen wagers are released to the winning players and the deal passes immediately to the left at which time the new dealer/banker shall announce the amount

of the bank and shuffle the cards. The same shall apply if the dealer/banker has no money in the bank. The dealer/banker may, if allowed by house rule, add to their bank in between hands.

~~((8))~~ (9) Upon completion of the shuffle, the player to the right of the dealer/banker shall cut the cards. After the cards have been placed into the shoe the dealer/banker shall insert a blank card approximately three quarters of the way through the deck(s). A dealer/banker may deal from the shoe until he/she reaches the blank card. After the blank card appears, the dealer/banker may continue dealing that hand, but will not start a new hand. ~~((If a house dealer is used, he/she returns the remaining chips in the bank to the banker.))~~ The player on the dealer/banker's immediate left shall be offered the opportunity to be the next dealer/banker ~~((or banker))~~. The discards may only be reshuffled to complete the last hand.

~~((9))~~ (10) Once wagers are placed and covered on the bet line, no player, including the dealer/banker, may touch those wagers until the winner has been determined. Any player touching the wagers may be ruled to have fouled and their wager forfeited.

~~((10))~~ (11) Any player who lifts their cards up from the table or slides their cards out of their own playing area shall be ruled to have fouled and their wager may be forfeited.

~~((11))~~ (12) No player may "buy" the bank. The bank must pass around the table to the left and no player can authorize ~~((anyone other than a house dealer))~~ another person to deal for him or her. No player may be the dealer/banker for more than one consecutive shoe before passing the bank ~~((: Provided, That when there are less than five players at a table a player may deal more than one consecutive shoe only when the remaining players have passed the deal))~~.

~~((12))~~ (13) The dealer/banker must stand on seventeen or above and must take hits on sixteen or below. If a dealer/banker has an ace, it shall be counted as eleven if it brings his or her total to seventeen or more (but not over twenty-one). Provided, the house may elect to play a "soft seventeen," which occurs when the dealer's/banker's first two cards are an ace valued at eleven and a six. If the house elects to play a soft seventeen, house rules must specify that the dealer/banker must hit a soft seventeen, and must stand on a hard seventeen and any eighteen or above. House blackjack rules must be posted in plain view to the players and the house must ensure they are consistently followed.

~~((13))~~ (14) The conditions for doubling down shall be set by house rule, provided that the wager may be doubled and the player received only one more card. The player must then stand on those three cards. If the dealer's/banker's bank is insufficient to cover a double down wager, the player may wager an amount equal to the dealer's/banker's remaining bank. The dealer/banker must then cover that wager. If the dealer/banker has no bank then a player may not double down.

~~((14))~~ (15) If the dealer's/banker's face-up card is a ten, face card or ace, he/she may look at their face-down card to see if they have a natural; if his/her face-up card is anything else, they may not look at their face-down card until their turn comes to draw.

~~((15))~~ (16) If the dealer/banker's face-up card is an ace, the house may allow the player banking the game to offer an "insurance" bet against losing to the dealer/banker's possible natural. The dealer/banker, before looking at his/her down card, inquires if any player wants insurance. A player who desires insurance places an amount equal to half his/her present wager on his/her own hand. When this bet is made, the dealer/banker looks at his/her down card. If it is a 10 count, the dealer/banker turns it face up and announces a natural. The insurance bettor is paid off at a rate of 2 to 1, and they lose their original wager. If the dealer/banker's down card is not a 10 count card, the player loses his/her insurance bet and continues playing on their original wager.

(17) If a player's first two cards are a pair, then that player may split the pair into two separate hands. The amount of the player's original bet then goes on one of the cards, and they must place an equal amount as a bet on the other card. If the dealer/banker does not have enough in their bank to cover the doubled bet, the dealer/banker must cover an amount equal to the value of their remaining bank. The player then has the option to divide the wagers in any manner between the two hands, not to exceed the allowable limit per hand. If the dealer/banker has no bank then the player may divide their wager in any manner between the two hands, unless the player's original bet was a minimum allowed in that game then they may not split their pair. Additional splits shall be determined by house rule.

~~((16))~~ (18) The dealer/banker will pay only on the value of the cards held by the player and shall not pay on the number of cards received or the card sequence.

AMENDATORY SECTION (Amending Order 23, filed 9/23/74)

**WAC 230-40-130 Wagers to be made with chips only.** All wagers and fees to play made in connection with a card game shall be made with chips furnished by the licensed premises ~~((No money, nor other thing of value, shall be used directly in the game itself))~~: Provided, That operations of house-banked card games may use coins with a value of fifty cents or twenty-five cents: Provided further, That coins with a value of less than twenty-five cents may be used for pai-gow poker games. However, no chips from other card rooms may be accepted.

AMENDATORY SECTION (Amending WSR 95-23-109, filed 11/22/95, effective 1/1/96)

**WAC 230-40-200 Participants to compete on equal terms—Deal to rotate among players.** Participants in card games shall compete on equal terms with all other participants in the game, and solely as a participant therein.

The deal in any series of nonhouse-banked card games shall be passed from player to player, unless the table incorporates a house dealer as per house rule: Provided, That house dealers may not be used for Washington blackjack. No player who deals a game shall deal another game until each other player at the table has dealt a game in his turn ~~((: Provided, That any player may voluntarily waive his right to deal any particular game.~~

~~Licensees shall take all necessary measures to insure that card games played upon their premises are played in this manner).~~

AMENDATORY SECTION (Amending WSR 95-23-109, filed 11/22/95, effective 1/1/96)

WAC 230-40-225 House dealer allowed in certain games. (~~Notwithstanding the provisions of WAC 230-40-200;~~) Any licensee may furnish a dealer or "mucker" in any (~~Washington blackjack;~~) pan or poker game played on the licensed premises. Dealers shall have no financial interest, directly or indirectly, in the outcome of such game and shall not otherwise participate or play in the game: Provided, That a licensee shall be required to have a house dealer for all house-banked card games, card games operated with a player-supported progressive prize contest, or card games authorized to assess fees for each hand played or fees based on amounts wagered: Provided further, That house dealers may not be used for Washington blackjack.

AMENDATORY SECTION (Amending WSR 95-23-109, filed 11/22/95, effective 1/1/96)

WAC 230-40-400 Hours (~~limited~~) for card games— Procedures for changing hours. The hours during which card games may be played in licensed public card rooms shall be limited as follows:

(1) Licensees shall not allow the use of their premises for card playing between the hours of 2:00 a.m. and 6:00 a.m.: Provided, That the director may allow closing hours to be adjusted beyond 2:00 a.m. as long as the following conditions (~~remain in effect~~) are met:

(a) (~~The local law enforcement agency with jurisdiction concurs;~~

~~(b) Other state agencies involved in regulation of the business do not object; and~~) The director shall consult with the local law enforcement agency which has jurisdiction;

~~(b) The director shall consult with other state agencies involved in regulation of the business;~~

(c) A licensee must observe a four-hour period of closure at the end of each business day before beginning the next period of operation.

~~((2)) (d) The food and/or drink business being stimulated shall be open to the public for business any time card games are conducted(~~—Provided, That entry to the business by new customers may be limited if access to the premises is open to the commission, law enforcement, or other state or local regulatory agencies, and service of food and nonalcoholic beverages is available for customers remaining on the premises after 2:00 a.m.~~);~~

~~((3)) (e) At all times during the hours of operation of a Class E or F card room, the operator or a licensed card room employee must be on duty and in the licensed card room area; and~~

~~(f) Any person with ten percent or more interest in licensed card rooms within one mile of each other shall be closed for at least the same four-hour period each day; and~~

~~(g) The licensee complies with any other terms and conditions imposed by the director.~~

(2) The director may deny the request for extended hours or revoke hours already approved if the local law enforcement agency or a state agency objects or if the director determines that the licensee has violated any provisions of chapter 9.46 RCW, any other commission rule, or any of the terms set forth in subsection (1) of this section. All objections to changing a licensee's operating hours or requests to revoke an approved operating schedule must be submitted in writing.

(3) The commission shall afford a licensee an opportunity for a brief adjudicative proceeding prior to denying or revoking the licensee's authorization for extended card room hours. The brief adjudicative proceeding shall be heard by an administrative law judge, and shall follow the procedures set forth in WAC 230-50-010 (4) and (5), and RCW 34.05.494.

AMENDATORY SECTION (Amending WSR 95-23-109, filed 11/22/95, effective 1/1/96)

WAC 230-40-400 Hours (~~limited~~) for card games— Procedures for changing hours. The hours during which card games may be played in licensed public card rooms shall be limited as follows:

(1) Licensees shall not allow the use of their premises for card playing between the hours of 2:00 a.m. and 6:00 a.m.: Provided, That the director may allow closing hours to be adjusted beyond 2:00 a.m. as long as the following conditions (~~remain in effect~~) are met:

(a) The local law enforcement agency with jurisdiction concurs;

(b) Other state agencies involved in regulation of the business do not object; and

(c) A licensee must observe a four-hour period of closure at the end of each business day before beginning the next period of operation.

~~((2)) (d) The food and/or drink business being stimulated shall be open to the public for business any time card games are conducted(~~—Provided, That entry to the business by new customers may be limited if access to the premises is open to the commission, law enforcement, or other state or local regulatory agencies, and service of food and nonalcoholic beverages is available for customers remaining on the premises after 2:00 a.m.~~);~~

~~((3)) (e) At all times during the hours of operation of a Class E or F card room, the operator or a licensed card room employee must be on duty and in the licensed card room area; and~~

~~(f) Any person with ten percent or more interest in licensed card rooms within one mile of each other shall be closed for at least the same four-hour period each day; and~~

~~(g) The licensee complies with any other terms and conditions imposed by the director.~~

(2) The director may deny the request for extended hours or revoke hours already approved if the local law enforcement agency or a state agency objects or if the director determines that the licensee has violated any provisions of chapter 9.46 RCW, any other commission rule, or any of the terms set forth in subsection (1) of this section. All objections to changing a licensee's operating hours or requests to revoke an approved operating schedule must be submitted in writing.

(3) The commission shall afford a licensee an opportunity for a brief adjudicative proceeding prior to denying or revoking the licensee's authorization for extended card room hours. The brief adjudicative proceeding shall be heard by an administrative law judge, and shall follow the procedures set forth in WAC 230-50-010 (4) and (5), and RCW 34.05.494.

AMENDATORY SECTION (Amending WSR 95-23-109, filed 11/22/95, effective 1/1/96)

WAC 230-40-400 Hours (~~limited~~) for card games— Procedures for changing hours. The hours during which card games may be played in licensed public card rooms shall be limited as follows:

(1) Licensees shall not allow the use of their premises for card playing between the hours of 2:00 a.m. and 6:00 a.m.: ~~Provided, That the director may allow closing hours to be adjusted beyond 2:00 a.m. as long as the following conditions ((remain in effect)) are met:~~

~~(a) ((The local law enforcement agency with jurisdiction concurs;~~

~~(b) Other state agencies involved in regulation of the business do not object; and)) The director shall consult with the local law enforcement agency which has jurisdiction;~~

~~(b) The director shall consult with other state agencies involved in regulation of the business;~~

~~(c) A licensee must observe a four-hour period of closure at the end of each business day before beginning the next period of operation.~~

~~((2)) (d) The food and/or drink business being stimulated shall be open to the public for business any time card games are conducted((= Provided, That entry to the business by new customers may be limited if access to the premises is open to the commission, law enforcement, or other state or local regulatory agencies, and service of food and nonalcoholic beverages is available for customers remaining on the premises after 2:00 a.m.));~~

~~((3)) (e) At all times during the hours of operation of a Class E or F card room, the operator or a licensed card room employee must be on duty and in the licensed card room area; and~~

~~(f) Any person with ten percent or more interest in licensed card rooms adjacent to each other shall be closed for at least the same four hour period each day; and~~

~~(g) The licensee complies with any other terms and conditions imposed by the director.~~

~~(2) The director may deny the request for extended hours or revoke hours already approved if the local law enforcement agency or a state agency objects or if the director determines that the licensee has violated any provisions of chapter 9.46 RCW, any other commission rule, or any of the terms set forth in subsection (1) of this section. All objections to changing a licensee's operating hours or requests to revoke an approved operating schedule must be submitted in writing.~~

~~(3) The commission shall afford a licensee an opportunity for a brief adjudicative proceeding prior to denying or revoking the licensee's authorization for extended card room hours. The brief adjudicative proceeding shall be heard by an administrative law judge, and shall follow the procedures set forth in WAC 230-50-010 (4) and (5), and RCW 34.05.494.~~

AMENDATORY SECTION (Amending WSR 95-23-109, filed 11/22/95, effective 1/1/96)

WAC 230-40-400 Hours limited for card games. The hours during which card games may be played in licensed public card rooms shall be limited as follows:

(1) Licensees shall not allow the use of their premises for card playing between the hours of 2:00 a.m. and 6:00 a.m.: ~~Provided, That the director may allow closing hours to be adjusted beyond 2:00 a.m. as long as the following conditions remain in effect:~~

~~(a) The local law enforcement agency with jurisdiction concurs;~~

~~(b) Other state agencies involved in regulation of the business do not object; and~~

~~(c) A licensee must observe a four-hour period of closure at the end of each business day before beginning the next period of operation.~~

~~(2) The food and/or drink business being stimulated shall be open to the public for business any time card games are conducted: Provided, That entry to the business by new customers may be limited if access to the premises is open to the commission, law enforcement, or other state or local regulatory agencies, and service of food and nonalcoholic beverages is available for customers remaining on the premises after 2:00 a.m.~~

~~(3) At all times during the hours of operation of a Class E card room, the operator or a licensed card room employee must be on duty and in the licensed card room area.))~~

AMENDATORY SECTION (Amending WSR 95-23-109, filed 11/22/95, effective 1/1/96)

WAC 230-40-400 Hours (~~limited~~) for card games. The hours during which card games may be played in licensed public card rooms shall be limited as follows:

(1) Licensees shall not allow the use of their premises for card playing between the hours of ~~((2:00 a.m. and 6:00 a.m.:~~ 4 a.m. and 8 a.m. ~~Provided, That the director may allow closing hours to be adjusted beyond 2:00 a.m. as long as the following conditions remain in effect:~~

~~(a) The local law enforcement agency with jurisdiction concurs;~~

~~(b) Other state agencies involved in regulation of the business do not object; and~~

~~(c) A licensee must observe a four-hour period of closure at the end of each business day before beginning the next period of operation.~~

~~(2) The food and/or drink business being stimulated shall be open to the public for business any time card games are conducted: Provided, That entry to the business by new customers may be limited if access to the premises is open to the commission, law enforcement, or other state or local regulatory agencies, and service of food and nonalcoholic beverages is available for customers remaining on the premises after 2:00 a.m.~~

~~(3) At all times during the hours of operation of a Class E card room, the operator or a licensed card room employee must be on duty and in the licensed card room area.))~~ 4 a.m. and 8 a.m.

**AMENDATORY SECTION** (Amending WSR 97-14-013, filed 6/20/97, effective 7/21/97)

**WAC 230-50-010 Adjudicative proceedings—Hearings.** (1) ((~~Adjudicated~~)) Adjudicative proceedings shall be commenced for any and all matters wherein the commission is causing administrative charges to be brought against any applicant, licensee or permittee within the limitations to chapter 34.05 RCW as applicable.

(2) The commission shall afford an applicant for a license an opportunity for an ((~~adjudicated~~)) adjudicative proceeding prior to denying such application, and shall afford a licensee the opportunity for an ((~~adjudicated~~)) adjudicative proceeding prior to suspending or revoking a license.

(3) The commission will afford a person applying to the commission for approval of a pull-tab dispensing device under WAC 230-30-095 an opportunity for an ((~~adjudicated~~)) adjudicative proceeding prior to denying approval of such device.

(4) No hearing will be conducted with respect to any ((~~adjudicated~~)) adjudicative proceeding unless an application for an ((~~adjudicated~~)) adjudicative proceeding and request for hearing is timely filed by the applicant or licensee with the commission in compliance with WAC 230-50-210. The application must be made upon a form to be obtained from the commission, or facsimile thereof, and must be received within 20 days following service upon the party affected by the commission or the director of a notice of administrative charges and opportunity for an ((~~adjudicated~~)) adjudicative proceeding. Said document shall contain the maximum penalty that may be assessed should an application not be filed by the party affected. An application for an ((~~adjudicated~~)) adjudicative proceeding and request for hearing shall accompany all notices of administrative charges.

(5) If an application for an ((~~adjudicated~~)) adjudicative proceeding is not timely filed, then the party affected shall have waived the right to a hearing on the allegations set forth in the notice of administrative charges. The party shall be deemed to be in default pursuant to RCW 34.05.440 and the commission and director may take action against the party not to exceed the maximum penalty as stated in the notice of administrative charges and opportunity for an ((~~adjudicated~~)) adjudicative proceeding, which action shall be final.

(6) The procedures of RCW 34.05.485, brief adjudicative proceedings, shall be used for the following purposes:

(a) All hearings in which the penalty sought by the commission is for a suspension of seven days or less;

(b) Hearings held pursuant to WAC 230-50-015 (stay of summary suspension);

(c) Hearings held pursuant to WAC 230-04-400(3) (failure to pay required gambling taxes);

(d) Hearings held pursuant to WAC 230-04-190 (10)(c) (two part payment plan: Failure to make second payment);

(e) Hearings in which the parties have stipulated to facts or the parties have stipulated to charges, and the hearing is limited to a determination of whether facts constitute violations as charged and/or determination of appropriate penalty to be imposed;

(f) Denial of an application to operate at a higher bingo license class when the licensee has been restricted by WAC 230-20-062;

(g) Petitions for a variance to bingo net return requirements authorized by WAC 230-20-060; ((~~or~~))

(h) Denial or revocation of extended card room hours pursuant to WAC 230-40-400;

(i) Denial of request for Phase II pursuant to WAC 230-40-810; or

(j) Where the parties have stipulated to the use of brief adjudicative proceedings.

#### NEW SECTION

**WAC 230-40-600 Authorization procedures for player-supported progressive prize contests.** In order to ensure operators of player-supported progressive prize contests have an adequate control environment functioning, the following requirements shall be met:

(1) Each gaming operation shall submit a description of its internal control procedures detailing rules of play for player-supported progressive prize contests in the standard format prescribed by commission staff;

(2) The internal control submission shall undergo a review process and be approved prior to implementation; and

(3) Any changes to a gaming operation's system of internal controls for the player-supported progressive prize contests must be submitted to commission staff and be approved prior to implementation.

#### NEW SECTION

**WAC 230-40-610 Player-supported progressive prize contest—Restrictions—Manner of conducting—Approval.** Card room operators with a Class E or F card room license may establish a prize fund for the purpose of operating player-supported progressive prize contests (player-supported jackpot or PSJ). Only a PSJ approved in writing by the director or the director's designee shall be allowed. The operator must establish a detailed written procedure for funding each PSJ offered.

(1) Funding of a PSJ: An operator may provide house funds to establish a PSJ. The organization shall issue a check from the general business account into the PSJ account to start the prize fund. Recouping of start-up funds shall be done by issuing a check from the PSJ account to the business general account. Electronic bank transfers shall satisfy this requirement. Start-up funds shall not exceed five thousand dollars per PSJ.

(2) An operator may assess an amount not to exceed one dollar per hand or game that each player contributes to a PSJ. Each assessment shall be separately collected and recorded in a format prescribed by commission staff.

(3) The operator acts only as the custodian of the PSJ funds and maintains no legal right to the funds. All PSJ prizes shall be awarded.

(4) Each operator shall designate a "prize fund custodian" who shall be responsible for safeguarding and disbursing funds to winners. The custodian shall have signature authority for prize fund bank accounts and ensure account-

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ability of all funds collected for use in a PSJ. The operator shall meet deposit requirements of WAC 230-12-072.

(5) PSJ funds can only be used for awarding cash prizes based upon a format approved by commission staff. Access to PSJ funds shall be restricted to the prize fund custodian.

(6) Prize amounts paid in cash shall not exceed five hundred dollars. Prize amounts not awarded in cash shall be paid by check, the type which provides a duplicate copy, which shall not be cashed on the organization's premises. A record of all prizes paid shall be maintained in the format prescribed by commission staff and shall include:

(a) For prizes up to fifty dollars, a system of accounting denoting each individual prize may be utilized.

(b) For prizes in excess of fifty dollars, the following information shall be recorded on a prize record:

- (i) Full printed name;
- (ii) Date of birth;
- (iii) Street address;
- (iv) Driver's license number or Social Security number;
- (v) Amount of the prize awarded;
- (vi) Description of the winning hand;
- (vii) Time and date awarded; and
- (viii) The supervisor's, dealer's and winner's initials.

(c) Upon awarding a prize of five hundred dollars or more, the dealer shall fan the winning hand in view of the surveillance camera. The hand shall be collected and sealed with the prize record. The winning hand and remaining deck shall be maintained on the premises as part of daily card room records for a period of fourteen days, unless released by a commission agent.

(7) Owners and managers may participate in card games that offer a PSJ, but may not share in the winnings of any prize awarded. If playing in a game with a PSJ, owners and managers must turn their cards face up at the end of each game so that the cards may be observed by other players at the table and surveillance. Any prize winnings an owner or manager may be entitled to under game rules, must be divided equally among the other players at the table.

(8) Floor supervisors may participate in card games that offer a PSJ, but may not share in any prize, unless a card room manager or owner is on-site during the game to resolve disputes.

(9) Card room employees may participate in card games that offer a PSJ and share in prize winnings unless they are supervising the game. If a card room employee is supervising a game he/she must distribute any prize winnings equally among all other players at the table.

(10) All card games offering a PSJ must utilize a house dealer.

(11) Security requirements: Each gaming table offering a PSJ shall be required to install a closed circuit television system as outlined in WAC 230-40-825.

(12) Licensees offering a PSJ shall have at least one supervisor for every five tables: Provided, That should a licensee utilize two separate areas of a particular gaming establishment, then each area shall require at least one supervisor. At a minimum, the licensee must have at least two licensed card room employees in the card room at all times if a PSJ is being utilized. One such employee must be a floor supervisor.

(13) In the event that an organization ceases to operate a card room, fails to maintain a valid card room license, or discontinues player-supported progressive prize contests, the balance (less any nonrecouped seed money) of all PSJ accounts will be forwarded to the Washington State Council on Problem Gambling: Provided, That an operator may seek approval from the director or his/her designee to revise their prize contests in order to distribute all accumulated prize funds.

(14) House rules to include administrative fees shall be posted in a location readily visible by all players and disclose the conditions under which prizes may be won, the prize amount, cost to participate, and any other conditions which may affect the outcome of the game.

(15) If a dispute arises involving the outcome of a PSJ, the organization shall notify commission staff within twenty-four hours and preserve the video recording, the winning hand and remaining deck, and all records for the game where the dispute occurred. The licensee shall document all information pertaining to the dispute including:

- (a) The names, addresses, and phone numbers of all players, card room staff, and any witnesses involved;
- (b) Amount of the advertised PSJ; and
- (c) A full description of the circumstances surrounding the dispute.

(16) All disputes involving a PSJ will be investigated by commission staff, with a report submitted to the director. A written decision will be issued by the director, or his/her designee, and such decision shall be final.

(17) During the course of dispute resolution, the commission may become the temporary custodian of any and all prize funds. The PSJ will be suspended until the dispute is resolved.

#### NEW SECTION

**WAC 230-40-800 Adoption of rules for house-banked card games.** Licensees that operate house-banked card games shall establish rules and procedures governing their operation. The following restrictions and procedures apply:

(1) House-banked card games shall not be operated prior to approval from commission staff. The gaming operation shall submit all rules governing the game to commission staff for approval. Game rules adopted shall include, in addition to the rules of play, specifications provided by the equipment manufacturer or supplier applicable to gaming equipment to include at least the following:

- (a) Physical characteristics of chips; and
- (b) Physical characteristics of the following:
  - (i) Cards (including procedures for receipt and storage);
  - (ii) All gaming tables and layouts;
  - (iii) Dealing shoes (including procedures for receipt and storage);
  - (iv) Card peeking devices;
  - (v) Bill changer devices; and
  - (vi) Such other equipment as may be required for use in otherwise authorized games.

(2) Rules for each authorized game, shall include at least the following:

- (a) Procedures of play;
  - (b) Minimum and maximum permissible wagers;
  - (c) Shuffling, cutting, and dealing techniques, as applicable;
  - (d) Dealer take and pay procedures;
  - (e) Payout odds on each form of wager;
  - (f) Procedures to be followed on occurrence of irregularities, including explanation of irregularities as applicable to each game; and
  - (g) Prohibitions on side betting between and against player(s) and against the house.
- (3) Rule summaries of each game's method of play shall be visibly displayed in the gaming operation. The betting limits applicable to any card game shall be displayed at the gaming table.

#### NEW SECTION

**WAC 230-40-810 Authorization procedures for Phase II wagering limits for housed-banked card games.** In order to ensure an adequate control environment, a Class F card room licensee shall meet specific authorization procedures prior to being approved for Phase II wagering limits. The licensee shall demonstrate that they have fully complied with all commission requirements and are capable of operating at higher wager limits. In order to demonstrate their capability, an operator shall be reviewed by commission staff and receive a recommendation from the director. The following requirements and procedures apply to the review and approval process:

- (1) Operation at Phase I limits for a minimum of six months.
- (2) Compliance with commission requirements, including no material violations resulting in written warnings or administrative actions, complete or pending.
- (3) Payment of all taxes on gambling activities owed to counties, cities, or towns. For purposes of this section, gambling taxes include those taxes owed as of the most recent reporting period (month or quarter), as provided in the jurisdiction's ordinance, plus any interest and/or penalties that may be due.
- (4) Completion of a review by commission staff that shall consist of examining the gaming operation's compliance with applicable WAC rules and the operator's internal control submission and determining if the gaming operation has developed a sufficient control environment to warrant Phase II limits:
  - (a) Upon commission approval, the gaming operation shall be authorized to conduct gaming at Phase II limits.
  - (b) Operators shall be required to pay the cost of this review prior to going to Phase II limits.
  - (5) The director may deny a request for Phase II based on a licensee's failure to comply with one or more requirements in subsection (1), (2), (3), or (4) of this section or if the director determines that the licensee has violated any provisions of chapter 9.46 RCW or any other commission rule.
  - (6) The commission shall afford a licensee an opportunity for a brief adjudicative proceeding prior to denying the licensee's request for Phase II. The brief adjudicative proceeding shall be heard by an administrative law judge, and

shall follow the procedures set forth in WAC 230-50-010 (4) and (5), and RCW 34.05.494.

#### NEW SECTION

**WAC 230-40-815 House-banked card games—Administrative and accounting control structure—Organization of gaming operation.** It shall be the responsibility of each gaming operation licensed to operate house-banked card games to ensure that all games are operated fairly, in accordance with all rules of the commission, and that all income and expenses are recorded. Operators shall fulfill this responsibility by maintaining a control environment that includes at least the following:

(1) The gaming operation shall have a system of internal administrative and accounting controls that include at least the following:

(a) Administrative controls, which include, but are not limited to, the organization's plan, procedures, and records concerned with decision processes leading to management's authorization of transactions; and

(b) Accounting controls which include the organization's plan, procedures, and records concerned with the safeguarding of assets and the reliability of financial records. These controls must be designed to provide reasonable assurance that:

(i) Transactions are executed in accordance with management's general and specific authorization;

(ii) Transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles, and to maintain accountability for assets;

(iii) Access to assets is permitted only in accordance with management's authorization; and

(iv) The recorded accountability for assets is compared with existing assets at least annually and appropriate action is taken within five working days with respect to any differences.

(2) The gaming operation's system of internal administrative controls shall provide for the following:

(a) Competent personnel with an understanding of prescribed procedures;

(b) The segregation of incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of his or her duties; and

(c) Each employee of a Class F card room shall be licensed by the commission and shall be knowledgeable in all accounting and internal control practices and procedures relevant to each employee's individual function.

(3) The gaming operation shall, at a minimum, establish the following departments or functions that shall be independent from all other departments or functions in the gaming operation.

(a) A security/surveillance department. The head of security/surveillance shall be responsible for, but not limited to, the following:

(i) The clandestine surveillance of the operation and conduct of the table games;

(ii) The clandestine surveillance of the operation of the cashier's cage;

(iii) The video and audio taping of activities in the count rooms;

(iv) The detection of cheating, theft, embezzlement, and other illegal activities in the gaming facility, count rooms, and cashier's cage;

(v) The video taping of unusual or suspected illegal activities;

(vi) The notification of appropriate supervisors, and commission staff, within three working days, upon the detection of cheating, theft, embezzlement, or other illegal activities;

(vii) Control of cards and dealing shoes, including storage of new and used cards and shoes, and control of the disposition and/or destruction of same when removed from service; and

(viii) Ensuring that each dealer is evaluated for at least fifteen minutes per week to determine if all required dealer procedures and techniques set forth in the gaming operation's approved internal controls are followed. A written report will be submitted to the CEO/COO for each dealer evaluation at the end of each week.

(b) A gaming operation department supervised by a gaming operation manager who shall be responsible for the operation of all house-banked card games conducted by ensuring the following:

(i) Card games are operated by licensed dealers who are assigned to each gaming table;

(ii) A floor supervisor is assigned the responsibility for the overall supervision of the conduct of gaming within a pit and can supervise no more than five tables. Provided, That a single supervisor may supervise up to seven tables, if only seven tables are in operation and the layout was preapproved by commission staff. The shift manager shall oversee floor supervisors and report to the gaming operation manager; and

(iii) A shift manager, who reports to the gaming operations manager, is assigned to supervise all gaming related activities that occur during each shift. In the absence of the gaming operation manager, the shift manager shall have the authority of a gaming operation manager.

(c) A gaming operation accounting department supervised by an individual who shall report directly to the CEO/COO. The responsibilities of the accounting department shall include, but not be limited to, the following:

(i) Implementing and monitoring of accounting controls;

(ii) The preparation, control, and storage of records and data required;

(iii) The control of unused forms inventory along with reconciliation of forms used in the gaming operation to the unused forms inventory; and

(iv) The control and supervision of the cashier's cage.

#### NEW SECTION

**WAC 230-40-820 House-banked card games—Internal control evaluation—Required procedures.** To ensure commission rules and the licensee's internal control procedures are adhered to, commission staff will complete a review and evaluation of the internal control structure for all licensees operating house-banked card games, during each license year: Provided, That a review will not be required for

an operator who has undergone a Phase II review within the last six months of the license year. The following restrictions and procedures apply:

(1) Commission staff shall evaluate the system of internal administrative and accounting controls for all house-banked gaming operations. This evaluation shall assure that the controls are adequate for the scope of operations and have been complied with in every material aspect.

(2) During each license year, a comprehensive review of management's internal control structure will be completed, which will include the control environment, accounting system and control procedures. The comprehensive review shall be in addition to regular monitoring inspections performed by commission staff.

(3) A comprehensive report will be prepared on an annual basis summarizing all the areas reviewed, all material discrepancies noted during the year, and any corrective action taken.

(4) The director may contract for services outlined above to be performed by outside agencies as deemed necessary.

(5) The full cost of reviews will be paid by the licensee, whether conducted by commission staff or a contractor hired by the commission.

#### NEW SECTION

**WAC 230-40-820 House-banked card games—Internal control evaluation—Required procedures.** To ensure commission rules and the licensee's internal control procedures are adhered to, commission staff will complete a review and evaluation of the internal control structure for all licensees operating house-banked card games. The following restrictions and procedures apply:

(1) Commission staff shall evaluate the system of internal administrative and accounting controls for all house-banked gaming operations. This evaluation shall assure that the controls are adequate for the scope of operations and have been complied with in every material aspect.

(2) During each license year, a comprehensive review of management's internal control structure will be completed, which will include the control environment, accounting system and control procedures. The comprehensive review shall be in addition to regular monitoring inspections performed by commission staff.

(3) A comprehensive report will be prepared on an annual basis summarizing all the areas reviewed, all material discrepancies noted during the year, and any corrective action taken.

(4) The director may contract for services outlined above to be performed by outside agencies as deemed necessary. The contractor must, at a minimum, be licensed as a certified public accountant for the state of Washington and possess adequate experience and education in the gaming industry to ensure the report meets commission standards.

(5) The full cost of reviews will be paid by the licensee, whether conducted by commission staff or a contractor hired by the commission.

NEW SECTION

**WAC 230-40-825 Closed circuit television system requirements and procedures.** All activities related to the operation of card games shall be closely monitored. Critical activities related to house-banked card games, player-supported progressive prize contests and assessment of fees based on amounts wagered (rake method) shall be monitored by use of a closed circuit television system and a video recording. The following restrictions and operating procedures apply when a closed circuit television system is required.

(1) Each gaming operation shall install and maintain a closed circuit television system that meets at least the specifications set forth below:

(a) Light sensitive cameras with pan, tilt, and zoom (PTZ) capabilities where necessary to effectively and clandestinely monitor in detail and from various vantage points, including the following:

(i) The gaming conducted at each gaming table in the facility;

(ii) The activities in the gaming operation pits;

(iii) Each table game area, with sufficient clarity to identify patrons and dealers;

(iv) Each table game surface, with sufficient coverage and clarity to simultaneously view the table bank and determine the configuration of wagers, card values and game outcome;

(v) The operations conducted at and in the cashier's cage;

(vi) Entrance to the cashier's cage;

(vii) The count processes conducted in the count rooms, which processes shall be in conformity with commission rules;

(viii) The movement of cash, gaming chips, and drop boxes in the establishment;

(ix) The entrances and exits to the gaming operation and the count rooms; and

(x) Such other areas as the commission designates.

(b) All video cameras must be installed in a manner that will prevent them from being readily obstructed, tampered with, or disabled by patrons or employees.

(c) Where a PTZ camera is used to observe card tables and gambling related activities, the camera must be placed behind a smoked dome, one-way mirror or similar materials that conceal the camera from view.

(d) Video recording units, with time and date insertion capabilities, for recording what is being viewed by any camera of the system. Recording and playback of video signals shall be at a rate of not less than twenty frames per second. If multiple time and date generators are used, they shall be synchronized to the same time and date. The displayed date and time shall not significantly obstruct the recorded view. The following locations or activities shall be video taped:

(i) All gaming stations in operation or in which drop boxes are stored, to include video recording of all items noted in (a)(i) through (viii) of this subsection;

(ii) All entries to the count room;

(iii) The entire count process, including audio recording;

(iv) Any unusual or suspicious activities;

(v) Movement of drop boxes between tables and the count room; and

(vi) Any other activity or location designated by commission staff.

(e) One or more surveillance rooms in the establishment which shall have controlled access and be used by the employees of the gaming operation assigned to monitor the activities in the gaming operation and which may be used as necessary by agents of the commission.

(2) Lighting to provide sufficient clarity shall be present in all areas, including gaming tables and pits, where closed circuit camera coverage is required.

(3) Each video camera required by these rules shall be capable of having its picture displayed on a video monitor and recorded.

(4) The surveillance system must include a sufficient number of monitors to simultaneously display multiple card tables, the cashier's cage, count room activities, and views of any dedicated cameras.

(5) Multiplexing devices may only be used for external surveillance, movement of drop boxes between tables and the count room and on entrances and exits.

(6) The gaming operation shall be required to maintain a record of all surveillance activities in the surveillance room. The surveillance log shall be maintained by surveillance personnel and shall include, at a minimum, the following:

(a) Date and time of surveillance;

(b) Person initiating surveillance;

(c) Reason for surveillance;

(d) Time of termination of surveillance;

(e) Summary of the results of the surveillance; and

(f) A record of any equipment or camera malfunctions.

(7) A surveillance room log shall be available for inspection at any time by commission staff or local law enforcement.

(8) Video and audio tapes shall be retained for at least seven days or for such longer period as commission staff may require. Tapes of evidentiary value or documenting details of jackpot payouts over three thousand dollars shall be retained for at least thirty days, or longer if requested by commission staff.

(9) Entrances to the closed circuit television surveillance rooms shall not be readily observable from the gaming operation area.

(10) A surveillance employee shall be present in the surveillance room and monitoring the activities of the operation, via the surveillance room equipment, at all times the card room is open to conduct gaming: Provided, That licensed employees not serving in an incompatible function may provide temporary relief for surveillance employees during routine work breaks. A relief break shall not exceed thirty minutes: Provided further, That a surveillance employee is not required to be present if an operator does not assess fees using the rake method, offer house-banked card games, or player-supported progressive jackpot contests.

All surveillance employees shall have a demonstrated knowledge of the following:

(a) Operating surveillance systems pertaining to card rooms;

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(b) An understanding of the procedures for the games being played; and

(c) The overall procedures relating to the duties of all employees of a Class F card room being monitored (dealers, shift managers, floor supervisors, cage personnel, and count team).

(11) The surveillance room sign-in log shall be used to document the time each surveillance employee monitors the gaming operation. Commission agents and law enforcement personnel shall be provided immediate access to the surveillance room upon request.

#### NEW SECTION

##### **WAC 230-40-830 Cashier's cage—Requirements.**

All cash, cash equivalents, and chips related to the operation of card games shall be closely controlled and records maintained documenting receipts and disbursements. Each card room shall maintain a cashier's function whose responsibility shall be to secure and account for all chips and monies in the gaming operation. At a minimum the following restrictions and procedures apply:

(1) As part of the gaming operation there shall be on or immediately adjacent to the gaming floor a physical structure known as the cashier's cage (cage) to house the cashiers and to serve as the central location for, at a minimum, the following:

(a) The custody of the cage inventory comprising currency, coin, patron checks, gaming chips, forms, documents and records normally associated with the operation of a cage;

(b) The approval of patron checks for the purpose of gaming in conformity with these standards;

(c) The receipt and distribution of gaming chips from the gaming table and the redemption of gaming chips from patrons in conformity with these standards. The purchase of gaming chips by patrons shall only occur at the gaming table; and

(d) Such other functions normally associated with the operation of a cage.

(2) The cage shall be designed, constructed and operated to provide maximum security and accountability for funds including, at a minimum, the following:

(a) An enclosed structure except for openings through which items such as gaming chips, checks, cash, records, and documents can be passed to service the public and gaming tables;

(b) Manually triggered silent alarm systems connected directly to the surveillance rooms of the closed circuit television system or an alarmed monitoring agency;

(c) Access shall be through a locked door, which shall have closed circuit television coverage which is monitored by the gaming operation security department.

(3) Entry to the cage shall be limited to authorized personnel. The gaming operation shall place on file with the accounting department the names of all persons authorized to enter the cage, those who possess the combination or the keys or who control the mechanism to open the locks securing the entrance to the cage, and those who possess the ability to operate the alarm systems.

(4) A log shall be maintained documenting all persons entering the cashier's cage. The log must contain the person's name, title, time entering and exiting, and date of entry.

(5) Gaming operations not offering house-banked card games shall not be required to meet the above requirements: Provided, That the card room shall maintain a system for securing and properly accounting for all gaming chips and monies of the gaming operation.

#### NEW SECTION

**WAC 230-40-833 Cashier's bank and minimum bankroll.** All card room operators with house-banked card games or player-supported progressive prize contests shall maintain sufficient funds to meet all cash out and prize payout requirements.

(1) All assets for which the cashiers are responsible shall be maintained on an imprest basis. This requires funds to be replenished on a regular basis by exactly the amount of expenditures from the cage less the amount of funds added. Expenditures shall be reviewed by a supervisor of the accounting department before replenishment: Provided, That organizations demonstrating the ability to control cage activity can request commission staff approval for a float basis as an alternative procedure.

(2) The gaming operation shall have a cash bankroll in addition to the imprest funds normally maintained by the cashier's cage. The bankroll shall be on hand in the cashier's cage or readily available to the cashier's cage at the opening of every shift. A minimum bankroll amount shall be established by the gaming operation.

(3) The gaming operation shall have sufficient cash on hand to redeem all chips and payout all prizes: Provided, That payments of prizes may be paid by check as long as sufficient funds are available on deposit. Lack of funds available to cash in chips and pay prizes shall be prima facie evidence of fraud.

#### NEW SECTION

**WAC 230-40-835 Accounting controls for cashier's cage.** Licensees required to maintain a cashier's cage shall adhere to the following controls to ensure proper accountability for funds. The following restrictions and procedures apply:

(1) Cashiers shall be responsible for at least the following functions:

(a) Receive cash, checks, and gaming chips from patrons for check consolidations, total or partial redemptions or substitutions;

(b) Receive gaming chips from patrons in exchange for cash;

(c) Receive travelers' checks and other cash equivalents (including money orders, certified checks, and cashier checks) from patrons in exchange for currency or coin;

(d) Receive documentation with signatures thereon, required to be prepared for the effective segregation of functions in the cashier's cage;

(e) Receive from security department personnel, chips and coins removed from gaming tables in exchange for the issuance of a credit;

(f) Receive from security department members, requests for fills in exchange for the issuance of a fill slip and the disbursement of gaming chips;

(g) Receive cash from the coin and currency count rooms;

(h) At the end of each shift, the cashiers assigned to the outgoing shift, shall count each cage inventory item and record on a cashier's count sheet the face value of each inventory item and the total of the opening and closing inventories. The total closing inventory shall be reconciled with the total opening inventory;

(i) Prepare the overall cage reconciliation and accounting records; and

(j) Perform such other functions as necessary to ensure proper accountability of funds and chips consistent with these standards.

(2) Signatures attesting to accuracy shall, at a minimum, be contained on the following:

(a) Cashier's count sheet; and

(b) Cage inventory count sheet, which includes the signatures of the cashiers assigned to the incoming and outgoing shifts.

(3) At the conclusion of the daily gaming activity, copies of the cashier's count sheet, cage inventory count sheet and related documentation shall be forwarded to the accounting department for agreement of opening and closing inventories, and agreement of amounts thereon to other forms, records and documentation for recording of transactions.

#### NEW SECTION

**WAC 230-40-840 Drop boxes—Requirements.** Licensees required to utilize drop boxes shall construct and control them in a manner to ensure security of contents. All card rooms operating house-banked card games or collecting fees utilizing the drop box as a collection method shall meet the following requirements and procedures:

(1) Each gaming table shall have attached to it a metal container known as a "drop box" into which all cash, duplicate fill slips and credit slips, request for fills and request for credits, and table inventory forms shall be deposited.

(2) Each drop box shall have the following:

(a) A lock securing the contents. The key to this lock shall be maintained and controlled by the accounting department;

(b) A separate lock securing the drop box to the gaming table. This lock shall be keyed differently from the lock securing the contents of the drop box. The key utilized to unlock this lock shall be maintained and controlled by the security department;

(c) An opening through which currency, coins, chips, forms, records and documents can be inserted into the drop box;

(d) Permanently imprinted or impressed thereon and clearly visible, a number corresponding to a permanent number on the gaming table to which it is attached and a marking to indicate the game. The shift shall also be included if drop

boxes are removed from tables more than once an operating day: Provided, That emergency drop boxes may be maintained without such number or marking, if the word "emergency" is permanently imprinted or impressed thereon and when put into use, are temporarily marked with the number of the gaming table and identification of the game and shift.

(3) All drop boxes removed from the gaming tables shall be transported directly to the count room and secured by one security department member and one employee of the gaming operation: Provided, That operators not required to maintain a count room shall transport drop boxes directly to the count area.

(4) All drop boxes not attached to a gaming table, shall be stored in the count room in an enclosed storage cabinet or trolley and secured in such cabinet or trolley by two separately keyed locks. The key to one lock shall be maintained and controlled by the security department and the key to the other lock shall be maintained and controlled by the gaming operations department.

(5) Drop boxes, when not in use during a shift, may be stored on the gaming tables if licensed security personnel are present in the gaming area at all times drop boxes are stored on the gaming tables and the entire area is covered by taped surveillance. If adequate security is not provided during this time, the drop boxes shall be stored as required in subsection (4) of this section.

#### NEW SECTION

**WAC 230-40-845 Procedures for exchange of checks submitted by gaming patrons at cashier's cage.** In addition to the requirements set forth in WAC 230-12-053, checks submitted to the cashier's cage at a licensed public card room are subject to the following restrictions and procedures:

(1) All checks sought to be exchanged at the cashiers' cage shall be presented directly to the cashier who will do the following:

(a) Restrictively endorse the check "for deposit only" to the gaming operation's bank account;

(b) Initial the check;

(c) Date and time stamp the check;

(d) Verify that the patron is not listed on the returned check log;

(e) Immediately exchange the check for currency and coin in an amount equal to the amount for which the check is drawn; and

(f) Forward all patron checks to the main bank cashier.

(2) Prior to acceptance of a traveler's check from a patron, the cashier shall do the following:

(a) Require the patron to countersign the traveler's check in his or her presence;

(b) Compare the countersignature with the original signature on the traveler's check;

(c) Examine the traveler's check for any other signs of tampering, forgery or alteration; and

(d) Perform any other procedures that the issuer of the traveler's check requires in order to indemnify the acceptor against loss.

(3) Prior to the acceptance of any check from a patron, the cashier shall examine that patron's identification to con-

firm patron's identity and shall maintain documentation supporting that examination.

(4) All checks received shall be deposited in the gaming operation's bank account within two banking days after receipt.

(5) All dishonored checks returned by a bank ("returned checks") after deposit shall be returned directly to, and controlled by accounting department employees: Provided, That if a collection agency is used which maintains dishonored checks, a photo copy of the check shall be sufficient.

(6) Records of all returned checks shall be maintained by accounting department employees and shall be available to cashiers. Such records shall include, at a minimum, the following:

- (a) The date of the check;
- (b) The name and address of the drawer of the check;
- (c) The amount of the check;
- (d) The date(s) the check was dishonored;
- (e) The date(s) and amount(s) of any collections received on the check after being returned by a bank.

(7) If a check is dishonored, the name of the person who submitted the check shall be kept in a log, and available to the cashier. Such person shall be prohibited from submitting additional checks until the amount owed is paid in full: Provided, That a check dishonored by a bank may be immediately redeposited if there is sufficient reason to believe the check will be honored the second time.

#### NEW SECTION

**WAC 230-40-845 Procedures for exchange of checks submitted by gaming patrons at cashier's cage.** In addition to the requirements set forth in WAC 230-12-053, checks submitted to the cashier's cage at a licensed public card room are subject to the following: Provided, That third-party checks shall not be accepted.

(1) All checks sought to be exchanged at the cashiers' cage shall be presented directly to the cashier who will do the following:

- (a) Restrictively endorse the check "for deposit only" to the gaming operation's bank account;
- (b) Initial the check;
- (c) Date and time stamp the check;
- (d) Verify that the patron is not listed on the returned check log;
- (e) Immediately exchange the check for currency and coin in an amount equal to the amount for which the check is drawn; and
- (f) Forward all patron checks to the main bank cashier.

(2) Prior to acceptance of a traveler's check from a patron, the cashier shall do the following:

- (a) Require the patron to countersign the traveler's check in his or her presence;
- (b) Compare the countersignature with the original signature on the traveler's check;
- (c) Examine the traveler's check for any other signs of tampering, forgery or alteration; and
- (d) Perform any other procedures that the issuer of the traveler's check requires in order to indemnify the acceptor against loss.

(3) Prior to the acceptance of any check from a patron, the cashier shall examine that patron's identification to confirm patron's identity and shall maintain documentation supporting that examination.

(4) All checks received shall be deposited in the gaming operation's bank account within two banking days after receipt.

(5) All dishonored checks returned by a bank ("returned checks") after deposit shall be returned directly to, and controlled by accounting department employees: Provided, That if a collection agency is used which maintains dishonored checks, a photo copy of the check shall be sufficient.

(6) Records of all returned checks shall be maintained by accounting department employees and shall be available to cashiers. Such records shall include, at a minimum, the following:

- (a) The date of the check;
- (b) The name and address of the drawer of the check;
- (c) The amount of the check;
- (d) The date(s) the check was dishonored;
- (e) The date(s) and amount(s) of any collections received on the check after being returned by a bank.

(7) If a check is dishonored, the name of the person who submitted the check shall be kept in a log, and available to the cashier. Such person shall be prohibited from submitting additional checks until the amount owed is paid in full: Provided, That a check dishonored by a bank may be immediately redeposited if there is sufficient reason to believe the check will be honored the second time.

#### NEW SECTION

**WAC 230-40-850 Procedures for accepting cash at house-banked gaming tables.** The purchase of gaming chips by patrons shall be conducted in a manner to ensure proper accountability of chips and cash. The following restrictions and procedures apply:

(1) Gaming chips shall only be purchased at the gaming table;

(2) When chips are purchased at a gaming table, the cash shall be spread on the top of the gaming table by the dealer in a manner that allows the patron, floor supervisor, and surveillance officer full view of the transaction;

(3) The amount of cash shall be announced by the dealer accepting it in a tone of voice to be heard by the patron who presented the cash and the floor supervisor specifically assigned to the gaming table. All cash changes of one hundred dollars or more shall be verified by the supervisor;

(4) Prior to giving gaming chips to the patron, the dealer shall prove each denomination of chips in a manner that discloses the number of chips to the patron, table supervisor, and surveillance. Procedures for proving chips shall be included in the licensee's approved system of internal controls; and

(5) Immediately after gaming chips, equivalent to the cash amount paid by the patron, have been given to the patron, the cash shall be taken from the top of the gaming table and placed by the dealer into the drop box attached to the gaming table.

NEW SECTION

**WAC 230-40-855 Acceptance of gratuities from patrons for house-banked activities.** Gratuities shall be controlled in a manner to ensure they are only received by authorized persons and are properly accounted for. The following restrictions and procedures apply:

(1) No gaming operation employee directly concerned with management, supervision, accounting, security, or surveillance shall solicit or accept any tip or gratuity from any player or patron: Provided, That cage cashiers shall be allowed to accept tips.

(2) Upon receipt from a patron of a tip, a dealer assigned to a gaming table shall tap the table and extend his or her arm to show the floor supervisor that he/she has received a tip and immediately deposit such tip in the tip box.

(3) A cashier shall display the tip to the surveillance camera to show he/she has received a tip and immediately deposit such tip in the tip container.

(4) Tips received shall be retained by employees or pooled among employees in such manner as determined by the gaming operation.

(5) Licensees shall establish and implement procedures for the proper accounting of tips received by authorized card room employees. The procedures shall be fully documented in the operator's internal controls and shall describe in detail any methods used to allocate gratuities. Accounting and recording of gratuity income shall be in sufficient detail to meet federal income tax requirements.

NEW SECTION

**WAC 230-40-860 Table inventories and procedures for opening tables for house-banked card games.** Procedures shall be established to ensure proper accountability of gaming chips and coins stored at gaming tables and for beginning play at such tables. The following restrictions and procedures apply:

(1) Whenever a gaming table is opened for gaming, operations shall commence with an amount of gaming chips and coins to be known as the "table inventory" and the gaming operation shall not cause or permit gaming chips or coins to be added to or removed from such table inventory during the gaming day except:

(a) In exchange for cash;

(b) In payment of winning wagers and collection of losing wagers made at such gaming table;

(c) In exchange for gaming chips received from a patron having an equal aggregate face value; and

(d) In conformity with procedures set forth in WAC 230-40-865 and 230-40-870.

(2) Each table inventory and the table inventory slip prepared in conformity with the procedures set forth in WAC 230-40-875 shall be stored during nongaming hours in a separate locked, clear container which shall be clearly marked on the outside with the game and the gaming table number to which it corresponds. The information on the table inventory slip shall be visible from the outside of the container. All containers shall be stored either in the cashier's cage during nongaming hours or may be secured at the gaming table if

security personnel are on duty and surveillance is in operation.

(3) The keys to the locked containers containing the table inventories shall be maintained and controlled by the gaming operation department in a secure place and shall at no time be made accessible to any cashier's cage personnel or to any person responsible for transporting such table inventories to or from the gaming tables.

(4) Licensees shall abide by the following procedures when opening gaming tables for play:

(a) The locked container securing the table inventory and the table inventory slip shall be unlocked by the gaming operation supervisor assigned to such table;

(b) A dealer assigned to the gaming table shall prove the contents of the container in the presence of the gaming operation supervisor assigned to such table and shall compare the count to the "opener", as defined in WAC 230-40-875, removed from the container. The procedures used to prove the chip and coin inventory shall be set forth in the licensee's internal controls;

(c) Signatures attesting to the accuracy of the information on the opener shall be placed on such opener by the dealer assigned to the table and the gaming operation supervisor that observed the dealer count the contents of the container;

(d) Any discrepancy between the amount of gaming chips and coins counted and the amount of the gaming chips and coins recorded on the opener, shall be immediately reported to the gaming operation manager, assistant gaming operation manager, or gaming operation shift manager in charge at such time. Security will complete the standard security report and maintain a copy in the log containing the notification of error slips. The licensee shall notify commission staff within twenty-four hours of errors of one hundred dollars or more, or if there is a pattern relating to regular shortages;

(e) After the count of the contents of the container and the signing of the opener, such slip shall be immediately deposited in the drop box attached to the gaming table by the dealer after the opening of such table.

NEW SECTION

**WAC 230-40-865 Procedure for distributing gaming chips and coins to house-banked gaming tables—Requests and fills.** Gaming chips and coins shall only be distributed to gaming tables with adequate security and in a manner that ensures proper accountability. The following restrictions and procedures apply.

(1) A "request for fill" shall be prepared by a gaming operation supervisor to authorize the preparation of a "fill slip" for the distribution of gaming chips and coins to gaming tables. The request for fill shall be prepared in a duplicate form. Request for fill forms shall be secured in a manner that limits access to gaming operation supervisors.

(2) On the original and duplicate of the request for fill, the following information, at a minimum, shall be recorded:

(a) The date, time, and shift of preparation;

(b) The denomination of gaming chips or coins to be distributed to the gaming tables;

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(c) The total amount of each denomination of gaming chips or coins to be distributed to the gaming tables;

(d) The game and table number to which the gaming chips or coins are to be distributed;

(e) The signature of the gaming operation supervisor; and

(f) The signature of the security department employee that distributed the chips and coins.

(3) After preparation of the request for fill, the original of such request shall be transported directly to the cashier's cage by security.

(4) The duplicate copy of the request for fill shall be placed by the dealer or floor supervisor in public view on the gaming table to which the gaming chips or coins are to be received. Such duplicate copy shall not be removed until the chips and coins are received, at which time the request for fill and fill slip are deposited in the drop box.

(5) A fill slip shall be prepared by a cashier whenever gaming chips or coins are distributed to the gaming tables from the cashier's cage.

(6) Fill slips shall be serially prenumbered forms, and each series of fill slips shall be used in sequential order, and the series of all fill slips received by a gaming operation shall be accounted for separately: Provided, That a computer system may be used which includes a nonrepeating sequential numbering system that is consistent with the controls and safeguards of the manual system. All the originals and duplicates of void fill slips shall be marked "VOID" and shall require the signature of the preparer.

(7) The following procedures and requirements shall be observed with regard to fill slips:

(a) Each series of fill slips shall be in triplicate form to be kept in a locked dispenser that will permit an individual fill slip in the series and its copies to be written upon simultaneously while still located in the dispenser, and that will discharge the original and duplicate while the triplicate remains in a continuous, unbroken form in the dispenser: Provided, That if a computer system is used, which includes a nonrepeating sequential numbering system, the controls and safeguards of the manual system must be present; and

(b) Access to the triplicate copy of the form shall be maintained and controlled at all times by an accounting department employee responsible for controlling and accounting for the unused supply of fill slips, placing fill slips in the dispensers, and removing from the dispensers, each day, the triplicate copies remaining therein.

(8) On the original, duplicate, and triplicate copies of the fill slip, the preparer shall record, at a minimum, the following information:

(a) The denomination of the gaming chips or coins being distributed;

(b) The total amount of the gaming chips or coins being distributed;

(c) The total amount of all denominations of gaming chips or coins being distributed;

(d) The game and table number to which the gaming chips or coins are being distributed;

(e) The date and shift during which the distribution of gaming chips or coins occur; and

(f) The signature of the preparer.

(9) Upon preparation, the time of preparation of the fill slip shall be recorded, at a minimum, on the original and the duplicate.

(10) All gaming chips or coins distributed to the gaming tables from the cashier's cage shall be transported directly by a security department employee. This employee shall verify the request for fill to the amount of the fill slip and sign the original of the request for fill, which is maintained at the cashier's cage, before transporting the gaming chips or coins and the original and duplicate of the fill slip for signature.

(11) Signatures attesting to the accuracy of the information contained on the original and duplicate of the fill slips shall, at a minimum, be those of the following personnel at the following times:

(a) The cashier upon preparation;

(b) The security department employee transporting the gaming chips or coins to the gaming table upon receipt from the cashier of gaming chips or coins;

(c) The dealer assigned to the gaming table upon receipt; and

(d) The gaming operation supervisor assigned to the gaming table, upon receipt of the gaming chips or coins at such table.

(12) Upon meeting the signature requirements, the security department employee that transported the gaming chips or coins and the original and duplicate copies of the fill slip to the table, shall observe the following:

(a) The dealer shall immediately place the duplicate fill slip and duplicate request for fill in the drop box attached to the gaming table to which the gaming chips or coins were transported.

(b) The security department employee shall then return the original fill slip to the cashier's cage where the original fill slip and request for fill shall be maintained together and controlled by cage employees.

(13) The original and duplicate "VOID" fill slips, the original request for fill and the original fill slip, maintained and controlled in conformity with subsection (12) of this section shall be forwarded to the following:

(a) The count team, as described in WAC 230-40-885(2), for agreement with the duplicate copy of the fill slip and duplicate copy of the request for fill removed from the drop box after which the original and duplicate copy of the request for fill and the original and duplicate copy of the fill slip shall be forwarded to the accounting department for agreement, on a daily basis, with the triplicate; or

(b) The accounting department for agreement, on a daily basis, with the duplicate fill slip and duplicate copy of the request for fill removed from the drop box and the triplicate.

(14) Transfers of gaming chips from one gaming table to another gaming table shall be prohibited. All transfers of gaming chips shall be to the cashier's cage.

#### NEW SECTION

**WAC 230-40-870 Procedure for removing gaming chips and coins from house-banked gaming tables—Requests and credits.** All transfers of gaming chips and coins shall be closely controlled and documented in a manner that ensures accountability. Gaming chips and coins shall

only be removed from gaming tables with adequate security. The following restrictions and procedures apply:

(1) A "request for credit" shall be prepared by a gaming operation supervisor to authorize the preparation of a "credit slip" for the removal of gaming chips and coins to the cashier's cage. The request for credit shall be in duplicate form. Request for credit forms shall be secured in a manner that allows access only to gaming operation supervisors.

(2) On the original and the duplicate copy of the request for credit the following information, at a minimum, shall be recorded:

- (a) The date, time and shift of preparation;
- (b) The denomination of gaming chips or coins to be removed from the gaming table;
- (c) The total amount of each denomination of gaming chips or coins to be removed from the gaming table;
- (d) The game and table number from which the gaming chips or coins are to be removed; and
- (e) The signature of the gaming operation supervisor and dealer assigned to the gaming table from which gaming chips or coins are to be removed.

(3) Immediately upon preparation of a request for credit and transfer of gaming chips or coins to a security department employee, a gaming operation supervisor shall obtain on the duplicate copy of the request for credit the signature of the security department member to whom the gaming chips and coins were transferred. The dealer shall place the duplicate copy in public view on the gaming table from which the gaming chips or coins were removed. Such request for credit shall not be removed until a credit slip is received from the cashier's cage at which time the request for credit and credit slip are deposited in the drop box.

(4) The original of the request for credit and the gaming chips or coins removed from the gaming table shall be transported directly to the cashier's cage by the security department employee.

(5) A credit slip shall be prepared by the cashier's cage whenever gaming chips or coins are removed from the gaming tables to the cashier's cage.

(6) Credit slips shall be serially prenumbered forms, each series of credit slips shall be used in sequential order, and the series number of all credit slips received by a gaming operation shall be separately accounted for: Provided, That a computer system may be used which includes a nonrepeating sequential numbering system that is consistent with the controls and safeguards of the manual system. All original and duplicate copies of voided credit slips shall be marked "VOID" and shall require the signature of the preparer.

(7) The following procedures and requirements shall be observed with regard to credit slips:

(a) Each series of credit slips shall be a three-part form and shall be inserted in a locked dispenser that will permit an individual slip in the series and its copies to be written upon simultaneously while still locked in the dispenser, and that will discharge the original and duplicate while the triplicate remains in a continuous, unbroken form in the dispenser: Provided, That if a computer system is used, which includes a nonrepeating sequential numbering system, the controls and safeguards of the manual system must be present; and

(b) Access to the triplicate copy shall be maintained and controlled at all times by an accounting department employee responsible for controlling and accounting for the unused supply of credit slips, placing credit slips in the dispensers, and removing from the dispensers, each day, the triplicates remaining therein.

(8) On the original, duplicate and triplicate copies of a credit slip, the preparer shall record, at a minimum, the following information:

- (a) The denomination of the gaming chips or coins removed from the gaming table to the cashier's cage;
- (b) The total amount of each denomination of gaming chips or coins removed from the gaming table to the cashier's cage;
- (c) The total amount of all denominations of gaming chips or coins removed from the gaming table to the cashier's cage;
- (d) The game and table number from which the gaming chips or coins were removed;
- (e) The date and shift during which the removal of gaming chips or coins occurs; and
- (f) The signature of the preparer.

(9) Upon preparation, the time of preparation of the credit slip shall be recorded, at a minimum, on the original and duplicate copy.

(10) Signatures attesting to the accuracy of the information contained on the original and the duplicate copy of a credit slip shall be, at a minimum, the following personnel at the following times:

- (a) The cage cashier upon preparation;
- (b) The security department employee transporting the gaming chips or coins to the cashier's cage upon presentation to the cashier;
- (c) The dealer assigned to the gaming table upon receipt at such table from the security department employee; and
- (d) The gaming operation supervisor assigned to the gaming table upon receipt at such table.

(11) Upon meeting the signature requirements, the security department employee transporting the original and duplicate copies of the credit slip to the gaming table, shall observe the following:

- (a) The dealer shall immediately place the duplicate copies of the credit slip and request for credit in the drop box attached to the gaming table from which the gaming chips or coins are removed; and
- (b) The security department employee shall expeditiously return the original credit slip to the cashier's cage where the original of the credit slip and request for credit shall be maintained together, and controlled by cage employees.

(12) The original and duplicate copies of "VOID" credit slips and the original request for credit and the original credit slip, maintained and controlled in conformity with subsection (11) of this section shall be forwarded to:

(a) The count team, as described in WAC 230-40-885(2), for agreement with the duplicate credit slip and the duplicate request for credit removed from the drop box, after which the request for credit and the original and duplicate credit slip shall be forwarded to the accounting department for agreement, on a daily basis, with the triplicate; or

(b) The accounting department for agreement, on a daily basis, with the duplicate copies of the credit slip and request for credit removed from the drop box and the triplicate.

#### NEW SECTION

**WAC 230-40-875 Procedures for closing house-banked gaming tables.** Procedures shall be followed for closing gaming tables that ensures proper accountability of gaming chips and coins. The following restrictions and procedures apply:

(1) Whenever the gaming activity at each gaming table is concluded for the day, the gaming chips and coins shall be counted by the dealer assigned to the gaming table and observed by a gaming operation supervisor. The entire count and closure process shall be monitored and taped by the surveillance department.

(2) The gaming chips and coins counted shall be recorded on a table inventory slip by the gaming operation supervisor assigned to the gaming table.

(3) Table inventory slips shall be three-part serially numbered forms and on the original of the slip (closer), the duplicate of the slip (opener), and on the triplicate, which is maintained and controlled by security, the gaming operation supervisor shall record the following:

- (a) The date and identification of the shift ended;
- (b) The game and table number;
- (c) The total value of each denomination of gaming chips and coins remaining at the tables; and
- (d) The total value of all denominations of gaming chips and coins remaining at the gaming tables.

(4) Signatures attesting to the accuracy of the information recorded on the table inventory slips at the time of closing the gaming tables shall be of the dealer and the gaming operation supervisor assigned to the gaming table who observed the dealer count the contents of the table inventory.

(5) Upon meeting the signature requirements:

(a) The closer shall be deposited in a drop box attached to the gaming table immediately prior to the closing of the table;

(b) The opener and the gaming chips and coins remaining at the table shall be placed in a clear container provided for that purpose after which the container shall be locked; and

(c) The triplicate copy of the table inventory slip shall be forwarded to the accounting department by a security department employee.

(6) At the end of each gaming day, if the locked containers are transported to the cashier's cage, a cage cashier shall determine that all locked containers have been returned to the cage and adequately secured or, if the locked containers are secured to the gaming table, a gaming operation supervisor shall account for all the locked containers.

(7) In the event drop boxes are removed from gaming tables at other than the close of the gaming day, they shall be removed at a shift change. A table inventory slip shall be prepared as required above with the incoming and outgoing supervisor verifying the inventory and signing.

#### NEW SECTION

**WAC 230-40-880 Count room—Requirements.** All card room operators offering house-banked card games utilizing drop boxes for the collection of game fees or wagers shall be required to maintain a secured area for the counting of gaming chips, coin, and currency. The following requirements, restrictions, and procedures apply:

(1) As part of the gaming operation, there shall be a room specifically designated for counting the contents of drop boxes, which shall be known as the "count room": Provided, That operators not offering house-banked card games shall not be required to maintain a count room for counting the contents of drop boxes if they have another secure location and they meet all other commission requirements for surveillance and counting procedures.

(2) The count room shall be a fully enclosed room with only one entry designed and constructed to provide maximum security for the materials housed therein and for the activities conducted therein, to include at a minimum, the following:

(a) A door equipped with at least one lock securing the interior of the count room, the key to which shall be maintained and controlled by the gaming operation department or an employee of the security department;

(b) The gaming operation department or security department shall establish a sign-out procedure for all keys removed from the security department; and

(c) An alarm device connected to the entrance of the count room in such a manner as to cause a signaling to the surveillance employees of the closed circuit television system whenever the door to the count room is opened.

(3) The following shall be located within the count room:

(a) A table constructed of clear glass or similar material with a base that does not obstruct viewing for the emptying, counting, and recording of the contents of the drop boxes which shall be known as the "count";

(b) Closed circuit television cameras and microphones that are capable of, but not limited to, the following:

(i) Effective and detailed video and audio monitoring of the entire count process; and

(ii) Effective, detailed video-monitoring of the count room and all contents, including storage cabinets or trolleys used to store drop boxes.

(c) The licensee shall post a sign within the count room or at the entrance disclosing that audio recordings within the count room are being conducted at all times.

#### NEW SECTION

**WAC 230-40-885 Counting and recording contents of drop boxes—Procedures.** The contents of drop boxes shall be counted and recorded in a manner that ensures the proper accountability of all gaming chips, coins, and currency. The following restrictions and procedures apply:

(1) The gaming operation shall notify the security department whenever the contents of drop boxes removed from gaming tables are to be counted and recorded, which, at a minimum, shall be once each gaming day.

(2) The opening, counting and recording of the contents of drop boxes shall be performed in the presence of and by those employees assigned by the gaming operation for the conduct of the count. The count team must consist of three employees who shall not be in a position to perpetrate or conceal errors or irregularities in the normal course of his or her duties. Anyone both recording transactions and having access to the relevant assets is in a position to perpetrate errors or irregularities.

(3) Immediately prior to the opening of the drop boxes, the doors to the count room shall be securely locked and except as otherwise authorized, no person shall be permitted to enter or leave the count room, except during a normal work break or in an emergency, until the entire counting, recording, and verification process is completed.

(4) Immediately prior to the commencement of the count, one count team member shall notify the person assigned to the closed circuit television surveillance room in the establishment that the count is about to begin, after which such a person shall make a video and audio recording of the entire counting process.

(5) Contents of drop boxes shall not be mixed prior to counting and recording of each drop box. Procedures and requirements for conducting the count shall be the following:

(a) As each drop box is placed on the count table, one count team member shall announce, in a tone of voice to be heard by all persons present and to be recorded by the audio recording device, the game, table number, and shift marked thereon;

(b) The contents of each drop box shall be emptied and counted separately on the count table;

(c) Immediately after the contents of a drop box are emptied onto the count table, the inside of the drop box shall be held up to the full view of a closed circuit television camera, and shall be shown to at least one other count team member to confirm that all contents of the drop box have been removed, after which the drop box shall be locked and placed in the storage area for drop boxes;

(d) The contents of each drop box shall be segregated by a count team member into separate stacks on the count table by denominations of coin and currency and by type of form, record or document;

(e) Each denomination of coin and currency shall be counted separately by at least two count team members who shall place individual bills and coins of the same denomination on the count table in full view of the closed circuit television cameras, and such count shall be observed and the accuracy confirmed orally or in writing, by at least one other count team member;

(f) As the contents of each drop box is counted, one count team member shall record or verify on a master game report, by game, table number, and shift, the following information:

- (i) The total amount of currency and coin counted;
- (ii) The amount of the opener;
- (iii) The amount of the closer;
- (iv) The serial number and amount of each fill slip;
- (v) The total amount of all fill slips;
- (vi) The serial number and amount of each credit slip;
- (vii) The total amount of all credit slips; and

(viii) The win or loss.

(g) After the contents of each drop box have been counted and recorded, one member of the count team shall record by game and shift, on the master game report, the total amounts of currency and coin, table inventory slips, fill slips and credit slips counted, and win or loss, together with such additional information as may be required on the master game report by the gaming operation;

(h) Notwithstanding the requirements of (f) and (g) of this subsection, if the gaming operation's system of accounting and internal controls provides for the recording on the master game report of fill slips, credit slips, and table inventory slips by cage cashiers prior to the commencement of the count, a count team member shall compare the serial numbers and totals of the amounts recorded thereon to the fill slips, credit slips, and table inventory slips removed from the drop boxes;

(i) Notwithstanding the requirements of (f) and (g) of this subsection, if the gaming operation's system of accounting and internal controls provides for the count team functions to be comprised only of counting and recording currency, coin, and credits, accounting department employees shall perform all other counting, recording and comparing duties herein; and

(j) After completion and verification of the master game report, each count team member shall sign the report attesting to the accuracy of the information recorded thereon.

(6) Procedures and requirements at the conclusion of the count for each gaming shift shall be the following:

(a) All cash removed from each drop box after the initial count shall be presented in the count room by a count team member to a cashier who, prior to having access to the information recorded on the master game report and in the presence of the count team, shall recount, either manually or mechanically, the cash received;

(b) The top copy of the master game report, after signing, and the request for fills, the fill slips, the request for credits, the credit slips, and the table inventory slips removed from drop boxes, shall be transported directly to the accounting department and shall not be available to any cashier's cage personnel; and

(c) If the gaming operation's system of accounting and internal controls does not provide for the forwarding from the cashier's cage of the duplicate of the fill slips, credit slips, request for credits, request for fills, such documents recorded or to be recorded on the master game report shall be transported from the count room directly to the accounting department.

(7) The originals and copies of the master game report, request for fills, fill slips, request for credits, credit slips and table inventory slips shall on a daily basis, in the accounting department be:

(a) Compared for agreement with each other, on a test basis, by persons with no recording responsibilities and, if applicable, to triplicates or stored data;

(b) Reviewed for the appropriate number and propriety of signatures on a test basis;

(c) Accounted for by series numbers, if applicable;

(d) Tested for proper calculation, summarization, and recording;

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- (e) Subsequently recorded; and
  - (f) Maintained and controlled by the accounting department.
- (8) Card rooms not operating house-banked card games shall not have to meet the requirements above: Provided, That the following requirements shall be met:

- (a) The count shall occur at a specific time that has been reported to commission staff;
- (b) All fees shall be counted at least once each operating day;
- (c) The count shall be made by at least two licensed employees of the card room who shall record the amount on the count slip for each drop box;
- (d) The surveillance requirements of WAC 230-40-845 shall be met; and
- (e) An entry shall be made in the daily card room record for each table and each type of fee collected at a table. Count slips for each table shall be retained with the daily records.

#### NEW SECTION

**WAC 230-40-890 Signatures—Requirements.** Each transfer of cash, coins, or chips shall be documented and verified by signatures of individuals responsible for applicable records. A record of authorized signatures shall be maintained for all employees of a Class F card room authorized to approve transfers of cash, coin, or chips. The following restrictions and operating procedures apply to operators conducting house-banked card games:

- (1) Signatures shall:
  - (a) Be, at a minimum, the signer's first initial and last name, i.e., "B. Smith";
  - (b) Be immediately adjacent to, or above the clearly printed or preprinted title of the signer and his or her card room employee license number; and
  - (c) Signify that the signer has prepared forms, records, and documents, and/or is authorized to a sufficient extent to attest to the accuracy of the information recorded thereon, in conformity with these standards and the gaming operation's system of accounting and internal control.
- (2) The licensee shall ensure that signature cards are completed for each person who signs or initials forms, records and documents, and shall include samples of signatures and initials of signers. Such signature records shall be prepared in the presence of a member of the accounting department who shall verify the employee's identity by review of a picture identification card. Completed cards shall be maintained in a dated signature card file, sorted by department and listed alphabetically by name. The signature records shall be adjusted on a timely basis to reflect changes of personnel.
- (3) Signature cards shall be securely stored in the accounting department. A copy of each signature card shall be maintained in the cashier's cage and be used by cage personnel to verify applicable signatures.

#### NEW SECTION

**WAC 230-40-550 Player-supported progressive prize contest defined.** A player-supported progressive prize

contest (player-supported jackpot or PSJ) is a separate contest directly related to the play and/or outcome of an authorized card game for which a player pays a fee to participate. It is not the card game itself and shall not include contests of chance based upon any contingency not determined during the course of play of a single card game.

#### NEW SECTION

**WAC 230-40-552 Incompatible functions defined.** Incompatible functions for accounting and internal control purposes are functions, duties, or responsibilities that places any person or department in a position to both perpetrate and conceal errors or irregularities in the normal course of his or her duties. Anyone both recording transactions and having access to the relevant assets is in a position to perpetrate errors or irregularities.

#### NEW SECTION

**WAC 230-40-554 Drop box defined.** A drop box is a metal container which shall be used for deposits of all cash, duplicate fill slips, credit slips, request for fills, request for credits, and table inventory forms.

#### NEW SECTION

**WAC 230-40-556 Cash equivalent defined.** Cash equivalent is a treasury check, personal check, travelers check, wire transfer of funds, money order, certified check, cashiers check, a check drawn on the gaming operation payable to the patron or to the gaming operation, or a voucher recording cash drawn against a credit card or debit card.

#### NEW SECTION

**WAC 230-40-558 Prize fund custodian defined.** A prize fund custodian is the individual responsible for safeguarding funds received from player-supported progressive prize contests and disbursing prizes to winners. A prize fund custodian may be an owner, partner, officer, or licensed individual designated by a card room owner, partner, or officer.

#### NEW SECTION

**WAC 230-40-560 Chief executive officer/chief operations officer defined.** The chief executive officer/chief operations officer (CEO/COO) is the executive who has been designated by the owner, partners, or board of directors as the individual with overall responsibility for the business licensed to conduct card games.

#### NEW SECTION

**WAC 230-40-562 Gaming operations manager defined.** A gaming operations manager is a licensed card room employee who has been designated by the chief executive officer (CEO) or chief operating officer (COO) as responsible for management of all card room operations.

NEW SECTION

**WAC 230-40-564 Shift manager defined.** A shift manager is a licensed card room employee who shall be responsible for all card room operations during a given shift. The shift manager reports to the gaming operations manager and shall be the direct supervisor of the floor supervisor.

NEW SECTION

**WAC 230-40-566 Floor supervisor defined.** A floor supervisor is a licensed card room employee who shall be responsible for directly supervising a limited number of card games and the dealers assigned to those games within a designated area known as the "pit."

NEW SECTION

**WAC 230-40-568 Dealer defined.** A dealer is a licensed card room employee who is responsible for conducting card games and deals cards, collects and pays off players' bets, and collects fees. The dealer shall also be responsible for signing forms as required.

NEW SECTION

**WAC 230-02-109 Net win defined.** "Net win" means gross wagers received by a licensee from the operation of house-banked card games or fund-raising events, less the amount paid to players for winning wagers, accrual of prizes for jackpot contests and repayment of amounts used to seed guaranteed jackpot prizes.

**AMENDATORY SECTION** (Amending Order 228, filed 10/15/91, effective 11/15/91)

**WAC 230-02-110 Gross gambling receipts defined.** "Gross gambling receipts" means the monetary value ~~((that would be)), stated in U.S. currency, due to any operator of a gambling activity for ((any chance taken, for any table fees for card playing, other fees for participation, or rent and lease fees for amusement games received by commercial amusement game operations, as evidenced by required records)) purchase of a chance to play a punch board or pull-tab series; purchase of a chance to enter a raffle; fees or purchase of cards to participate in bingo games; fees for participation in an amusement game, including rent or lease payments paid to operators or franchisers for allowing use of an amusement game; and any fee to participate in, or net win from, any card games or fund-raising events as defined in WAC 230-02-109.~~ The value shall be ~~((stated in U.S. currency,))~~ before any deductions for prizes or ~~((any))~~ other expenses. ~~((In the absence of records, gross gambling receipts shall be the maximum that would be due to an operator from that particular activity if operated at maximum capacity.))~~ The following are not considered gross gambling receipts:

(1) To enter into a player-supported progressive prize contest held in conjunction with card games: Provided, That any portion of wagers deducted for any purpose other than increasing current prizes or repayment of amounts used to

seed such prizes shall not be treated as gross gambling receipts;

(2) Investigation funds placed on deposit with the commission for purposes of unannounced monitoring of card games: Provided, That any such funds that are refunded to the licensee by the commission, shall be treated as gross gambling receipts at the time of refund.

**AMENDATORY SECTION** (Amending WSR 98-04-023, filed 1/28/98, effective 7/1/98)

**WAC 230-02-425 Key employee defined.** A "key employee" is a card room employee, as defined by WAC 230-02-415, who performs any of the following functions in a licensed public or social card room:

(1) Manages the day-to-day affairs of a Class E or Class A card room;

(2) Conducts any duty that is a material part of the system of internal management or accounting controls for a card room approved to conduct ~~((house or player funded banked))~~ house-banked card games; or

(3) Acts as a custodian of a player-supported jackpot scheme.

**AMENDATORY SECTION** (Amending Order 190, filed 4/18/89, effective 7/1/89)

**WAC 230-04-022 Certification procedure—Information required from all applicants.** In addition to other information required by the commission, each applicant shall provide the following information on or attached to the application:

(1) Copy of corporate applicants' articles of incorporation and bylaws; or, if not a corporation, a copy of any bylaws and other documents which set out the organizational structure and purposes of the organization;

(2) A copy of a nonprofit or charitable applicant's Internal Revenue Service tax exemption letter if one has been obtained;

(3) Details and copies of all lease or rental arrangements, whether oral or written, between the applicant and the owner of premises upon which the gambling activity will be conducted, if such premises are leased or rented;

(4) Details and copies of any and all franchise agreements or other agreements, whether written or oral, if any, between the applicant and distributors or manufacturers of equipment or between the applicant and any other person where those agreements relate to gambling activities or gambling equipment;

(5) Details and copies of all proposed management agreements or contracts between the applicant and any gambling service supplier involved in providing services defined in WAC 230-02-205. All such agreements or contracts shall be reviewed by the commission staff to assure compliance with this title prior to providing service or management of activities and prior to the effective dates of the agreements;

(6) The name, address, date of birth, and Social Security number of each paid employee or agent who will work in the activity for which the license is sought and a schedule of the

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proposed number of employees, job descriptions, and a proposed pay schedule;

((6)) (7) For each person listed below, a completed copy of the commission's form entitled "Personal information form":

(a) Each person who has a substantial interest in the applicant;

(b) Each person who is the chief executive officer, the chairman of a board, and the financial records officer of a corporation and/or bona fide nonprofit charitable organization;

(c) Each person who will serve in a supervisory capacity over those persons in the direct management or direct operation of the activity for which the license is sought;

((7)) (8) If any information required on the application, changes or becomes inaccurate in any way, the commission shall be notified prior to issuance of a license. Failure to notify the commission of any changes affecting an application may constitute grounds for suspension or revocation of all licenses.

((8)) (9) Sections (1), (2), and ((6)) (7) shall not apply to applications by or on behalf of an incorporated city or town in the state of Washington.

**AMENDATORY SECTION** (Amending Order 304, filed 11/21/96, effective 1/1/97)

**WAC 230-04-140 Licensing of public card room employees.** (1) No person shall act as ~~((a public card room))~~ an employee in a Class E or F public card room unless he or she has either received a license to do so from the commission or, if:

(a) The commission has not previously revoked a license or denied an application by that person for such a license; and

(b) He or she has properly applied for such license. If there has been such a previous denial or revocation, or if the applicant has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to certain offenses set forth in RCW 9.46.158, or violated any of the provisions of RCW 9.46.075 and WAC 230-04-400, that person shall not act as a public card room employee unless he or she has been issued a license by the commission.

(2) On or before the first day he or she actually performs work as a public card room employee, a person shall submit an application for a license to the commission. Such application shall not be deemed complete and properly submitted for the purposes of this rule unless and until all questions on the commission's application form and attachments are fully and truthfully answered and the form, with all attachments, together with the required fee, has been delivered to the commission office during regular business hours (or actually deposited in the United States mail properly addressed to the commission): Provided, That ~~((the requirements of this section shall not apply to persons employed in a public card room operating under a Class B or Class D license only))~~ there will be a twenty-day waiting period from the date the application is postmarked (or date stamped by the commission if delivered in person) before the employee may begin performing as a card room employee in a Class F public card room: Provided further, That commission staff may waive

the twenty-day waiting period for an employee when there is an urgent and unexpected need to prevent an interruption in the card room activity beyond the control of the licensee. This waiver will only be allowed if expedited review procedures can be completed. Waivers will not be granted as a means to accommodate the start-up of operations, temporary employee absences, or to provide for special occasions or holidays that are within the control of the licensee. In addition, the applicant must complete a training course as provided by the commission within 30 days after the first day worked.

(3) If an applicant elects to perform the duties of a card room employee prior to receiving a license as authorized under the provisions of paragraph (1)(a) and (b) above, the commission shall retain the entire application fee regardless of the disposition of the application.

(4) A sole owner, partner, major officer and/or owner of a substantial interest in a corporation licensed to operate a public card room shall not be required to be additionally licensed as a public card room employee to perform duties in connection with the card room. Except as provided in this section, an operator of a public card room shall not employ any unlicensed person to perform duties for which a license is required in or in connection with a public card room, and shall take all measures necessary to prevent an unlicensed person from doing so.

((5)) (5) The operator of a public card room or partner or officer of the entity operating the card room for which the applicant will work shall sign the application of each such public card room employee acknowledging that the applicant will be working for that operator with the operator's knowledge and consent.

(6) A card room employee license shall be valid for a period not to exceed one year beginning on the date of issuance or the date the application was submitted if the applicant began working prior to licensure, as authorized by subsection (2) of this section, whichever occurs first. In the event that a card room employee terminates employment, for any reason, with the organization listed on the license application, the license shall become immediately void and shall be returned to the commission.

(7) If there are thirty or more days remaining before the license expires and the licensee has not violated any of the provisions of RCW 9.46.075 and WAC 230-04-400, a card room employee may apply for a transfer of the license to another organization. The organization employing the card room employee shall sign the application for transfer acknowledging employment. The fee for the transfer shall be as required by WAC 230-04-204. The employee may immediately begin work after submission of a transfer application. A copy of the transfer application shall be maintained by the employing organization and available for review by state and local law enforcement, and commission staff until a valid license is issued. Certified Class III gaming employees may apply for transfers to licensed card rooms under the provisions of this rule.

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**AMENDATORY SECTION** (Amending Order 366, filed 10/9/98, effective 11/9/98)

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

LICENSE TYPE	DEFINITION	FEE
<b>1. CARD GAMES</b>		
Class B	Limited card games - hearts, rummy, pitch, pinochle, ((mahjongg,)) and/or cribbage (Fee to play charged)	((-\$164))
<u>B-5</u>	<u>Up to and including five tables</u>	<u>\$ 161</u>
Class C	Tournament only, no more than ten consecutive days per tournament.	((-\$164))
<u>C-5</u>	<u>Up to and including five tables</u>	<u>\$ 161</u>
<u>C-10</u>	<u>Up to and including ten tables</u>	<u>\$ 300</u>
<u>C-15</u>	<u>Up to and including fifteen tables</u>	<u>\$ 500</u>
Class D	General (No fee to play charged)	((-\$52))
<u>D-5</u>	<u>Up to and including five tables</u>	<u>\$ 52</u>
Class E	General (Fee to play charged)	
E-1	One table only	\$ 386
E-2	Up to <u>and including</u> two tables	\$ 663
E-3	Up to <u>and including</u> three tables	\$ 1,106
E-4	Up to <u>and including</u> four tables	\$ 2,214
E-5	Up to <u>and including</u> five tables	\$ 3,330
<u>E-7</u>	<u>Up to and including seven tables</u>	<u>\$ 5,000</u>
<u>E-10</u>	<u>Up to and including ten tables</u>	<u>\$ 6,000</u>
<u>E-12</u>	<u>Up to and including twelve tables</u>	<u>\$ 7,000</u>
<u>E-15</u>	<u>Up to and including fifteen tables</u>	<u>\$ 9,000</u>
Class F	<u>House-banked card room activities. All tables within a card room operating any house-banked card games shall be licensed under Class F fees. Authorization procedures are outlined in WAC 230-04-205</u>	
	<u>*Annual License Fee</u>	<u>\$ 10,000</u>
	<u>Per table fee (up to fifteen tables)</u>	<u>\$ 1,000</u>
<u>*In addition to the above initial license fee, the commission may assess all applicants/licensees the actual costs that exceed the license fee for conducting the initial investigation and inspection, in addition to any follow-up reviews or investigations involved in the approval of subsequent phases of operation, higher wager authorizations, internal control evaluations, or the introduction of new activities or schemes.</u>		
<b>2. COMMERCIAL AMUSEMENT GAMES</b> (Fee based on annual gross gambling receipts)		
* Class A	Premises only	** \$ 276/\$ 126
Class B	Up to \$ 50,000	\$ 386
Class C	Up to \$ 100,000	\$ 992
Class D	Up to \$ 250,000	\$ 2,214
Class E	Up to \$ 500,000	\$ 3,884
Class F	Up to \$1,000,000	\$ 6,662
Class G	Over \$1,000,000	\$ 8,334

LICENSE TYPE	DEFINITION	FEE
	* Allows a business that is qualified under WAC 230-04-138 (1)(f), (g), (h), (i), or (j) to enter into a contract with a class "B" or above commercial amusement game licensee to locate and operate amusement games upon their premises.	
	** Provides for a fee reduction of \$150 when: Renewing an annual license; applying for an additional license(s) at the same premises; and/or applying for multiple licenses at the same premises.	

3. PUNCH BOARDS/ PULL-TABS		(Fee based on annual gross gambling receipts)		VARIANCE*
Class A	Up to \$ 50,000	\$5,000		\$ 527
Class B	Up to \$ 100,000	\$5,000		\$ 940
Class C	Up to \$ 200,000	\$10,000		\$ 1,774
Class D	Up to \$ 300,000	\$10,000		\$ 2,578
Class E	Up to \$ 400,000	\$10,000		\$ 3,330
Class F	Up to \$ 500,000	\$10,000		\$ 4,020
Class G	Up to \$ 600,000	\$10,000		\$ 4,658
Class H	Up to \$ 700,000	\$10,000		\$ 5,242
Class I	Up to \$ 800,000	\$10,000		\$ 5,776
Class J	Up to \$ 1,000,000	\$20,000		\$ 6,548
Class K	Up to \$ 1,250,000	\$25,000		\$ 7,268
Class L	Up to \$ 1,500,000	\$25,000		\$ 7,938
Class M	Up to \$ 1,750,000	\$25,000		\$ 8,490
Class N	Up to \$ 2,000,000	\$25,000		\$ 8,992
Class O	Over \$ 2,000,000	Nonapplicable		\$ 9,880

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

4. DISTRIBUTOR		(Fee based on annual gross sales of gambling related supplies and equipment)	
(a) Class A	Nonpunch board/pull-tab only		\$ 553
Class B	Up to \$ 250,000		\$ 1,106
Class C	Up to \$ 500,000		\$ 1,660
Class D	Up to \$1,000,000		\$ 2,214
Class E	Up to \$2,500,000		\$ 2,882
Class F	Over \$2,500,000		\$ 3,550

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

(b) FUND-RAISING EVENT EQUIPMENT DISTRIBUTOR		
Class A	Rents or leases equipment for fund-raising event or recreational gaming activity up to 10 times per year.	\$ 219
Class B	Rents or leases equipment for fund-raising event or recreational gaming activity more than 10 times per year.	\$ 553

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LICENSE TYPE	DEFINITION	FEE
5. MANUFACTURER	(Fee based on annual gross sales of gambling related supplies and equipment)	
Class A	Machines only	\$ 553
Class B	Up to \$ 250,000	\$ 1,106
Class C	Up to \$ 500,000	\$ 1,660
Class D	Up to \$1,000,000	\$ 2,214
Class E	Up to \$2,500,000	\$ 2,882
Class F	Over \$2,500,000	\$ 3,550

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

LICENSE TYPE	DEFINITION	FEE
6. PERMITS		
AGRICULTURAL FAIR/ SPECIAL PROPERTY BINGO		
Class A	One location and event only (See WAC 230-04-191)	\$ 26
Class B	Annual permit for specified different events and locations (See WAC 230-04-193)	\$ 161
RECREATIONAL GAMING ACTIVITY (RGA)	(See WAC 230-02-505 and 230-25-330)	\$ 52

LICENSE TYPE	DEFINITION	FEE
7. CHANGES		
NAME	(See WAC 230-04-310)	\$ 26
LOCATION	(See WAC 230-04-320)	\$ 26
BUSINESS	(Same owners)	\$ 52
CLASSIFICATION	(See WAC 230-04-340)	
LICENSE CLASS	(See WAC 230-04-260)	
	New class fee, less previ- ous fee paid, plus	\$ 26
DUPLICATE LICENSE	(See WAC 230-04-290)	\$ 26
OWNERSHIP OF STOCK	(See WAC 230-04-340)	\$ 52
LICENSE TRANSFERS	(See WAC 230-04-125, 230-04-340, and 230-04-350)	\$ 52

LICENSE TYPE	DEFINITION	FEE
8. SPECIAL FEES		
INVESTIGATION	(See WAC 230-04-240)	As required
IDENTIFICATION AND INSPECTION SERVICES STAMPS	(See WAC 230-08-017)	As required
QUALITY CONTROL INSPECTION FEES	(See WAC 230-30-030)	As required
REPLACEMENT OF IDENTIFICATION STAMPS	(See WAC 230-30-017)	\$ 26
EXCEEDING LICENSE CLASS	(See WAC 230-04-260)	As required

LICENSE TYPE	DEFINITION	FEE
REVIEW, INSPECTION AND/ OR EVALUATION OF EQUIPMENT, PARAPHERNALIA, SERVICES, OR SCHEMES	(See WAC 230-12-315)	As required
SPECIAL SALES PERMITS	(See WAC 230-04-115)	As required
9. SIX-MONTH PAYMENT PLAN	(See WAC 230-04-190)	\$ 26

**AMENDATORY SECTION** (Amending Order 366, filed 10/9/98, effective 11/9/98)

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

LICENSE TYPE	DEFINITION	FEE
1. CHARITABLE OR NON- PROFIT GAMBLING MAN- AGER	Original Renewal Change of Employer	\$161 \$78 \$78
2. COMMERCIAL GAM- BLING MANAGER	Original Renewal Change of Employer	\$161 \$78 \$78
3. DISTRIBUTOR'S OR GAM- BLING SERVICES SUP- PLIER REPRESENTATIVE	Original Renewal	\$219 \$135
4. MANUFACTURER'S REP- RESENTATIVE	Original Renewal	\$219 \$135
5. PUBLIC CARD ROOM EMPLOYEE	((CLASS A - NONKEY EMPLOY- EES*))	
<b>CLASS A - PERFORMS DUTIES AS DEFINED IN WAC 230-02-415 IN A CLASS A CARD ROOM.</b>		
	Original Renewal Transfer/Additional Employee	\$161 \$78 \$54
<b>CLASS B - ((KEY*)) HOUSE-BANKED CARD ROOM EMPLOYEES((*)) PER- FORMS DUTIES AS DEFINED IN WAC ((230-02-425*)) 230-02-415 IN A CLASS B CARD ROOM.</b>		
	Original, in-state Original,	\$217

out-of-state	\$271
Renewal	\$135
<u>Transfer/Additional employee/House-banked conver- sion</u>	<u>\$54</u>

~~((# SUPPORTS CARD ROOMS-  
HAVING SPECIAL-  
APPROVED ACTIVITIES AS  
SPECIFIED IN WAC 230-  
04-203(I)))~~

**6. OTHER FEES**

CHANGE OF NAME	(See WAC 230-04-310)	\$26
DUPLICATE LICENSE	(See WAC 230-04-290)	\$26
REPLACEMENT		
OUT-OF-STATE	(See WAC 230-04-240)	As
RECORDS INQUIRY		required

**NEW SECTION**

**WAC 230-04-207 House-banked card games—**

**Authorization procedures.** Prior to receiving a license to operate house-banked card games, each licensee shall demonstrate that it has an adequate control environment functioning and the following requirements shall be met:

(1) Each gaming operation shall submit a description of its system of internal accounting and administrative controls, which shall be in agreement with the requirements of this title. The submission shall contain both a narrative and diagrammatic representation of the internal control system to be utilized by the operation. Control procedures shall be submitted in the standard format prescribed by commission staff.

(2) The internal control submission shall undergo a review process and a preoperation inspection shall be conducted prior to implementation of gaming operations. After satisfactory completion, a report shall be prepared and submitted to the director for review. Upon director approval, the gaming operation shall be authorized to conduct gaming within the limits of Phase I operations.

(3) Prior to operating house-banked card games, operators shall pay a one thousand dollar deposit to cover the cost of wagering expenses incurred by commission staff in conducting undercover inspections and investigations within the card room. An additional deposit shall be required to be paid in the event all funds have been exhausted. Operators shall receive a refund of any unused funds if they voluntarily cease to operate house-banked card games.

(4) Full details on all promotions, schemes or other means used to promote card games operated in gaming operations which offer house-banked card games must be submitted to commission staff and be approved prior to implementing.

(5) Any changes to a gaming operation's system of internal controls must be submitted to commission staff and be approved prior to implementation.

**NEW SECTION**

**WAC 230-08-027 House-banked card games—General accounting records to be maintained.** Every licensee

authorized to offer house-banked card games shall keep and maintain a complete set of records, which have been approved by commission staff. Such records shall include all details of activities related to the conduct of the licensed activity. The following requirements shall apply:

(1) Each gaming operation shall maintain legible, accurate and complete records of all transactions relating to the revenues and costs of the gaming operation. These records shall be maintained in a format to ensure consistency, comparability, and effective disclosure of financial information.

(2) General accounting records shall be maintained on a double entry system of accounting with transactions recorded on an accrual basis, to include detailed, supporting, subsidiary records, sufficient to meet the requirements below.

(3) The detailed, supporting and subsidiary records shall include, but not necessarily be limited to:

(a) Records of all patrons' checks initially accepted, deposited, and returned as "uncollected," and ultimately written off as "uncollectible";

(b) Statistical game records to reflect drop and win amounts for each table, for each game, and for at least each period for which the drop boxes are removed, which shall be at the minimum the end of each gaming day;

(c) Records of investments in property, including but not limited to equipment used directly in connection with the gaming operation;

(d) Records of amounts payable by the gaming operation;

(e) Records which identify the purchase, receipt, and destruction of all cards and gaming chips used in wagering; and

(f) Records of services provided for the operation of gaming activity.

(4) Whenever duplicate or triplicate copies are required of a form, record or document:

(a) The original, duplicate, and triplicate copies shall be color-coded;

(b) If under these standards, forms, records, and documents are required to be inserted in a locked dispenser, the last copy shall remain in a continuous unbroken form in the dispenser; and

(c) If under these standards, forms or serial numbers of forms are required to be accounted for or copies of forms are required to be compared for agreement and exceptions noted, such exceptions shall be reported immediately to the commission for investigation.

(5) Unless otherwise specified in these standards, or exempted by the director or his designee, all forms, records, documents and stored data required to be prepared, maintained and controlled shall:

(a) Have the title of the form, record, document, or stored data such as "fill slip," "request for fill," "credit slip," "request for credit," "reconciliation," etc., imprinted or pre-printed thereon or therein; and

(b) Be located at the gaming operation.

(6) Licensees shall maintain a records system that ensures all applicable employees have met licensing requirements. The system shall include employee names, license numbers and expiration dates. Records shall be prepared for employees documenting the mailing of their license applica-

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tion with the required payment and whether they have adhered to the twenty-day wait, if applicable. The licensee shall ensure all license applications are submitted when required and the commission is notified if a license has not been received within sixty days of submitting the application.

(7) All accounting records shall be kept for a period not less than three years from the month of the recorded information.

**AMENDATORY SECTION** (Amending Order 369, filed 12/1/98, effective 1/1/99)

**WAC 230-08-040 Sales invoices—Minimum information to be recorded for transfer of gambling equipment and merchandise—Retention—Penalties.** The following requirements apply to sales invoices:

(1) In addition to entries required by WAC 230-08-025, the following information shall be recorded on invoices for sales or transfer of gambling equipment ~~((and))~~, merchandise, and card room forms:

(a) Punch boards/pull-tabs - for each board or series:

(i) Trade name of device;

(ii) Type of device;

(iii) Form number or other manufacturer-assigned scheme to specifically identify a device, including the size or number of chances; and

(iv) Identification and inspection services stamp number.

(b) Pull-tab dispensing devices:

(i) Trade name of device;

(ii) Type of device; and

(iii) Identification and inspection services stamp number.

(c) Disposable bingo cards - for each set of cards or collocation of packets:

(i) Type of product, including product line;

(ii) Description of product, including the number of cartoons, "series," "on," "cut," and "up";

(iii) Identification and inspection services stamp number;

(iv) Serial number or, if packets, serial number of the top page;

(v) Color and border pattern or, if packets, color and border pattern of the top page;

(vi) The unit or package number when a series or collation has been divided as authorized in WAC 230-20-192(6); and

(vii) For disposable bingo cards to be sold for linked bingo prizes the beginning and ending sheet numbers sold to or returned from the operator.

(d) Merchandise to be used as prizes for any gambling activity, whether purchased from a licensed distributor or from other than a licensed distributor, must be recorded on a sales invoice or receipt. The following information must be on the sales invoice or receipt provided by the seller:

(i) The date of purchase;

(ii) The company's name and adequate business address;

(iii) A full description of each item purchased;

(iv) The quantity of items purchased; and

(v) The cost per individual items purchased; and

(e) Card room forms - all required serially prenumbered forms:

(i) Type of form;

(ii) Beginning and ending serial numbers; and

(iii) Quantity of forms.

(f) All other gambling equipment:

(i) Trade name of device;

(ii) Type of device;

(iii) Serial number or other identification numbers or characteristics; and

(iv) Identification and inspection services stamp number.

(2) All sales invoices and receipts must be maintained by the operator for at least three years.

(3) Any manufacturer, distributor, linked bingo prize provider, or licensed representative of the above, who fails to accurately complete any invoice for the sale or return of a punch board, pull-tab series, pull-tab dispensing device, disposable bingo cards, related merchandise, or other gambling device may be assessed a fee of up to fifty dollars per incomplete invoice. The fee shall be used to defray extra costs incurred by the commission in tracking transfers or other monitoring procedures as a result of errors or omissions.

**AMENDATORY SECTION** (Amending Order 238, filed 4/21/93, effective 7/1/93)

**WAC 230-08-090 Daily records—Card games.** In addition to any other requirements set forth in these rules, persons licensed to operate card rooms at which a fee is charged to play or which operates player-supported progressive prize contests (player-supported jackpot or PSJ) or house-banked card games shall be required to prepare a detailed record covering each ~~((occasion. This))~~ day of operation. Each separate record shall be maintained continuously during hours of operation and ((updated immediately following the collection of fees during all time periods. The commission shall provide to the licensee a consecutively prenumbered standard format record sheet. This form shall contain the following:

~~(1) The date of the occasion;~~

~~(2) The time that the half hour fee was charged;~~

~~(3) The amount of half hour fee charged per table;~~

~~(4) The number of players at each table at half hour intervals to include all nonpaying house players;~~

~~(5))~~ entries made as required by this section. The format for such records shall be as prescribed by the commission. The records shall include information to be placed in a form, record or document, or in stored data which shall be annotated in ink or other permanent form. Data maintained in computer data bases must be printed on a periodic basis. Daily card room records shall be maintained as follows:

(1) Separate records shall be prepared for each day social card games are played and fees collected or house-banked card games are operated. Such records shall be completed for each table and each PSJ for which fees are collected from players. The minimum daily records shall include the following information:

(a) The date and time period during which fees were collected or house-banked card games were operated.

(b) The assessment method and the fee charged per assessment method for each table.

(c) The names and time of play for each nonpaying house player (which may only include licensed card room employees and the licensee);

~~((6))~~ (d) The amount of fees collected at each table at each ~~(half hour)~~ collection interval;

~~((7))~~ (e) The ~~(cumulative)~~ gross amount received from fees collected on each ~~(occasion and in total);~~

(8) A reconciliation of chips and cash on a daily basis; and

~~(9) A printed name, signature, and hours worked of the person who was responsible for the collection of fees.)~~ operating day by table and by assessment method.

(f) The number of players at the time of fee collection when fees are assessed based on a period of time;

(g) A record of card room employees and hours worked; and

(h) The total drop which includes all cash placed in drop boxes and the net win or loss by the table and game type from house-banked card games.

(2) Fees for tournaments shall be recorded as set forth in WAC 230-40-055.

(3) PSJ records shall include the following information in addition to the information required by subsection (1) of this section:

(a) A separate entry for each type of PSJ for which fees were collected to include:

(i) Table number;

(ii) Prize fund number; and

(iii) Assessment rate.

(b) PSJ fund accrual record.

(4) A daily summary record that includes a reconciliation of all fees collected during an operating day shall be prepared for each day card games are operated and fees collected. This record shall include at least the following:

(a) The name of the licensed operator;

(b) The date of the activity. If the activity spans two days, the day that the activity begins shall be recorded;

(c) Card room hours of operation;

(d) The beginning and ending balances of all chips and cash in the cage;

(e) The printed name and signature of person(s) preparing the record; and

(f) Such other daily records as required for specific card room activities.

~~(5) All detailed records (sheets issued to a licensee shall be numerically accounted for, and) prepared shall be maintained on the premises for a period of not less than three years (from the date of the occasion which it records. An "occasion" for card rooms shall be defined as 20 hours beginning at 6:00 a.m. one day and running continuously through 2:00 a.m. the following day).~~

AMENDATORY SECTION (Amending Order 303, filed 11/21/96, effective 12/22/96)

**WAC 230-12-050 Extension of credit, loans, or gifts prohibited—Limited exception.** No licensee, member or employee thereof shall extend credit, make a loan, or grant a

gift to any person playing in an authorized activity, or which enables a person to play in an authorized activity. The consideration required to participate in the activity shall be collected in full, by cash, check, or electronic point-of-sale bank transfer, prior to participation: Provided, That this prohibition shall not apply to the following situations:

(1) The consideration paid for the opportunity to play a punch board or pull-tab series may be collected immediately after the play is completed only when such consideration is ten dollars or less;

(2) When a bona fide charitable or bona fide nonprofit organization conducting any of the activities authorized by chapter 9.46 RCW or commission rules has a regular billing system for all of the activities of its members with such organization, such billing system may be utilized in connection with the playing of any of the activities authorized hereunder if:

(a) The playing of such activity is limited to regular members of such organization who have become regular members prior to the commencement of such activity and whose qualifications for membership were not dependent upon, or in any way related to, the playing of such activity; and

(b) The commission has given its prior written consent to the use of such billing system in connection with the conduct of activities authorized under these rules.

(3) Charitable or nonprofit organizations utilizing credit cards, issued by a state and/or federally regulated financial institution, for payment to participate in raffles; and

(4) Promotional gifts detailed below:

(a) The providing of free or discounted food, drink, or merchandise to card players at a public card room;

(b) Promotional activities conducted as a part of bingo games and authorized by WAC 230-20-125;

(c) Performances as authorized by WAC 230-20-111;

(d) Free play for card playing as authorized by WAC 230-40-050~~((4))~~ (7);

(e) "Free roll" or customer appreciation tournaments as authorized by WAC 230-40-055(2); and

(f) Promotional game cards meeting the standards of WAC 230-46-070 (1), (a), (b), (c), (d), (e).

#### NEW SECTION

**WAC 230-12-072 Player-supported progressive prize contest funds—Deposit requirements.** Each organization licensed to conduct player-supported progressive prize contests (player-supported jackpots or PSJs) shall protect and ensure proper accountability of all funds collected from players. Funds shall be controlled as follows:

(1) Each licensee shall maintain a bank account for holding PSJ funds. The account shall be kept separate from all other accounts of the entity and be maintained in a recognized Washington state depository for purposes of depositing PSJ funds: Provided, That if such activities are conducted on the United States' portion of the Point Roberts Peninsula, Washington, the deposit may be made in a British Columbia Branch of a Canadian bank: Provided further, That the licensee conducting the activities must provide commission staff unrestricted access to the licensee's Canadian bank

records and the Canadian bank must provide written confirmation of its intent to honor the licensee's release.

(2) Only receipts from PSJs shall be deposited into the account.

(3) No expenditures shall be made from the receipts of any PSJ until such receipts have first been deposited in the PSJ account: Provided, That operators may pay out prizes won during the operating day and deduct administrative expenses prior to deposit.

(4) Receipts from the operation of PSJs, which are being held pending disbursement, shall be deposited in the licensee's PSJ account within two banking days of the date of collection.

(5) All deposits of PSJ funds shall be specifically identified by type of fund and dates of collection. The validated deposit receipt shall be kept as a part of the records required by WAC 230-08-090.

(6) At the end of each month, the account balance per the bank statement shall be reconciled to the PSJ fund balances. The reconciliation shall be kept as a part of the records required by WAC 230-08-090.

#### NEW SECTION

**WAC 230-12-345 Leases, rentals, and license agreements—Requirements—Restrictions.** Manufacturers and distributors may lease or rent gambling equipment, other than punch boards, pull-tabs, bingo supplies, chips, cards, and other consumable gambling-related equipment or devices to operators. In addition, manufacturers may enter into license agreements with operators permitting them to use their patented, copyrighted, or trademarked card games. All operating leases, rentals, or license agreements must be transacted on a cash basis only. The following requirements and procedures shall apply:

(1) For purposes of this section, lease, rental, or license fees must be received by the manufacturer or distributor in advance of the period in which the equipment, device, or card game is to be used. Agreements shall be constructed so that regularly scheduled payments comply with this condition.

(2) When an operator fails to pay regularly scheduled payments in accordance with subsection (1) of this section, the following procedures shall apply:

(a) If payment is not received within ten days of the payment due date, the manufacturer or distributor shall notify the delinquent operator and the commission by the end of the next business day. The following information shall be reported:

- (i) Operator's name;
- (ii) Delinquent amount and due date; and
- (iii) Any relevant information about the account if it is delinquent.

(b) If payment is not received within twenty days, the manufacturer shall notify the operator that it must cease using or operating the equipment, device, or card game immediately.

(c) If payment is still not received within thirty days, the manufacturer or distributor shall remove any equipment, device, or card game materials provided under the agreement

from the licensed premises within five days. The commission shall be notified of the date and time removal is to occur.

(d) When a manufacturer or distributor receives an operator's delinquent payment, it shall notify the commission by the end of the next business day.

(3) Any freight, delivery, installation, or other set up fees must be paid within thirty days of the delivery date.

(4) Operators that fail to pay for lease, rental, or license fees by the date due may be deemed to have solicited credit.

(5) Manufacturers or distributors that fail to comply with the procedures noted above may be deemed to have extended credit.

(6) All capital leases for the sale of gambling equipment shall comply with WAC 230-12-340.

#### **WSR 99-08-094**

#### **PROPOSED RULES**

#### **GAMBLING COMMISSION**

[Filed April 6, 1999, 4:19 p.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 99-04-005 with a published date of February 17, 1999.

Title of Rule: Bingo rules.

Purpose: Changes were made to allow bingo operators to offer free games, such as the winners circle and pal games; reduce restrictions of gift certificates and promotional items; allow bingo operators to distribute coupons for free bingo card to customers as prizes, and allow bingo players to accrue points by playing bingo and redeem the points for prizes, such as a trip.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: See Purpose above.

Reasons Supporting Proposal: Bingo licensees have requested changes as a way to stimulate bingo business. In response, these changes were made.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Lacey, (360) 438-7654, ext. 374; Implementation: Ben Bishop, Lacey, (360) 438-7640; and Enforcement: Sherri Winslow, Lacey, (360) 438-7654, ext. 301.

Name of Proponent: Staff, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose and Reasons Supporting Proposal above.

Proposal Changes the Following Existing Rules: See Purpose and Reasons Supporting Proposal above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2), therefore, a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA, (360) 254-6100, on May 14, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Susan Yeager by May 3, 1999, TDD (360) 438-7638, or (360) 438-7654, ext. 302.

Submit Written Comments to: Susan Arland, Mailstop 42400, Olympia, Washington 98504-2400, fax (360) 438-7652, by May 3, 1999.

Date of Intended Adoption: May 14, 1999.

April 6, 1999

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-04-024, filed 1/28/98, effective 7/1/98)

**WAC 230-20-115 Gift certificates—Requirements.**

Gift certificates may be sold or issued as prizes during bingo games and such shall not be deemed sales of bingo cards for purposes of this title if licensees comply with the following restrictions:

(1) If sold, gift certificates shall be paid for in full at the time they are issued;

(2) Gross receipts from the sale of certificates shall be deposited separately into the gambling account no later than five banking days after receipt. The certificate numbers relating to the funds deposited shall be a part of the deposit record;

(3) For gift certificates awarded as prizes, the value of the certificate is recorded as a bingo prize on the daily bingo records for the sessions in which the certificate was issued. The certificate will be supported by a bingo prize receipt;

(4) Gift certificates shall be purchased from a commercial printer or licensed distributor and shall be prenumbered, consecutively issued, and have a predetermined value with the following information imprinted:

(a) The name of the organization issuing the certificate;

(b) The date issued and an expiration date no later than three months from the date issued for awarded certificates; and one year for sold certificates;

(c) The dollar value of the certificate; and

(d) Any conditions or contingencies related to redemption of the certificate;

(5) Gift certificates may only be awarded as prizes (~~on up to four occasions per year, and~~) under the following conditions:

(a) No prize shall include more than (~~forty~~) fifty dollars U.S. currency in gift certificates; and

(b) Redemption of gift certificates shall not be limited to a specific gambling activity: Provided, That certificates may be specific for bingo;

(6) Certificates shall only be redeemed for bingo cards, food, drink, merchandise, punch boards or pull-tabs upon the licensed premises from which it was issued;

(7) Certificates redeemed shall be applied against bingo activity and daily bingo records shall be modified in the cash reconciliation section of the approved record format to document the number and dollar value of certificates redeemed;

(8) A reconciliation of gift certificate inventory to certificates issued shall be performed on a monthly basis and will include the following control features:

(a) Purchase invoices will be retained for gift certificates and they will include the organization name, date of purchase, and beginning and ending certificate numbers;

(b) Redeemed certificates will be maintained with the corresponding daily sales records;

(c) Sold certificates not redeemed the expiration date shall be properly accounted for as a donation; (~~and~~)

(d) Certificates issued as prizes and not redeemed by the expiration date shall be accounted for by decreasing prizes paid expense by the value of the expired certificate and eliminating the corresponding liability. This adjusting entry shall be clearly documented in the licensee's monthly records; and

(e) A certificate log will be maintained and will include the following:

(i) Certificate number;

(ii) Certificate value;

(iii) Date of issue;

(iv) Expiration date;

(v) Date of redemption; and

(vi) If awarded as a prize, the session and date the prize is awarded.

AMENDATORY SECTION (Amending Order 364, filed 9/23/98, effective 1/1/99)

**WAC 230-20-125 Discounts and promotional gifts—Authorized—Limits.** To increase profits from bingo games and enhance the entertainment aspect of such, licensees may conduct limited promotional activities. The following restrictions and procedures apply to promotional activities conducted as a part of bingo games:

(1) Licensees may promote bingo games by providing players discounts or gifts of nominal value on up to (~~eight~~) twelve occasions annually under the following conditions:

(a) Licensees may offer players discounts or reductions in the price to play bingo for purposes of evaluating the effectiveness of advertising of bingo games if:

(i) Discounts are only awarded to players that present a coupon that was issued by the licensee for a specific date and session;

(ii) Coupons shall not be available on the licensed premises: Provided, That this section does not prevent the sale of newspapers in which such coupons are printed on the licensed premises;

(iii) Coupons are printed in newspapers or similar media that are normally sold or delivered to an individual's residence;

(iv) The discount does not exceed fifty percent of the minimum cost to play or (~~three~~) five dollars, whichever is less;

(v) Any conditions or restrictions of the discount are disclosed in all advertisements offering the discount; and

(vi) Records required by subsection (2) of this section are maintained.

(b) Licensees may award promotional gifts to players if:

(i) Only merchandise gifts with a cost to the licensee of no more than (~~three~~) five dollars per gift are awarded;

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(ii) The gifts are treated as prizes; and

(iii) A record is completed for each session setting out the criterion for selecting the recipients, the number of gifts, and total cost of the gifts.

(2) Licensees shall use the combination receipting method set forth in WAC 230-20-108 to record discounts awarded by this section. All discounts shall be recorded on the cash register receipt during the sales transaction;

(3) Records must be maintained as a part of the daily bingo records that provide full details of each discount or gift awarded. All discounts must be reconciled to sales and cash on the "Bingo daily record-Cash control" record. Such records must include at least the following details:

(a) Time and date of the activity;

(b) Full description of the activity, including any conditions or restrictions;

(c) A copy of all advertisements for such promotions; and

(d) All coupons or "frequent player" cards redeemed which shall include the name, address, and birth date of customers redeeming such.

(4) Licensees may provide special recognition gifts to players during the calendar week of their birthday. These gifts are excluded from the ~~((eight))~~ twelve occasion limitation if the following requirements are met:

(a) Such gifts shall not exceed a value of ~~((three))~~ five dollars;

(b) The recipient's name and date of birth are recorded; and

(c) These gifts are treated as prizes and applicable records are maintained.

(5) Licensees may promote bingo games by offering incentives to players which are based on the customer participating in games for a specific number of sessions, playing during a session when promotional gifts are awarded to players, as authorized by subsection (1)(b) of this section, or for spending a specific dollar amount to play bingo over a period of time if:

(a) These "frequent player" incentives are redeemed only for promotional marketing gifts; or merchandise with a cost of twenty dollars or less;

(b) These incentives are accumulated in the form of "credits" or "points" that equate to a specified number of dollars spent by the player;

(c) The redemption value of points or credits awarded under this section does not exceed:

(i) ~~((One-half of one))~~ Two percent of the total dollar amount spent by a player and recorded through the cash register method of recording bingo sales; or

(ii) ~~((Three))~~ Five dollars for each occasion that points or credits are awarded as promotional gifts under authority of subsection (1)(b) of this section;

(d) Such credits or points shall have no cash or partial redemption value;

(e) Players shall be informed of any expiration date of points or credits earned;

(f) The licensee shall develop a control system to account for points or credits issued, redeemed, or expired. Credits or points shall be controlled by issuing points at the time of cash register receipting method sale and recorded

either with a computer-based tracking system or approved manual system. The following conditions apply to accumulation records:

(i) If cards are used, cards shall meet all of the requirements set forth for tickets used for receipting for bingo income in WAC 230-20-104 and the recording of credits on such cards shall be accomplished by means under control of the licensee, such as stamps, punches, employee initials, etc.; and

(ii) Computer-based records used to record points shall be approved by the commission staff.

#### NEW SECTION

**WAC 230-02-145 Promotional marketing gifts.** Promotional marketing gifts are merchandise items that either promote the game of bingo or a specific bingo licensee. Promotional marketing gifts include, but are not limited to, items used in connection with playing bingo or items with a licensee's name or logo permanently imprinted thereon.

AMENDATORY SECTION (Amending WSR 96-07-078, filed 3/19/96, effective 7/1/96)

**WAC 230-20-230 Free games for winners—Restrictions.** ~~((On only four occasions per year, a licensee may award free cards, or any opportunity to play in a bingo game, to a person as a prize for, or conditioned upon, winning a bingo game or games. Provided, those))~~ Bingo games conducted under the authority of a Class A, B or C license of games conducted without a license under RCW 9.46.0321 may award free games without restrictions on the number of occasions. ((The restrictions set forth in WAC 230-20-115 will apply when awarding gift certificates that may include free games for winners.)) Class D and above licensees may only award free bingo games as a prize when the restrictions and requirements set forth in WAC 230-20-115 are met.

AMENDATORY SECTION (Amending WSR 97-14-013, filed 6/20/97, effective 7/21/97)

**WAC 230-20-242 Activities conducted as a part of bingo games—Authorization—Restrictions.**

~~((What activities are authorized for consideration as part of a bingo game?))~~

~~(1) The following activities are authorized:~~

~~(a) Drawings.~~

~~(b) Creativity and originality contests. A competition to determine the best costume, flower arrangement, cake decorating, ugliest tie, or other activities requiring skill or original thought.~~

~~(c) "Good neighbor" schemes. Prizes are awarded based upon the seating location of a player(s) in regards to the winner of a bingo game.~~

~~(d) Second element of chance schemes. An additional chance is offered to win an increased minimum bingo game after the winner(s) of the game has been determined by calling numbers and symbols.~~

~~(e) Birthday bonus schemes. Prizes are awarded to a player who wins a bingo game during the same calendar week in which the player's birthday occurs.~~

~~What general restrictions apply to the awarding of prizes for these activities?~~

(2)) Bingo licensees may award prizes to winners of activities authorized by this section when such activities are conducted as a part of bingo games. Such activities shall be deemed to be bingo games if all players paying to participate are allowed to compete equally and all prizes awarded are treated as bingo game prizes for purposes of compliance with WAC 230-20-059.

~~((What additional restrictions apply to drawings?))~~

((3)) (1) Drawings. Each licensee shall be allowed to award prizes that are determined by a random drawing of tickets or by other random selection methods involving the numbering system on such tickets if the requirements of WAC 230-20-105 are followed: Provided, That upon approval by commission staff, a licensee may use bingo cards in place of tickets if the requirements of WAC 230-20-107 are followed, and:

(a) All rules regarding these drawings, including requirements to qualify for participation, time and date of the drawing, and whether a player must be present to win, are clearly posted and distinctly explained to the players;

(b) Tickets or other facsimiles used to enter such drawings are awarded only to players purchasing cards to play in bingo games;

(c) Tickets, from which the winners of any such drawing are selected, shall not be accumulated for a period that is longer than thirty days. Drawings may be conducted using tickets that accumulate during any bingo occasion, week, or any other period that does not exceed thirty consecutive days;

(d) Players may only be awarded or otherwise receive tickets to participate in drawings at bingo games by meeting the following criteria:

(i) Pay an amount not to exceed one dollar per ticket. If a licensee elects to charge for entry into drawings, such drawings shall not be combined with other means of entry allowed by this subsection, and the gross gambling receipts, prizes, and expenses shall be recorded and reported as bingo activities: Provided, that if players are required to purchase tickets to enter the drawing, they shall not be required to be present to win if the drawing is not held at the same session as tickets are purchased;

(ii) Be a winner of a bingo game during the session;

(iii) Be a "good neighbor" winner, as defined by subsection ((5)) (3) of this section; or

(iv) Meet other specific and predetermined criterion that has been approved by the director;

(e) The criterion for granting tickets, and the number of tickets awarded during each session, shall be recorded in the daily bingo record for each session. All winning tickets and other records shall be maintained as a part of the daily bingo records.

~~((What additional restrictions apply to creativity and originality contests?))~~

(4)) (2) Creativity and originality contests. A bingo licensee may conduct contests in which players may demonstrate their creativity and originality skills on up to eight occasions annually. The following rules must be observed in conducting these contests:

(a) The total value of prizes shall not exceed five hundred dollars during any occasion;

(b) Only players who have paid to participate in bingo games during the current session may participate in the contest; and

(c) A record shall be completed for each contest setting out the criterion for selecting the winners, the number of participants in the contest, and all details required by WAC 230-08-080 and 230-20-102. Such records shall be maintained as a part of the daily bingo records.

~~((What additional restrictions apply to "good neighbor" schemes?))~~

(5)) (3) "Good neighbor" prize schemes. A licensee may award prizes based upon the seating location of a player or players in regards to a winner of a bingo game or other approved criteria. The following requirements must be observed prior to awarding "good neighbor" prizes:

(a) All rules regarding these prizes, including the amount to be awarded to each "good neighbor" or group of "good neighbors" and all requirements to qualify for a prize, must be clearly posted and distinctly explained to the players; and

(b) A record shall be completed setting out the criterion for awarding such prizes, the number of such prizes awarded during each session, and all details required by WAC 230-08-080 and 230-20-102. Such record shall be maintained as a part of the daily bingo records.

~~((What additional restrictions apply to second element of chance schemes?))~~

(6)) (4) Second element of chance schemes. Licensees may use these schemes to increase the minimum prize for a bingo game after the winner(s) of the game has been determined by calling numbers and symbols if:

(a) The schemes do not involve the use of gambling devices specifically prohibited by public policy or commission rules;

(b) A player's minimum odds of winning the highest prize is equal to or greater than one winner out of one hundred twenty-five chances or the probability of winning the highest prize is .008 or greater;

(c) The scheme does not require the player to risk any portion of a prize already won;

(d) Every possible outcome of the scheme provides the player with an additional prize;

(e) All rules regarding play of the game are clearly posted and distinctly explained to the players. At least the following information shall be disclosed:

(i) The players minimum odds of winning the highest prize;

(ii) How a winner is determined;

(iii) Any contingencies or special requirements that may affect the outcome;

(iv) The cash value of the highest prize available; and

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(v) Any financial burden that must be borne by the winner, such as taxes or registration fees.

(f) All requirements of WAC 230-20-010 are met before cards are purchased; and

(g) The scheme and supporting records contain control factors necessary for commission audit.

~~((What additional restrictions apply to birthday bonus prizes?~~

~~(7))~~ (5) Birthday bonus prizes. Licensees may offer birthday bonus prizes to players who win a bingo game subject to the following restrictions:

(a) The maximum bonus prize is fifty dollars;

(b) The player's birthday must be within the calendar week that the winning combination occurred and the bonus is paid;

(c) A licensee may award only one birthday bonus to any player during any calendar year;

(d) In addition to all requirements of WAC 230-20-102, the prize receipt for such prizes must include:

(i) The address of the winner;

(ii) The player's date of birth; and

(iii) The type of identification provided by the player to verify the winner's date of birth.

#### WSR 99-08-097

#### PROPOSED RULES

#### DEPARTMENT OF HEALTH

[Filed April 6, 1999, 4:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-13-108.

Title of Rule: Chapter 246-217 WAC, Food workers permit.

Purpose: The purpose of amending the food workers permit chapter is to incorporate recent legislative changes, complete development of rules as directed by the legislature, incorporate advisory committee recommendations, standardization of process and improve food worker training, and reduce ambiguity regarding process.

Statutory Authority for Adoption: RCW 43.20.050.

Statute Being Implemented: Chapter 69.06 RCW.

Summary: The proposed changes include amendments that: Combine two definition sections into one, clarifies language to reflect current use (i.e., permit to card), incorporates legislative language about reducing the period a food worker can work without a card and requires the employer to provide some training, provides an ability for a limited duty card, and requires the training and examination be standardized throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Gifford, 7171 Cleanwater Lane, Building 2, (360) 236-3074; and Enforcement: Don Oliver, 7171 Cleanwater Lane, Building 2, (360) 236-3053.

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: This rule updates standards for the issuance of food worker cards. The purpose of this rule is to reduce the potential health risk to the public from improperly handled food within food service establishments. The State Board of Health is amending this rule to reflect changes in the state statute. The legislature has required us to develop and adopt rules establishing minimum training requirements for food workers. The Department of Health anticipates that the training will increase the food workers knowledge and reduce the potential to mishandle foods, therefore reducing the risk of food borne illness to the public. The legislative mandates that reduce the period a food worker can work without a card and reduces the time between renewals are also intended to encourage a knowledgeable and informed food service workforce. The proposal incorporates recommendations from constituent groups.

Proposal Changes the Following Existing Rules: The changes include: Updating language to reflect current use, decreasing the period a food worker is allowed to work without a card, developing a process to obtain a limited duty card, standardizing the training and examination required to obtain a food worker card so it is consistent throughout the state, and increasing the frequency that cards must be renewed while establishing an option of additional training.

No small business economic impact statement has been prepared under chapter 19.85 RCW. An agency must prepare a small business economic impact statement when the proposed rule will impose more than minor costs on businesses in an industry. The majority of these amendments do not impose more than minor costs on businesses within an industry. The only amendment that affects businesses is a requirement that owners of food establishments training employees in food safety before they begin work. This amendment however, is exempt from the small business economic impact statement because it incorporates state statute without material change.

RCW 34.05.328 applies to this rule adoption. Certain parts of this proposal incorporate state statute without material change and are therefore excepted from the requirements of RCW 34.05.328, while other parts are not. The rule provisions of RCW 34.05.328 are being applied to this proposal. The Department of Health has completed a significant legislative analysis to be included in the rule-making file.

Hearing Location: Comfort Inn, 19333 Pacific Highway South, Seattle, WA 98188, phone (206) 878-1100, on May 12, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Michael Zimmerman by May 5, 1999, TDD (800) 833-6388, or (360) 586-6033.

Submit Written Comments to: Dave Gifford, fax (360) 236-2251, by May 12, 1999.

Date of Intended Adoption: May 17, 1999.

April 6, 1999

Jim Robertson

Interim Executive Director

State Board of Health

PROPOSED

## Chapter 246-217 WAC

## FOOD WORKER ((PERMITS)) CARDS

## NEW SECTION

**WAC 246-217-005 Purpose and authority.** The purpose of chapter 246-217 WAC is to establish state board of health standards for the issuance of food worker cards (food worker permits) under chapter 69.06 RCW and RCW 43.20.050. To promote and protect the health, safety and well-being of the public and prevent the spread of disease by food, all food service workers in the state shall demonstrate through the process of examination that they possess an adequate knowledge of the principles and practices involved in the safe preparation, storage, and service of foods.

**AMENDATORY SECTION** (Amending Order 124B, filed 12/27/90, effective 1/31/91)

**WAC 246-217-010 Definitions.** As used in this chapter of the rules and regulations, the following definitions ((shall)) apply:

(1) ~~((A "food service worker" shall mean a person engaged in a food and/or beverage establishment and who may contribute to the transmission of infectious diseases through the nature of his contact with food products and/or equipment and facilities. This shall not include persons engaged in food handling operations where the products are sterilized after packaging or in the processing of frozen fruits or vegetables, nor nonsupervisory personnel assisting with food services functions of churches, lodges, granges and similar organizations when such are exempted from collected retail sales tax by rule 169 of the tax commission of the state of Washington as effective May 1, 1935.~~

(2) ~~The term "food establishment" shall include, but is not limited to, all food handling operations associated with school lunches, carnivals, circuses, intrastate ferries, state institutions, bakeries, shellfish processing plants, caterers, hospitals, nursing homes, maternity homes, boarding homes, child care agencies, churches, lodges, granges, clubs, and food demonstrations.)~~ "Additional food safety training" means completion of a comprehensive training program on food safety of at least four hours in length. Training may include topics such as: Proper cooking, hot-holding, cold-holding and cooling of potentially hazardous foods; cross-contamination prevention; HACCP and/or proper hand washing techniques. Approval of training programs shall be obtained from jurisdictional health departments or the department by the training provider. Approval of training programs must be obtained in advance.

(2) "Applicant" means an individual applying to obtain an initial or renewal food worker card.

(3) "Department" means the Washington state department of health.

(4) "Food service establishment" means:

(a) A place, location, operation, site, or facility where food is manufactured, prepared, processed, packaged, dispensed, distributed, sold, served, or offered to the consumer

regardless of whether or not compensation for food occurs, including but not limited to:

(i) Restaurants, snack bars, cafeterias, taverns, bars;

(ii) Retail food stores, supermarkets, retail meat markets, retail fish markets, retail bakeries, delicatessens;

(iii) Institutional operations licensed by the department, the state department of social and health services or local health officer, such as schools, hospitals, jails, prisons, nursing homes, boarding homes, adult family homes and child care facilities;

(iv) Central preparation sites, including caterers;

(v) Satellite servicing locations;

(vi) Temporary food service establishments or mobile food units;

(vii) Bed and breakfast operations;

(viii) Remote feeding sites; and

(ix) Vending machines dispensing potentially hazardous foods.

(b) This term does not include:

(i) Private homes where food is prepared or served for consumption by household members and/or their guests;

(ii) Establishments offering only commercially packaged nonpotentially hazardous foods;

(iii) Commercial food processing establishments, licensed and regulated by the USDA, FDA, or WSDA; and

(iv) Farmers exempt from licensure under RCW 36.71.090.

(5) "Food service worker" means an individual who works (or intends to work) with or without pay in a food service establishment and handles unwrapped or unpackaged food or who may contribute to the transmission of infectious diseases through the nature of his/her contact with food products and/or equipment and facilities. This does not include persons who simply assist residents or patients in institutional facilities with meals, or students in K-12 schools who periodically assist with school meal service.

(6) "Food worker card" means a food and beverage service workers' permit as required under chapter 69.06 RCW.

(7) "Health officer" means the county, city-county, or district health officer of a jurisdictional health department, or his/her authorized representative, or the representative of the department.

(8) "Jurisdictional health department" refers to one of the following:

(a) Local health district as defined in chapter 70.46 RCW.

(b) City-county health department as defined in chapter 70.08 RCW.

(c) County health department as defined in chapter 70.05 RCW.

(9) "Person" means any individual, partnership, corporation, association, or other legal entity or agency of state, county, or municipal government, or agency of the federal government which is subject to the jurisdiction of the state.

(10) "Secretary" means the secretary of the state department of health.

PROPOSED

NEW SECTION

**WAC 246-217-015 Applicability.** (1) All food service workers must obtain a food worker card within fourteen calendar days from the beginning of employment at a food service establishment.

(2) In the case of temporary food service establishments, at a minimum the operator or person in charge each shift or during hours of operation shall have a valid food worker card obtained prior to the event.

(3) Employers at any food service establishment (permanent or temporary) must provide information or training regarding pertinent safe food handling practices to food service workers prior to beginning food handling duties if the worker does not hold a valid food worker card. Documentation that the information or training has been provided to the individual must be kept on file by the employer and be available for inspection by the health officer at all times.

NEW SECTION

**WAC 246-217-025 Issuance of food worker cards—Fees.** (1) In order to qualify for issuance of an initial or renewal food worker card, an applicant must demonstrate his/her knowledge of safe food handling practices by satisfactorily completing an examination conducted by the local health officer or designee.

(2) Each applicant for a food worker card must pay a fee in the amount of eight dollars. The fee shall be used by the jurisdictional health department or designee to defray the costs of food worker training and education, administration of the program, and testing of applicants. Photographic identification may be required at the time of application.

(3) The local health officer or designee shall furnish to the applicant a copy of the latest edition of the *"Food and Beverage Service Workers' Manual"* or similar publication, as prepared or approved by the department.

(4) Effective January 1, 2000, prior to conducting the examination of the applicant(s), the health officer (or designee) shall provide at least thirty minutes of instruction, including both audio and visual presentations. Instruction content shall include topics related to safe food preparation, storage and service. At a minimum, topics shall include: Food borne illness overview; basic bacteriology as it relates to food borne illness; proper cooking, hot holding, cold holding and cooling of potentially hazardous foods; cross-contamination prevention; and proper hand washing techniques.

(5) The food worker card examination will be uniform state-wide and will be prepared by and/or approved by the department; except that jurisdictional health departments may include additional questions to address local health concerns. The examination will cover topics identified in subsection (4) of this section, as required instruction topics. An exam must be approved by the department prior to its use. To pass examination the applicant must answer at least eighty percent of the questions correctly.

(6) Upon payment of the required fee and the applicant's satisfactory completion of the examination, the applicant will receive the food worker card.

(7) A copy of the card or the applicable information shall be kept on file at the jurisdictional health department.

(8) Copies of food worker cards for all employed food service workers shall be kept on file by the employer or kept by the employee on his or her person and open for inspection at all times by authorized public health officials.

(9) All food worker cards shall be issued and signed by the local health officer. The local health officer may contract with persons to provide the required training or testing within its jurisdiction. The contracts shall include test security provisions so that test questions, scoring keys, and other examination data are exempt from public disclosure to the same extent as records maintained by state or local government agencies.

(10) The health officer or designee shall make test accommodations in accordance with the Americans with Disabilities Act for those requesting such accommodations.

NEW SECTION

**WAC 246-217-035 Validity and form of food worker cards.** (1) All initial cards are valid for two years from the date of issuance.

(2) Effective July 1, 1999, renewal cards are valid for three years from the date of issuance; except: An applicant may be granted a renewal card valid for five years from the date of issuance if the applicant documents that he/she has attended "additional food safety training" within the past two years.

(3) Any legally issued food worker card shall be valid throughout Washington state.

(4) Food service workers may apply for a renewal of a food worker card up to sixty days before the expiration date on their current valid card. Proof of a valid card must be shown at the time of renewal application.

(5) The card shall be approximately three inches by five inches in size and contain the following information:

(a) The identification of the card as a Washington state food worker card or "limited duty card," as applicable;

(b) The identity of the jurisdictional health department issuing the card;

(c) Printed (or typed written) name and signature of the food service worker;

(d) Card expiration date;

(e) Signature of the health officer; and

(f) Any other identifier or other information deemed necessary by the health officer.

NEW SECTION

**WAC 246-217-045 Limited duty food worker cards.** The local health officer may issue a limited duty card when necessary to reasonably accommodate a person with a disability.

(1) A person applying to obtain a limited duty card shall communicate to the local health officer which low public health risk activity(ies) (e.g., dishwashing, bussing tables, filling condiment containers, etc.) he or she will be performing.

(2) The health officer may require the applicant to attend the food safety training associated with the issuance of food worker cards. No written examination is required for the issuance of limited duty cards.

(3) The local health officer shall list the approved activity(ies) on the food worker card.

(4) The fee and length of validity of limited duty cards is the same as all other food worker cards.

(5) The employer should ensure that the individual is provided with information to safely perform the activity(ies) listed on the card.

**AMENDATORY SECTION** (Amending Order 124B, filed 12/27/90, effective 1/31/91)

**WAC 246-217-060 Revocation of ~~((permit)) food worker card~~.** The food ~~((and beverage service)) worker~~~~((s' permit)) card~~ may be revoked by the local health officer, or by the ~~((director)) secretary~~, upon evidence indicating repeated or continuing violations of accepted procedures and practices in the preparation, service, or storage of food ~~((or beverage))~~ offered for public consumption, or upon demonstration of the presence of a communicable disease in the infectious state, or an infectious condition of potential hazard to the public or to the persons' co-workers, or for falsification of information required for issuance of the ~~((permit)) card~~. Any food service worker who has had his/her card revoked shall be ineligible for issuance of another card by any local health officer in the state until the conditions for revocation are appropriately resolved.

**AMENDATORY SECTION** (Amending Order 124B, filed 12/27/90, effective 1/31/91)

**WAC 246-217-070 Right of appeal.** Any food ~~((or beverage))~~ service worker whose ~~((permit)) food worker card~~ has been revoked by a local health officer, or the ~~((director)) secretary~~, may appeal to the local board of health, or the ~~((state board of health)) department's office of professional standards consistent with chapter 246-10 WAC~~ in the event such revocation is by the ~~((director)) secretary~~, for review of the findings. ~~((Such))~~ The appeal must be in writing and must be filed with the appropriate board ~~((of health)) or office~~ within ten days of revocation of the ~~((worker's permit)) card~~. While ~~((such))~~ the appeal is pending, the revocation of the ~~((worker's permit)) card~~ shall be stayed until such time as the appropriate board ~~((of health)) or office~~ has reviewed the findings and entered its decision.

### **REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 246-217-001	Objective.
WAC 246-217-002	Legal authority of the state board of health.
WAC 246-217-011	Definitions.
WAC 246-217-020	Communicable disease.

WAC 246-217-030	Form of permits—Fees.
WAC 246-217-040	Requirements for permits.
WAC 246-217-050	Examination may be required.

### **WSR 99-08-098 PROPOSED RULES DEPARTMENT OF HEALTH**

[Filed April 6, 1999, 4:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-03-082.

Title of Rule: Temporary worker housing—Cherry harvest camps.

Purpose: Establish minimum licensing requirements for cherry harvest camps.

Statutory Authority for Adoption: RCW 70.54.110.

Statute Being Implemented: RCW 70.54.110.

Summary: This rule change amends chapter 246-358 WAC, Temporary worker housing, to include health and safety requirements for cherry harvest camps. These requirements address licensing, location of camps, lighting, electricity or alternative power, toilet and handwashing areas, personal storage, cold food storage, and food storage and preparation areas.

Reasons Supporting Proposal: On January 13, 1999, the State Board of Health (SBOH) delegated rule-making authority to the Department of Health (DOH) to promulgate rules for Temporary worker housing—Cherry harvest.

Name of Agency Personnel Responsible for Drafting and Implementation: Maria Gardipee, Olympia, Washington, (360) 705-6625; and Enforcement: Gary Bennett, Olympia, Washington, (360) 705-6652.

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: This rule establishes minimum licensing requirements for cherry harvest camps. The purpose is to establish minimum health and safety requirements for the operation of cherry harvest camps.

There is currently little alternative housing available for migrant workers in cherry growing communities outside of the cherry camps. Without camps available, workers often live "on the river bank," that is, in isolated rural areas without safe sources of drinking water or any sanitation facilities. The health risks both to workers and to the larger community associated with such conditions include the spread of infectious disease. Workers camping in isolated areas may also be the targets of violence, vandalism and theft.

A number of cherry growers have camps that could be equipped for licensure with respect to basic safety and health standards. Licensed camps would provide additional housing for migrant workers.

PROPOSED

Proposal Changes the Following Existing Rules: This rule change amends chapter 246-358 WAC, Temporary worker housing, to add nine new sections for cherry harvest camps. The new sections include: Licensing, location of camps, lighting, electricity or alternative power, toilet and handwashing areas, personal storage, cold food storage, and food storage and preparation areas.

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

#### Small Business Economic Impact Statement

**Background:** The state of Washington faces a severe shortage of housing for migrant farmworkers.<sup>1</sup> Approximately 16,000 migrant workers work at 290 cherry farms during the harvest. All these workers must find a place to stay while they are working away from their homes. In 1998, cherry growers provided 1,765 beds. The remaining migrant workers (and their dependents) often stay in deplorable and unsafe conditions. Migrant workers stay along riverbanks, irrigation canals, in back woods or crowd into hotel rooms and mobile homes designed to accommodate many fewer people. For shelter workers resort to cars, campers, or tents, and sometimes even cardboard boxes or tarps. Safe drinking water is rarely available and handwashing, toilet and bathing facilities are virtually nonexistent.

From a public health perspective, the Department of Health (DOH) finds that the prevalent dismal housing conditions of farm workers represents a potentially serious public health problem. Potable water and sanitation form the very foundation of public health. The absence of these protections represent a serious public health problem and greatly increases the risk of outbreaks of gastroenteritis, diarrhea, dysentery, cholera, and typhoid fever.

Due to these obvious public health concerns, the department faces unusual and especially difficult challenges when attempting to regulate grower operated temporary worker housing camps. Cherry growers have no legal obligation to provide housing for their workers. If the department sets stringent housing camp standards, public health protections for those with housing will increase. We assume that some growers will choose to stop providing housing because of the high cost of meeting stringent standards. Therefore, more workers will live in the deplorable conditions described above - conditions that place workers at significant health risk. Conversely, lax housing standards provide less protection for those with housing. But the lower cost should entice more growers to provide housing and reduce the number of workers living in off-farm deprivation.

The proposed regulations are the department's attempt to balance the twin goals of maximizing both the numbers of growers providing housing and the public health protections provided by that housing.

**Is an SBEIS necessary?** Under the Regulatory Fairness Act (chapter 19.85 RCW), a small business economic impact statement (SBEIS) is required whenever a regulation imposes "more than minor" costs on a regulated business. The "more than minor" threshold varies by industry. It is \$50 for the businesses falling under the "fruits and tree nuts" standard industrial code classification. The cost to implement the pro-

posed standards is far in excess of \$50 and, therefore, an SBEIS is required.

**Does the proposed rule affect both large and small businesses?** The Regulatory Fairness Act defines a business as any "...entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit..." The act defines a small business as one that employs less than fifty individuals.

The proposed code clearly affects both large and small businesses. While specific figures are not available for all cherry farmers, those participating in the department's provisional licensure programs of 1996, 1997 and 1998 provide a picture of the range of business size. Of the thirty-nine operators who participated in at least one year, seventeen provided housing camps for fewer than fifty workers. The remaining twenty-two operators all housed more than fifty workers. While the participating operators were similar in number, the number of workers staying in the larger camps was significantly greater than the number staying in the smaller camps; 2,306 to 445.<sup>2</sup>

**Does the proposed rule impose disproportionate cost on small businesses?** To determine whether the proposed rule imposes disproportionate costs on small businesses, the department projected estimated cost of complying with the proposed provisions for two camp sizes: A small farm camp of thirty individuals and a large farm camp of ninety workers.<sup>3</sup> These costs were then divided by the number of workers in each camp size to obtain a "cost per worker" comparison figure. The department's cost projections are based on generic camp configurations and assumptions about typical site conditions. As such, actual costs of individual operators may be higher or lower than the estimates presented here. Moreover, the estimates presented in Table 1 are for a new camp. Operators who are updating or remodeling existing camps will face lower costs. The objective of these estimates is to compare cost of large and small cherry farmworker camps.

The cost projections presented in Table 1 clearly demonstrate that operators of small migrant camps face significantly higher costs [than] those operating large work camps. The magnitude of the cost differential is on the order of 46%. That is, on a per worker basis, small operators will pay about 46% more to house their workers than a large operator.

**Table 1**  
**Comparison of Large and Small Farm Costs**  
**to Comply with the Proposed Housing Requirements**

Requirement	Per Harvest Worker Cost	
	Small Farms	Large Farms
• Satisfactory results of a bacteriological water quality test, or proof housing connected to a community water system; <sup>a</sup>	\$1.66	\$0.55
• Maintain housing site in a sanitary condition free from garbage and other refuse; <sup>b</sup>	\$10.90	\$9.50
• Provide adequate lighting (natural or artificial) to ensure: <sup>c</sup>	0	0
• safe passage from tent area to toilet sink area 24 hours per day	\$0.88	\$0.81
• adequately lit cooking and food handling areas, shower rooms (during hours of operation), and toilets 24 hours per day	\$7.60	\$4.15
• L&I inspection fees	\$2.07	\$0.87
• Provide adequate electricity or alternate power source; <sup>d</sup>	\$81.37	\$36.17
• Provide hot and cold running water; <sup>e</sup>	\$55.40	\$36.26
• Provide toilets, handwashing sinks and showerheads according to the following ratios: <sup>f</sup>	\$20.33	\$15.84
• HANDWASHING SINKS—One per each 6 to 10 camp occupants <sup>g</sup>	\$12.98	\$8.65
• SHOWER HEADS—One per each 10 to 15 camp occupants <sup>h</sup>	\$9.18	\$8.16
• TOILETS—One per each 10 to 15 camp occupants of each sex with a minimum of two toilets for any facility shared by men and women <sup>i</sup>	\$37.50	\$33.33
• Drain field needed to service the plumbing fixtures <sup>j</sup>	\$11.75	\$11.75
• Licensed operators must provide storage facilities for clothing and personal articles for each camp occupant; <sup>k</sup>	\$2.14	\$2.06
• Provide a covered food preparation and cooking areas to protect the food from the elements which includes: <sup>l</sup>	\$19.15	\$15.81
• Provide one cubic foot of mechanical refrigeration per person per day which is capable of maintaining a temperature of forty-five degrees Fahrenheit; <sup>m</sup>	\$4.33	\$3.61
• Food storage areas adequate to protect food from pests <sup>n</sup>	\$0.00	\$0.00
• Adequate tables and chairs or benches for the camp residents <sup>o</sup>	\$3.08	\$3.08
• Easily cleanable food preparation surface <sup>p</sup>	\$2.63	\$2.35
• An operable hot plate or campstove with a minimum of one cooking surface for every four adult occupants or one family group. The department may allow farmers to substitute up to one-half of the required number of hot plates or campstoves with metal or stone barbecues, with fuel provided <sup>q</sup>	\$3.25	\$3.25
• Land costs <sup>r</sup>	\$21.70	\$14.47
<b>Total Annual Per Worker Costs</b>	<b>\$307.90</b>	<b>\$210.67</b>

**Notes (see Appendix 1 for source of cost estimates):**

<sup>a</sup> Bacteriological tests cost \$20 to conduct. The cost calculation assumes an additional \$30 in operator time associated with securing and overseeing the drawing of the water sample. Assumes a total cost of \$50 per year.

<sup>b</sup> All costs attributed to garbage collection. Assumes worker camps use 20 yard draw box (smallest draw box tariffed by the UTC) which typically can service 100 camper for one week. Assumes a rental fee \$3/day, \$60 haul fee plus \$0.05 per mile, tipping fee \$50/ton, an 80 mile haul (round trip), and a three ton tip. Total cost of \$327 for small camp and \$855 for a large camp.

<sup>c</sup> Assumes operators string festoon type lights—12 gauge minimum (e.g., festival or heavy Christmas) to meet the safe passage requirements. Assuming 25 feet per tent plus an additional 25 feet, small operators will need 150 feet and large operators will need 450 feet. Festoon lights typically come in 40-ft strings and cost about \$25. Therefore, a small operator will need 4

strings costing \$100 while a large operator will need 11 strings costing \$275. Discounting over a 5-year period at a 10% discount rate results in annual costs of \$26 and \$73 for small and large camps, respectively.

To meet the adequate lighting requirements assumes 1 exterior and 2 interior lights in each food preparation area. Also assumes 1 outlet for every two stove burners. Assumes rough and finished interior wiring totals \$250 for each RV 100 amp electrical box, \$35 item (lights/switch/outlet), interior lights at \$40, exterior lights at \$15, switches at outlets at \$1. Overall costs for a small farm estimated at \$1,061 and a large farm at \$1,942. Discounting over a 20-year period at a 10% discount rate results in annual costs of \$124 and \$228 for small and large camps, respectively.

Assumes Department of Labor and Industries electrical inspection fees as follows. A one time \$70 fee for inspecting a permanent 100-amp site and an annual \$37 fee for inspecting a nonpermanent site. Assumes operators will install a permanent site at food preparation and shower enclosures along with one additional site to run festoon lighting. For a small operator this will

require 3 sites for a total one-time cost of \$210, or \$25 when discounted at a 10% rate over a 20-year period. Adding in the annual inspection results in a total annual cost of \$62. A large operator will require 5 sites for a total one-time cost of \$350, or \$41 when discounted at a 10% rate over a 20-year period. Adding in the annual inspection results in a total annual cost of \$78.

<sup>d</sup> Assumes a cost of \$15,000 for a small camp and \$20,000 for a large camp to bring power to an electrical panel. The difference in cost comes about due to the difference in cabling requirements between a large and small camp. Discounting these costs over a 10-year period at a 10% discount rate result in annual farmer costs of \$2,441 and \$3,255 for small and large camps, respectively.

<sup>e</sup> Potable Water. Assumes water drawn from existing well or water main. For small camp assumes 800 feet of pipe is needed to bring water to two locations: Toilet/shower/handwashing/clothes washing area and food preparation area. For large camp assumes 1,200 feet of pipe is needed to bring water to four locations: 2 food preparation areas and 2 toilet/shower/handwashing/clothes washing areas. Cost for laying pipe include: 2" pipe @ \$2/foot, labor costs @ \$0.25 per foot (=2 person hrs/50 ft @ \$12.5/hr) and equipment rents for \$0.40 per foot (=50 ft/hr @ \$20/hr).

Water heating assumed to be provided by commercial propane instant hot water heaters (e.g., Bosch WR400-1K @ \$671). For small farms assume 1 unit in kitchen area and 2 units in the toilet/shower enclosure for total cost of \$4,133. For large farms assume 1 unit in each kitchen area and 3 units in each [of] the toilet/shower enclosure for total cost of \$8,116. Discounting these costs over a 10-year period at a 10% discount rate result in annual farmer costs of \$1,662 and \$3,264 for small and large camps, respectively.

<sup>f</sup> To project the cost of a shower area enclosure this analysis assumes that each sink/shower will require 20 ft<sup>2</sup>. A small farm enclosure is assumed to have 2 sinks and 3 showers for a total floor area of 100 ft<sup>2</sup> (12 ft x 8.5 ft). Assuming: Concrete floors at \$1.17/ft<sup>2</sup> (~\$50/yard of concrete plus labor) for a cost of \$140; concrete block walls at \$10.25/ft<sup>2</sup> (materials and labor) for a cost of \$3,362; roofing costs at \$500 (including roof truss, sheathing, roofing and associated labor); 2 doors (3ft/6in jam) at \$330; miscellaneous items (towel racks, door knobs, paint, screened vents) \$500; miscellaneous labor \$500. The total cost of a small farm shower enclosure is estimated to be \$5,192 or \$610 per year when annualized over 20 years at a 10% interest rate.

A large farm is projected to have 2 enclosures each with 2 sinks and 4 showers for a floor area of 120 ft<sup>2</sup> (14 ft x 8.5 ft). Assuming: Concrete floors at \$1.17/ft<sup>2</sup> (~\$50/yard of concrete plus labor) for a cost of \$258; concrete block walls at \$10.25/ft<sup>2</sup> (materials and labor) for a cost of \$4,920; roofing costs at \$750 (including roof truss, sheathing, roofing and associated labor); 2 doors (3ft/6in jam) at \$330; miscellaneous items (towel racks, door knobs, paint, screened vents) \$500; miscellaneous labor \$800. The total cost of two large farm shower enclosures is estimated at \$12,140 or \$1,426 per year when annualized over 20 years at a 10% interest rate.

<sup>g</sup> Assumes that a small camp will have four handwashing sinks, two next to the shower area and two in the food preparation area. Assumes rough plumbing costs of \$500 per fixture for a cost of \$2,000. The installed cost of a wall hung lavatory assumed at \$95 (including lavatory/faucet/plumbing) and a kitchen sink at \$101 (including double bowl sink/faucet/plumbing) for a total cost of \$2,392. Assumes that a large camp will have 8 hand washing sinks, 4 in food preparation areas and 4 next to the showers. Total costs in large camps are estimated to be \$4,784. Discounting these costs over a 10-year period at a 10% discount rate result in annual farmer costs of \$389 and \$779 for small and large camps, respectively.

<sup>h</sup> Assumes that a small camp will have three shower heads. Assumes rough plumbing costs of \$500 per fixture for a cost of \$1,500. The installed cost of a handwashing sink assumed at \$64 (including faucets) for a total cost of \$1,692. Assumes that a large camp will have 8 shower heads. Total costs in large camps are estimated to be \$4,512. Discounting these costs over a 10-year period at a 10% discount rate result in annual farmer costs of \$275 and \$734 for small and large camps, respectively.

<sup>i</sup> Assumes the use of chemical toilets with integrated handwashing sinks (estimated cost \$125/week for 3 weeks) and that a small operator will need 3

toilets and a large operator will have 8 toilets. Total cost for a small operator is \$1,125 and a large operator is \$3,000.

<sup>j</sup> Assumes that a septic system without toilets cost about \$100 per person to install. Thus the cost for a small camp is \$3,000 and a large camp is \$9,000. Discounting these costs over a 20-year period at a 10% discount rate result in annual farmer costs of \$353 and \$1,057 for small and large camps, respectively.

<sup>k</sup> Assumes operators provide sealable plastic containers to meet the personal storage requirement. Assumes that one 22 gallon plastic container (each costing \$20) per 4 workers. A small operator would need 8 containers costing a total of \$160. Large operators would need 23 containers for a cost of \$460. Discounted over 3 years at a 10% interest rate leads to annual costs of \$64 for small farms and \$185 for large farms.

<sup>l</sup> This analysis assumes that a 160 ft<sup>2</sup> (8 ft x 20 ft) structure (with one side open air) can adequately house the items required in a small farm food preparation area (2 sinks, 2 refrigerators, 1 four-burner stove, 2 exterior BBQ's and adequate counter/food storage space). Assuming: Concrete floors at \$1.17/ft<sup>2</sup> (~\$50/yard of concrete plus labor) for a cost of \$188; concrete block walls at \$10.25/ft<sup>2</sup> (materials and labor) for a cost of \$2,952; roofing costs at \$750 (including roof truss, sheathing, roofing and associated labor); miscellaneous items (towel racks, paint, screen) \$500; miscellaneous labor \$500. The total cost of a small farm food preparation area structure is estimated to be \$4,890 or \$574 per year when annualized over 20 years at a 10% interest rate.

A large farm is assumed to have 2 food preparation areas each with 220 ft<sup>2</sup> (10 ft x 22 ft) to house (2 sinks, 3 refrigerators, 1 six-burner stove, 3 exterior BBQ's and adequate counter/food storage space). One side of these areas is open to the air. Assuming: Concrete floors at \$1.17/ft<sup>2</sup> (~\$50/yard of concrete plus labor) for a cost of \$258; concrete block walls at \$10.25/ft<sup>2</sup> (materials and labor) for a cost of \$3,444; roofing costs at \$1,055 (including roof truss, sheathing, roofing and associated labor); miscellaneous items (towel racks, paint, screen) \$500; miscellaneous labor \$800. The total cost of two food preparation area structures is estimated at \$12,114 or \$1,423 per year when annualized over 20 years at a 10% interest rate.

<sup>m</sup> New refrigerators cost of about \$400.00 (18 ft<sup>3</sup>) and about \$225.00 (5.6 ft<sup>3</sup>). Assumes a small work camp will require 2, 18 ft<sup>3</sup> refrigerators at a cost of about \$800, while a large work camp will require 5, 18 ft<sup>3</sup> refrigerators at a cost of about \$2,000. Discounting these costs over a 10-year period at a 10% discount rate result in annual farmer costs of \$130 and \$325 for small and large camps, respectively. Costs for enclosing refrigerators included in the costs of food preparation areas.

<sup>n</sup> Assumes operators seal used (and painted) apple crates with plastic to meet the requirements for dry food storage. The cost of these containers is assumed to be negligible.

<sup>o</sup> Assumes operators use picnic tables (\$70/table) at a rate of 1 table per 6 workers to meet the table and seating requirements. Small farms need 5 tables for a total cost of \$350, large farms need 15 tables for a total cost of \$1,050. Discounted over 5 years at a 10% interest rate leads to annual costs of \$92 for small farms and \$277 for large farms.

<sup>p</sup> The requirement for easily cleanable food preparation surface is assumed to come in three parts:

1. Formica over OSB in centralized food preparation areas. Small orchards are assumed to need 15 linear feet of 2-ft wide counter. This equates to a cost of \$114 (Formica/OSB/adhesive). Each food preparation area in large orchards is assumed to need 17 ft of counter for a cost of \$247. Discounted these costs over 5 years at a 10% interest rate leads to annual costs of \$30 for small and \$65 for large orchards;
2. Vinyl/plastic tablecloths tacked over picnic benches. At a cost of \$5 per tablecloth this equates to \$25 for small orchards and \$75 for large orchards. These tablecloths are assumed to be replaced every year.
3. One polyurethane cutting board provided to each tent site. At a cost of \$10 each, this equates \$60 for small orchards and \$180 for large orchards. Discounted over 3 years at a 10% interest rate leads to annual costs of \$24 for small and \$72 for large orchards;

<sup>4</sup> Cost of stove/BBQ. Assumes operators substitute half the required burners with BBQs and that each BBQ equals 2 burners. Therefore, small orchards will have 4 propane burners in the food preparation area and 2 BBQs near the tents and large orchards will have 6 burners in each food preparation area and 6 BBQs near the tents. Assumes that propane stoves cost about \$50 per burner and park style barbecues cost \$200 (\$125 for BBQ, \$25 for concrete, \$50 to dig hole and set in concrete). Therefore, small farm costs totals about \$600 and large farm costs total \$1,800. Discounted over 10 years at a 10% interest rate leads to annual costs of \$98 for small farms and \$293 for large farms.

<sup>r</sup> Assumes that small operators dedicate half an acre to camp site while large operators dedicate 1 acre. Given a cost of \$8,000 per acre, the cost to small operators is \$4,000, or \$651 when discounted over 10 years at a 10% interest rate. Similarly, the cost to large operators is \$8,000, or \$1,302 when discounted over 10 years at a 10% interest rate.

**Measures to Mitigate the Proposed Rule's Disproportionate Cost Impact on Small Businesses:** As a result of the finding that the proposed revisions to the temporary worker housing regulation would impose a disproportionate cost burden on small businesses, the Regulatory Fairness Act directs the department as follows:

"Based upon the extent of the disproportionate impact on small business... the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. Methods to reduce the costs on small businesses may include:

- (a) Reducing, modifying, or eliminating substantive regulatory requirements;
- (b) Simplifying, reducing, or eliminating recordkeeping and reporting requirements;
- (c) Reducing the frequency of inspections;
- (d) Delaying compliance timetables;
- (e) Reducing or modifying fine schedules for noncompliance; or
- (f) Any other mitigation techniques" (RCW 19.85.030(3)).

The department intends to provide mitigation to small business through the delayed compliance timetables. Specifically, the proposed WAC 246-358-620 allows work camp operators to request a transitional compliance schedule.

**Appendix 1  
Cost Estimates and Sources**

Item	SIZE/TYPE	COST	PER ???	SOURCE
Land	ballpark average (=\$/acre)	\$8,000	acre	Grant County assessors office
Grading	22 x 18, 1hr	\$75.00	hour (+ 1hr drop-off)	Gary's Bulldozing
Trenching	backhoe rental (50ft/hr@\$20/hr)	\$0.40	foot	
	labor (=2 person hrs/50ft@\$12.5/hr)	\$0.25	foot	
Concrete		\$50.00	yard	Holroyd Concrete
Lumber	7/16" OSB roof sheathing	\$9.34	sheet	Capital Lumber
	3/4" OSB	\$13.97	sheet	Home Depot
Roof Truss	25' span	\$100.00	truss	BMC
	18' span	\$50.00		
Roofing	GG-20 Glassguard	\$30.50	square	Wash Cedar
Light	Interior	\$40.00	unit	Home Base

Transitional compliance schedules may be used to delay imposition of a specific or group of requirements in WAC 246-358-640, 246-358-660, 246-358-670, and 246-358-680 for up to three years. In addition, the secretary may approve a five-year compliance delay for operators who face extraordinary circumstances and demonstrate a good faith effort to achieve compliance.

One criteria the department uses when considering whether to approve a transitional compliance schedule is the cost of meeting a particular regulatory requirement. Since small operators generally face higher costs than large operators (see Table 1), they will have a better chance of receiving a transitional compliance schedule and thus delaying imposition of expensive provisions of this regulation.

**Other Mandates of the Regulatory Fairness Act:** *The department's effort to involve businesses when developing the proposed rule?* DOH held two community meetings in advance of the rules being proposed. Prior to each meeting there was considerable media attention and DOH also sent out press releases. A copy of thoughts on what the rules would contain and how they differed from previous years' efforts was mailed to all licensed operators, as well as all stakeholders along with the meeting announcement. Over 300 persons received the mailing.

The first meeting held in Moses Lake on February 10, 1999. DOH then used a contracted, neutral facilitator to conduct the meeting. Information from that meeting was used to develop preliminary draft rules. This draft was mailed out to all interested parties asking for input by March 22, 1999.

The second community meeting was held on March 18, 1999, in Sunnyside using the preliminary draft proposed rules, which were available in English and Spanish.

*What are the reporting, recordkeeping, and other compliance requirements?* Operators of cherry harvest camps seeking licensure must provide the department with proof of satisfactory results from a bacteriological water quality test or proof that camp water source is connected to a community water system, a completed application, and licensure fee as established in WAC 246-358-990.

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	Exterior (festoon type)	\$25.00	40 ft	REM Electronics
	Support post (4x4) in concrete	\$85.00	unit	Staff assumption
Outlet	Fault interrupt protection	\$10.00	unit	Staff assumption
Outlet/Switch	normal	\$1.00	unit	Home Depot
Rough Electrical	Standard 110 wiring	\$25.00	devise	Staff assumption
L&I Inspection	Permanent wiring	\$69.70	site	L&I
	Nonpermanent wiring	\$37.25	site	L&I
Door	3-0 prehung exterior (6" wall, B-grade)	\$165.00	item	Door Store
	2-6 interior (B-grade)	\$48.00		
Screen	24"x10' 1/4" hardware cloth	\$12.45	item	Home Depot
Concrete Forming	flat work	\$0.55	square ft	S. Nelson Construction
	foundation framing	\$5.00	linear ft	
Toilets	weekly rental	\$125.00	item	Honey-Bucket
Walls	8" conc. block	\$10.50	wall sqr ft	Spilker Const.
Roofing	labor	\$25.00	per square	Pacific Contractors
Plumbing	rough plumbing	\$500.00	fixture	B-J Fisher
Sink	wall hung, wall-out equipment	\$95.00		
Toilet	wall out equipment	\$80.00	item	Rosen Supply
Toilet paper	MD brand	\$6.00	24 rolls	Target
Kitchen	sink stainless, double bowl	\$110.00	sink	Rosen Supply
Appliances	refrigerator, 18 ft <sup>3</sup>	\$400.00	unit	Sears
	refrigerator, 5.6 ft <sup>3</sup>	\$225.00	unit	Sears
	stove	\$50.00	burner	Sears
	BBQ	\$125.00	unit	Lacey Parks Dept.
Formica	3' wide roll	\$4.99	foot	Home Depot
	adhesive	\$13.97	gallon	Home Depot
Table Cloth	Vinyl, 52" x 70"	\$4.99	unit	Target
Cutting Board	Polyurethane, 14" x 17"	\$9.99	unit	Target
Shower	valve, head & drain only	\$65.00		Rosen Supply
Laundry Tray	floor mount w/washboard, wall-out equip- ment	\$130.00		Rosen Supply
Septic	50 person system (no toilet)	\$5,000	Total est.	Thurston County Per- mitting Dept.
Water Supply	To structure	\$3.00	foot	Lacey City shop
Water Test	Bacteriological	\$20.00	test	DOH staff
Water Heating	Bosch WR400-1K	\$671.00	unit	John Condon Co.
Garbage	20 yard draw box	\$3.00	day	Pacific Disposal
	Haul fee	\$60.00	haul	
		\$0.05	mile	

<sup>1</sup> Though the housing shortage for migrant farmworkers extends to all crops, the proposed regulation and this analysis thereof focus exclusively on housing of workers harvesting cherries.

<sup>2</sup> It is important to keep in mind that only a small number of cherry growers participated in the department's housing program. As a result, small businesses may comprise a significantly higher or lower proportion of all cherry growers than the 44% estimated here. This calculation is solely to demonstrate that [the] proposed rule affect[s] both large and small businesses as defined by the Regulatory Fairness Act.

<sup>3</sup> The camp sizes used to estimate grower costs represented are based upon cherry farm work camps participating in the department's provisional tent program from 1996-1998. The median camp size among those with fewer

than fifty campers is thirty. The median camp size among those with more than fifty campers was ninety.

A copy of the statement may be obtained by writing to Jennell Prentice, Rules Administrator, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 705-6654, fax (360) 705-6654.

RCW 34.05.328 applies to this rule adoption.

Hearing Location: DoubleTree Hotel, Yakima Valley, 1507 North First Street, Yakima, WA 98901, on May 11, 1999, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Theresa Phillips by April 26, 1999, TDD (800) 833-6388, or (360) 664-0064.

Submit Written Comments to: Jennell Prentice, P.O. Box 47852, Olympia, WA 98504-7852, e-mail JZP0303@wa.doh.gov, fax (360) 705-6654, by May 10, 1999.

Date of Intended Adoption: May 14, 1999.

April 6, 1999

Mary Selecky  
Secretary

## NEW SECTION

**WAC 246-358-600 Cherry harvest camps—Applicability.** (1) WAC 246-358-600 through 246-358-680 apply only to operators of cherry harvest camps during the cherry harvest season; and

(2) WAC 246-358-600 through 246-358-680 apply to:

(a) Cherry harvest camps that consist of five or more dwelling units, or any combination of dwelling units or spaces that house ten or more occupants; and

(b) Operators of cherry harvest camps who must comply with substantive state health and safety standards to qualify for MSPA.

(3) WAC 246-358-010, 246-358-030 through 246-358-175, and WAC 246-358-990 apply to cherry harvest camps, unless a specific exemption is provided in WAC 246-358-600 through 246-358-650.

(4) WAC 246-358-600 through 246-358-680 do not apply to housing regulated by chapter 59.18 RCW, Residential Landlord-Tenant Act, or chapter 59.20 RCW, Mobile Home Landlord-Tenant Act.

(5) The department will periodically review WAC 246-358-600 through 246-358-680.

## NEW SECTION

**WAC 246-358-610 Cherry harvest camps—Licensing.** A cherry tent camp license is limited to twenty-one days.

(1) An operator must apply for an operating license prior to the use of the camp by submitting to the department:

(a) A completed application on a form provided by the department;

(b) Proof of satisfactory results of a bacteriological water quality test as required by WAC 246-358-055(2), or proof housing is connected to a community water system; and

(c) A fee as specified in WAC 246-358-990.

(2) An operator may receive a license extension from the department for up to seven days when:

(a) The operator requests an extension for additional days at least three days before the license expiration date;

(b) The department in consultation with the local health jurisdiction will determine if an extension is necessary to protect the public health.

(3) An operator must:

(a) Post the operating license in a place readily accessible to workers;

(b) Notify the department in the event of a transfer of ownership;

(c) Cooperate with the department during on-site inspections;

(d) Follow the plan of correction established with the department when existing housing fails to meet the requirements in WAC 246-358-600 through 246-358-680; and

(e) Meet the transitional compliance schedule requirements in WAC 246-358-620 when applicable.

(4) An operator may appeal decisions of the department in accordance with chapter 34.05 RCW and chapter 246-08 or 246-10 WAC.

## NEW SECTION

**WAC 246-358-620 Cherry harvest camps—Transitional compliance schedule.** A transitional compliance schedule may be approved for cherry harvest camps failing to meet a specific requirement or requirements in WAC 246-358-640, 246-358-660, 246-358-670 and 246-358-680. A transitional compliance schedule:

(1) Is a written plan of compliance developed between the department and the operator that includes a timeline for making incremental improvements for meeting specific requirements in the sections identified above.

(2) Will not exceed three years. **EXCEPTION:** The secretary of the department may approve a transitional compliance schedule for up to five years for operators who face extraordinary circumstances and demonstrate a good faith effort to achieve compliance.

(3) Applies to licensed operators. If an operator does not continue to be licensed to operate a cherry harvest camp and at any time thereafter again seeks licensure, the operator will resume compliance with the transitional compliance schedule as it applied at the time last licensed.

(4) Will be approved when the operator:

(a) Identifies the specific WAC section or subsection for which the transitional compliance schedule is being requested;

(b) Provides justification for the request; and

(c) Provides a description of how the intent of the requirement(s) will be met during the transitional compliance phase.

(5) Will be approved when the department determines that the transitional compliance schedule will not:

(a) Negate the purpose and intent of these rules;

(b) Place the safety or health of the camp residents in jeopardy; and

(c) Reduce the effectiveness of any fire and life safety or infection control provision in other codes or regulations.

## NEW SECTION

**WAC 246-358-630 Cherry harvest camps—Location of camp area and camp management plan.** Licensed operators are exempted from the requirements of WAC 246-358-045, 246-358-075 and 246-358-135 when meeting the requirements of this section. A licensed operator:

(1) Must locate the camp area:

(a) To prevent a health or safety hazard;

(b) On well-drained sites to prevent standing water from becoming a nuisance;

PROPOSED

(c) Five hundred feet or more from a livestock operation unless the department determines that no health risk exists;

(d) More than two hundred feet from swamps, pools, sink holes, or other surface collections of water unless provisions are taken to prevent the breeding of mosquitoes; and

(e) On sites sufficient in size to prevent overcrowding of necessary structures.

(2) Must ensure that the housing site is maintained at all times in a sanitary condition free from garbage and other refuse.

(3) Must develop and implement a camp management plan and camp rules to assure that the camp is operated in a safe and secure manner and is kept within the approved capacity. Additionally, the licensed operator must:

(a) Inform camp residents of the camp rules, in a language the resident understands by providing individual copies of the rules to each camp resident or posting the rules in the camp area;

(b) Restrict the number of occupants in the camp to the camp capacity as determined by the department. The camp capacity will be determined by the number of tents and the number of persons per tent, area of the site and the ratio of occupants to the number of sinks, showers, and toilets.

(4) Must meet the following requirements for all tents within the camp, including tents provided by employees. The operator will:

(a) Provide a vapor barrier for all tents that are not on asphalt, concrete, or wooden platform; and

(b) Limit the number of occupants who can sleep in the tent to the number for which it was designed.

(5) May provide a tent for employee use when the following requirements are met:

(a) The tent has screened flaps over windows and doors with a means of fastening the flaps shut;

(b) The tent has a sewn-in floor.

(6) May allow an employee to provide his or her own trailer, recreational vehicle, camper or van if designed for sleeping. These vehicles are subject to the same occupancy requirements as a tent. Employees may use their own tents if the tents meet the following requirements:

(a) The tents are store-purchased; and

(b) The tents have a sewn-in floor.

#### NEW SECTION

**WAC 246-358-640 Cherry harvest camps—Adequate lighting, electricity and alternative power.** Licensed operators are exempted from the lighting requirements of WAC 246-358-075, 246-358-090, 246-358-095, 246-358-100 and 246-358-125 when meeting the requirements of this section. A licensed operator must:

(1) Provide adequate lighting:

(a) To allow for safe passage of the camp residents from the tent area to the toilets and sinks twenty-four hours per day;

(b) In cooking and food handling areas as needed for safe food preparation;

(c) In shower rooms during hours of operation; and

(d) In toilets with water flush toilets twenty-four hours per day. The lighting may be natural or artificial.

(2) Provide adequate electricity or alternate power source to:

(a) Provide adequate lighting as required by subsection (1) of this section; and

(b) Power one cubic foot of mechanical refrigeration per person per day.

(3) Ensure wiring and fixtures are installed in accordance with department of labor and industries regulations, RCW 19.28.070 and local ordinances, and maintained in a safe condition.

(4) Ensure heating, cooking, water heating, and other electrical equipment is installed in accordance with state and local ordinances, codes, and regulations governing such installation.

#### NEW SECTION

**WAC 246-358-650 Cherry harvest camps—Bathing, toilet and handwashing areas.** Licensed providers are exempt from the requirements of WAC 246-358-095 and 246-358-100 when meeting the requirements of this section. To meet the bathing, toileting and handwashing needs of camp residents, a licensed operator must:

(1) Provide hot and cold running water under pressure adequate to:

(a) Meet the needs of occupants as determined by the department; and

(b) Meet the requirements of WAC 246-358-380(1);

(2) Provide facilities that are kept clean and sanitary;

(3) Provide sloped, coved floors of nonslip impervious materials;

(4) Provide floor drains;

(5) Provide smooth, water impervious walls and partitions to the height of splash;

(6) Provide cleanable, nonabsorbent waste containers in or near shower rooms and toileting areas;

(7) Provide sinks and bathing facilities connected through properly trapped floor drains to an approved disposal system that complies with local ordinances;

(8) Provide water flush toilets unless privies or other methods are specifically approved by the department or local health officer according to requirements in chapter 246-272 WAC;

(9) Have a service contract for sewage pumping with a licensed waste disposal company at least weekly if vault privies or chemical toilets are approved for use. Vault privies or chemical toilets must be located at least fifty feet from any dwelling unit, space, or food handling facility;

(10) Provide an adequate supply of toilet paper in each toilet room, privy, and chemical toilet compartment;

(11) Provide clearly marked toilet rooms or chemical toilets for "men" and for "women" by signs printed in English and in the native language of the persons occupying the camp, or marked with easily-understood pictures or symbols when both men and women occupy the camp;

(12) Ensure that toilet facilities are kept clean and sanitary;

(13) Request occupants to maintain toilet facilities in a clean and sanitary condition;

(14) Provide adequate numbers of toilets, handwashing sinks and showerheads. The department will determine the number of handwashing sinks and shower heads according to the following ratios:

**HANDWASHING SINKS**—One per each six to ten camp occupants or fraction thereof.

**SHOWER HEADS**—One per each ten to fifteen camp occupants or fraction thereof.

**TOILETS**—One per each ten to fifteen camp occupants of each sex with a minimum of two toilets for any facility shared by men and women; and

(15) Receive approval from the department to use off-camp showers. The department will consult with the local health jurisdiction to determine if off-camp showers may be used. Off-camp showers must be within a reasonable distance of the camp, not to exceed five miles.

#### NEW SECTION

**WAC 246-358-660 Cherry harvest camps—Personal storage.** Licensed operators must provide storage facilities for clothing and personal articles for each camp occupant.

#### NEW SECTION

**WAC 246-358-670 Cherry harvest camps—Cold food storage areas.** Licensed operators are exempt from cold storage requirements of WAC 246-358-125 when meeting the requirements of this section.

Licensed operators must provide mechanical refrigeration which:

- (1) Allows for one cubic foot of storage per person; and
- (2) Is capable of maintaining a temperature of forty-five degrees Fahrenheit.

#### NEW SECTION

**WAC 246-358-680 Cherry harvest camps—Food storage and preparation areas.** Licensed operators are exempt from food storage and preparation requirements of WAC 246-358-125 when meeting the requirements of this section.

- (1) The licensed operator must provide:
  - (a) Covered food preparation and cooking areas to protect the food from the elements, including dust;
  - (b) Food storage areas adequate to protect food from attracting rodents and insects;
  - (c) Easily cleanable food preparation areas;
  - (d) Handwashing facilities with warm water within one hundred feet of food preparation areas;
  - (e) Dishwashing facilities with hot water within one hundred feet of food preparation areas;
  - (f) Adequate tables and chairs or benches for the camp residents; and
  - (g) An operable hot plate or camp stove with a minimum of one cooking surface for every four adult occupants or one family group. The department may determine that a metal or stone barbecue, with fuel provided, may be substituted for one-half of the required number of hot plates or camp stoves.

(2) At their own option, occupants may provide their own means of cooking in lieu of having a hot plate or camp stove provided by the licensed operator when:

- (a) The means of cooking meets applicable safety standards; and
- (b) The licensed operator documents that a camp occupant chose not to use the hot plate or camp stove provided by the licensed operator.

#### **WSR 99-08-099**

#### **PROPOSED RULES**

#### **DEPARTMENT OF HEALTH**

(Nursing Care Quality Assurance Commission)

[Filed April 6, 1999, 4:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-19-091.

Title of Rule: WAC 246-840-050 Licensing examination, 246-840-070 Failures—Repeat examination, and 246-840-090 Licensure by interstate endorsement.

Purpose: Amend WAC 246-840-050 to make it clearer that reexams are four attempts within two years of graduation; WAC 246-840-070 is being amended to clarify that repeat examinations shall be done within two years from completion of the nursing program; and WAC 246-840-090 is being amended to clarify for endorsement candidates that they have four attempts within two years of graduation from a nursing program.

Other Identifying Information: These amendments were identified during open public rules review meetings. These amendments should reduce confusion about the length of time a candidate has from the time they complete their nursing program to take the national examination.

Statutory Authority for Adoption: RCW 18.79.110 and 18.79.160(5).

Statute Being Implemented: RCW 18.79.110 and 18.79.160(5).

Summary: The proposed amendments include adding a clause to make it clear that the examination should be taken within four attempts or two years after completion of the nursing program. This is necessary to make it clear to applicants since the examination is no longer given only three times a year, but is instead given throughout the year by use of computerized testing on the date of their choice.

Reasons Supporting Proposal: During a public rules review process it was identified that these rules are not as clear as they could be since the timing of examinations have changed when the Nursing Commission adopted the national computerized testing with testing done throughout the year instead of only three times per year. These proposed changes should make the rules more understandable to the public and to nurses.

Name of Agency Personnel Responsible for Drafting: Joan Reilly, Ph.D., P.O. Box 47864, Olympia, WA 98504, (360) 236-4709; Implementation and Enforcement: Terry J. West, P.O. Box 47864, Olympia, WA 98504, (360) 236-4712.

PROPOSED

Name of Proponent: Nursing Care Quality Assurance Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: These amendments will enhance the language of the current rules.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of these rules is to outline the requirements for testing for all candidates. This includes information such as which national examination is used, how the examination is conducted, procedures for appeal and repeat examinations. The anticipated effect is that these rules will be easier to understand since the change in the examination testing dates has made the rules unclear as they are currently written.

Proposal Changes the Following Existing Rules: The proposed amendments include adding a clause to make it clear that the examination should be taken within four attempts or two years after completion of the nursing program. This is necessary to make it clear to applicants since the examination is no longer given only three times a year, but is instead given throughout the year by use of computerized testing on the date of their choice.

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

Small Business Economic Impact Statement  
and  
Economic Impact Analysis

**Background:** During a public rules review meeting held in December 1997 these rules were identified as needing amendment. The public, staff and Nursing Commission members felt that the rules need to be clarified because of changes in the examination process since the rules were originally written. Approximately four years ago the Nursing Care Quality Assurance Commission adopted computerized adaptive testing which allows a candidate to test every ninety days on an as needed basis. Prior to the computerized testing the rules specified that a candidate could test up to four times in a two-year period following the first examination taken. The rule was worded this way rather than graduation from a nursing program because of the timing of the paper and pencil examinations. For example, if a student graduated in September but the next paper and pencil examination was not scheduled until February (they were given twice a year in February and July) then they should have a full two years from completion of the nursing program to take up to four examinations. With the current computerized testing a candidate can take an examination within a month of completion of the nursing program and every ninety days thereafter. The Nursing Commission feels that a person should test within the two years following completion of their nursing program because otherwise their clinical skills deteriorate and they are no longer safe to practice.

**Necessity of Amendments to Nursing Rules:** These amendments will make it clear to the public and applicants that a person can test up to four times in the two-year period

following graduation from their nursing program. Candidates are currently being informed that they should test within two years of graduation. This is not a change as the National Council only allows candidates to test every ninety days, but this will put candidates on notice in advance of the examination as to the number of times they can take the examination. In addition, the amendment will clarify that candidates should attempt to pass the examination within two years following completion of their nursing program while their clinical skills are good. These amendments will include the licensing examination rule, the rule addressing repeat examinations and the rule addressing applicants endorsing in from another state.

**Costs to a Business:** There are no new additional costs to a business to comply with these proposed amendments. These rules already required an applicant to take an examination, these amendments are not changing any of these requirements, only clarifying the number of times an applicant may take the examination. These amendments do not require any additional areas of completion nor do they require any additional expense. Candidates can only test every ninety days currently, so there is no change in procedure.

**DOH Costs to Administer the Regulation:** There are no new additional costs to the Department of Health to regulate these amendments. These rules currently require applicants to take and pass the national examination. These proposed amendments add no additional requirements, no additional forms, no additional review time and no additional analyses.

**Magnitude of Amendments to Rule:** All of these proposed amendments would not require any additional requirements, would not require additional documentation and would not require any additional course work. These amendments will make it clear to the public and applicants the number of times a candidate may take the national examination in the two-year period following completion of the nursing program.

**Small Business Economic Impact Statement:** In preparing this small business economic impact statement (SBEIS), the department used SIC Code 809 Miscellaneous Health & Allied Services, Not Elsewhere Classified which has a minor impact threshold of \$53.00. The estimated cost to health care practitioners for amending these rules is zero.

Therefore, there is no disproportionate cost for small businesses.

A copy of the statement may be obtained by writing to Terry J. West, Department of Health, P.O. Box 47864, Olympia, WA 98504, phone (360) 236-4712, fax (360) 236-4738.

RCW 34.05.328 does not apply to this rule adoption. These rules are not significant because they do not require anything new of a licensee. While these rules do contain requirements for licensees, none of the proposed changes alter the requirements. Instead, the proposed changes clarify the time period in which examinations and reexaminations can be completed.

Hearing Location: Lacey Community Center, 6729 Pacific Avenue S.E., Lacey, WA 98503, on May 21, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Terry J. West at (360) 236-4712, by May 14, 1999, TDD (360) 664-0064, or (360) 236-4712.

Submit Written Comments to: Terry J. West, P.O. Box 47864, Olympia, WA 98504, fax (360) 236-4738, by May 17, 1999.

Date of Intended Adoption: May 21, 1999.

March 23, 1999

Paula Q. Meyer, RN, MSN

Executive Director

**AMENDATORY SECTION** (Amending WSR 97-13-100, filed 6/18/97, effective 7/19/97)

**WAC 246-840-050 Licensing examination.** (1) The current series of the National Council of the State Boards of Nursing Registered Nurse or Practical Nurse Licensing Examination (NCLEX-RN or NCLEX-PN) Computerized Adaptive Test (NCLEX CAT) shall be the official examinations for nurse licensure. In order to be licensed in this state, all nurse applicants shall take and pass the National Council Licensure Examination (NCLEX-RN or NCLEX-PN) within four attempts and within two years of completion of the nursing program.

(2) The NCLEX will consist of a Computerized Adaptive Test that will be individualized with the score for the examination reported as either pass or fail. Specific parameters of the exam will be as prescribed by contract with National Council of State Boards of Nursing, Inc. (NCSBN).

(3) Examinations shall be conducted throughout the year.

(4) The executive director of the commission shall negotiate with NCSBN for the use of the NCLEX CAT.

(5) The examination shall be administered in accord with the NCSBN security measures and contract. All appeals of examination results shall be managed in accord with policies in the NCSBN contract.

**AMENDATORY SECTION** (Amending WSR 97-13-100, filed 6/18/97, effective 7/19/97)

**WAC 246-840-070 Failures—Repeat examination.**

(1) The retest may be scheduled no sooner than ninety days following the date of the last exam taken.

(2) Request to retake the exam must be submitted to the commission no less than forty-five days prior to the anticipated test date.

(3) Candidates who fail the examination will be permitted to retake the examination three times within the two-year period from the month of (~~first examination taken~~) completion of the nursing program.

(4) Candidates who fail to pass the examination within the time period specified in subsection (3) of this section shall be required to complete a program of study approved by the commission. Upon successful completion of the approved program, the candidate shall be required to take the examination.

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-840-090 Licensure by interstate endorsement.** A license to practice as a nurse in Washington may be issued without examination provided the applicant meets all of the following requirements:

**FOR PRACTICAL NURSE PROGRAMS:**

(1) The applicant has graduated and holds a credential from:

(a) A commission or state board approved program preparing candidates for licensure as a practical nurse; or

(b) Its equivalent as determined by the commission, which program must fulfill the minimum requirement for commission or state board approved practical nursing programs in Washington at the time of graduation.

(2) Applicants shall have passed a state board constructed test, the SBTPE (state board test pool examination), or NCLEX in their original state of licensure within four attempts and within two years of completion of the nursing program.

(3) The applicant held or currently holds a license to practice as a practical nurse in another state or territory. If the license is lapsed or inactive for three years or more, the applicant must successfully complete a commission approved refresher course before an active Washington license is issued.

(4) That grounds do not exist for denial under chapter 18.130 RCW.

(5) The applicant shall:

(a) Submit a completed application with the required fee.

(b) Applicants must complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

**FOR REGISTERED NURSE PROGRAMS:**

(6) The applicant has graduated and holds a degree/diploma from a commission or state board approved school of nursing preparing candidates for licensure as a registered nurse provided such nursing program is equivalent to the minimum nursing educational standards prevailing for commission or state board approved schools of nursing in Washington at the time of the applicant's graduation.

(a) Applicants who were licensed prior to January 1, 1953, must have scored at least seventy-five percent on the commission or state board examination in the state of original licensure.

(i) Applicants licensed after January 1, 1953, but before June 1, 1982, must have passed the state board test pool examination for registered nurse licensure with a minimum standard score of 350 in each test.

(ii) Applicants licensed after July 1, 1982, must have passed with a minimum standard score as established by contract with the National Council of State Boards of Nursing.

(b) The applicant holds a valid current license to practice as a registered nurse in another state or territory.

(c) Applicants must complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

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(d) The application must be completed and notarized, the fee must be filed with the application. A notarized copy of a valid current license shall be filed with the application.

(e) Verification of licensure by examination must be obtained from the state or territory of original licensure. Any fee for verification required by the state or territory of original license must be paid by the applicant.

(7) Applicants from countries outside the United States who were granted a license in another United States jurisdiction or territory prior to December 31, 1971, and who were not required to pass the state board test pool examination must meet the following requirements:

(a) The nursing education program must meet the minimum approved standards prevailing for schools of nursing in Washington at the time of the applicant's graduation.

(b) The applicant holds a valid current license to practice as a registered nurse in another United States jurisdiction or territory.

(c) The applicant must submit to the commission:

(i) A complete notarized application. The fee must be filed with the application.

(ii) Verification of original licensure obtained in the United States jurisdiction or territory.

(iii) Notarized copies of educational preparation and licensure by examination submitted directly from the country of original licensure or from the state commission or territory of original United States licensure.

(iv) Verification of current nursing practice for three years prior to application for Washington licensure.

(v) Applicants must complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

(d) The applicant shall meet all requirements of chapter 18.79 RCW and regulations of the commission.

### WSR 99-08-100

#### PROPOSED RULES

#### DEPARTMENT OF HEALTH

(Podiatric Medical Board)

[Filed April 6, 1999, 4:47 p.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 98-08-115.

Title of Rule: WAC 246-922-010 Definitions, 246-922-100 Acts that may be delegated to an unlicensed person, and 246-922-090 Delegation of acts to unlicensed persons.

Purpose: Clarification of the definitions of orthotic devices and procedures that can be performed by unlicensed persons under the supervision of a podiatric physician.

Statutory Authority for Adoption: RCW 18.22.015, 18.130.050.

Statute Being Implemented: Chapter 18.22 RCW.

Summary: The definition rule is being modified to include descriptions of the various kinds of orthotic devices. The other two rules pertaining to procedures being performed by unlicensed personnel are being combined for clarification. The areas being clarified include debridement of tissues instead of lesions and removing physical therapy but permit-

ting mechanical, manipulative and electrical treatments to be delegated to unlicensed personnel.

Reasons Supporting Proposal: Some products have been misrepresented by podiatric physicians which has resulted in excessive charging to consumers. It was noted that unlicensed personnel should not be debriding lesions, a medical procedure; and physical therapists had concerns about the reference of unlicensed personnel being able to provide physical therapy.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Arlene Robertson, Program Manager, 1300 Quince Street, Olympia, WA, (360) 236-4945.

Name of Proponent: Podiatric Medical Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rules identify exactly what types of services are being provided to consumers. These changes will give the board a mechanism to take action against practitioners who misrepresent their products.

The delegation of acts to unlicensed personnel is clarified so that it is clear they may not perform procedures that require a license.

Proposal Changes the Following Existing Rules: A new definition section is added pertaining to orthotic devices. The two rules pertaining to unlicensed personnel are being combined and also provide clarification of specific procedures to be performed by those individuals.

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

#### Small Business Economic Impact Statement

Individual providers qualify as small businesses since less than fifty people are employed. Since most providers qualify as small businesses, there is no disproportionate impact to small businesses. When there is no disproportionate impact, mitigation is not necessary.

An estimated 220 credentialed providers will have to comply with the requirements of these rules.

Public involvement was solicited through *mailings to interested parties and board meetings*.

Opportunity for written comments was provided during different stages of the development of the rules. Comments were received from FootMaxx Corporation; Ted Carlson, DPM, Executive Director, Washington State Podiatric Medical Association; Bernard Hewey, WOPA; Chris Smith, DPM, NW Podiatric Lab; and Alan Woodlee, DPM.

**Alternate:** Continue with the definitions in policy. The board considered the options of leaving the definitions in policy but determined that policies are not enforceable. Since several complaints are received each pertaining to the types of orthotics prescribed and/or dispensed, it was determined the public would be better served by having an enforcement mechanism.

## Economic Impact Analysis

I. Background: These rules provide definitions for various types of orthotic devices and clarify terms for procedures that can be delegated to unlicensed persons.

II. Financial Impact on Regulated Parties: No additional record-keeping and reporting requirements.

No additional training and education requirements.

No additional new equipment requirements.

Inspections—Audits: These rules may increase the number of complaints against podiatric physicians. The cost to the practitioner is unknown. The cost would be determined by the type of action taken and the extent to which the practitioner's practice might be limited. Fewer patients might go to a practitioner whose license has been disciplined.

No additional new licenses/fees requirements.

No additional administration expenses and professional services requirements.

No additional reduced production requirements.

Summary: It is anticipated that the rules would not impact a practitioner's way of practicing. The rules provide clarification for both providers and consumers.

### III. Cost to DOH:

Administration Costs: The rules may increase the number of complaints that are received by the board. Administrative costs would vary from a minimal review, investigation of a complaint, informal disposition or disciplinary action. An estimated average cost for an informal disposition is \$1,000; disciplinary action averages from \$5,000-\$10,000. Some costs may be recovered through reimbursements and fines.

A copy of the statement may be obtained by writing to Arlene Robertson, Program Manager, P.O. Box 47870, Olympia, WA 98504-7870, phone (360) 236-4945, fax (360) 586-0745.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. The rules will adopt new or make significant amendments to a policy or regulatory program. The agency has conducted the additional analysis required under RCW 34.05.328.

Hearing Location: SeaTac Hilton, 17620 Pacific Highway South, Seattle, WA 98188-4001, on May 14, 1999, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact (360) 236-4945 by May 3, 1999, TDD 1-800-236-4945.

Submit Written Comments to: Arlene Robertson, Podiatric Medical Board, P.O. Box 47870, Olympia, WA 98504-7870, fax (360) 586-0745, by May 10, 1999.

Date of Intended Adoption: May 14, 1999.

March 18, 1999

Robert J. Nicoloff  
Executive Director

**AMENDATORY SECTION** (Amending Order 158B, filed 4/25/91, effective 5/26/91)

**WAC 246-922-010 Definitions.** (1) Chiropractic, podiatry, and podiatric medicine and surgery shall be synonymous.

(2) "Board" shall mean the Washington state podiatric medical board.

(3) "Secretary" shall mean the secretary of the department of health.

(4) "Supervision" shall mean that a licensed podiatric physician and surgeon whose patient is being treated has personally diagnosed the condition to be treated and has personally authorized and directed the procedures to be performed. A podiatric physician and surgeon shall be physically present in the treatment facility while the procedures are performed.

(5) "Treatment facility" means a podiatric medical office or connecting suite of offices, podiatric medical clinic, room or area with equipment to provide podiatric medical treatment, or the immediately adjacent rooms or areas. A treatment facility does not extend to any other area of a building in which the treatment facility is located.

(6) "Unlicensed person" means a person who is not a podiatric physician and surgeon duly licensed pursuant to the provisions of chapter 18.22 RCW.

**(7) Orthotic devices defined:**

(a) Prefabricated or off-the-shelf orthotics, are devices that are manufactured as commercially available stock items for no specific patient. It is appropriate to dispense prefabricated orthotic devices for some conditions.

(b) Direct-formed orthotics are devices formed or shaped during the molding process directly on the patient's foot.

(c) Custom-fabricated orthotics, also known as custom-made orthotics, are devices designed and fabricated, in turn, from raw materials for a specific patient, and require the generation of an image, form, or mold that replicates the patient's foot, and, in turn, involves the rectification of dimensions, contours, and volumes to achieve proper fit, comfort, and function for that specific patient.

Prefabricated orthotic devices that have been adjusted or modified may not be dispensed and sold to consumers as custom fabricated or custom-made orthotics. All orthotic devices must be correctly represented and charged to the patient.

**AMENDATORY SECTION** (Amending WSR 94-05-051, filed 2/10/94, effective 3/13/94)

**WAC 246-922-100 Acts that may be delegated to an unlicensed person.** A podiatric physician and surgeon may authorize the delegation of certain duties to nonpodiatric personnel and prohibit the delegation of certain other duties. The licensed podiatric physician and surgeon is ultimately responsible for all treatments performed at his or her direction. Duties that may be delegated to a person not licensed to practice podiatric medicine and surgery may be performed only under the supervision of a licensed podiatric physician and surgeon. The degree of supervision required to assure that treatment is appropriate and does not jeopardize the systemic or pedal health of the patient varies with, among other considerations, the nature of the procedure and the qualifications of the person to whom the duty is delegated. A podiatric physician and surgeon may allow an unlicensed person to perform the following acts under the podiatric physician and surgeon's supervision limited to the following:

(1) Patient education in foot hygiene.

(2) Deliver a sedative drug in an oral dosage form to patient.

(3) Give preoperative and postoperative instructions.

(4) Assist in administration of nitrous oxide analgesia or sedation, but the unlicensed person shall not start the administration of the gases and shall not adjust the flow of the gases unless instructed to do so by the podiatric physician and surgeon. Patients must never be left unattended while nitrous oxide analgesia or sedation is administered to them. This regulation shall not be construed to prevent any person from taking appropriate action in the event of a medical emergency.

(5) Take health histories.

(6) Determine rate and quality of patient's radial pulses.

(7) Measure the patient's blood pressure.

(8) Perform a plethysmographic or doppler study.

(9) Observe the nature of the patient's shoes and hose.

(10) Observe and report wearing patterns on the patient's shoes.

(11) Assist in obtaining material for a culture-sensitivity test.

(12) Take scrapings from the skin or nails of the feet, prepare them for microscopic and culture examination.

(13) Perform weightbearing and nonweightbearing x-rays.

(14) Photograph patient's foot disorder.

(15) Debride hyperkeratotic (~~(lesions)~~) tissues of the foot.

(16) Remove and apply dressing and/or padding.

(17) Make necessary adjustments to the biomechanical device.

(18) Produce impression casting of the foot.

(19) Produce the following:

(a) Removable impression insoles and modifications.

(b) Protective devices for alleviating or dispersing pressure on certain deformities or skin lesions such as ulcers, corns, calluses, digital amputation stumps (e.g., latex shields).

(20) Apply strap and/or pad to the foot and/or leg.

(21) Prepare the foot for anesthesia as needed.

(22) Know the indications for and application of cardiopulmonary resuscitation (CPR).

(23) Prepare and maintain a surgically sterile field.

(24) Apply flexible cast (e.g., Unna Boot).

(25) Apply cast material for immobilization of the foot and leg.

(26) Remove sutures.

(27) Debride nails.

(28) Administer (~~(physical therapy)~~) mechanical, manipulative and electrical treatment as directed by the podiatric physician and surgeon.

(29) Counsel and instruct patients in the basics of:

(a) Their examination, treatment regimen and prophylaxis for a problem.

(b) Patient and family foot health promotion practices.

(c) Patient and family care of specific diseases affecting the foot (e.g., diabetes, cerebrovascular accident, arthritis).

(d) Performing certain exercises and their importance.

(30) Give patient or family supplementary health education materials.

## REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-922-090

Delegation of acts to unlicensed persons.

## WSR 99-08-106

### PROPOSED RULES

### HEALTH CARE AUTHORITY

(Basic Health Plan)

[Order 99-01—Filed April 7, 1999, 9:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-05-077.

Title of Rule: WAC 182-25-090 Disenrollment from BHP and new section WAC 182-25-085 Enrollees' failure to report correct income.

Purpose: Recoupment of subsidy overpayments and penalties for enrollees who do not report income or income changes correctly. Revise WAC 182-25-090 to clarify disenrollment processes.

Statutory Authority for Adoption: RCW 70.47.050, 70.47.060, 70.47.090.

Statute Being Implemented: RCW 70.47.060(9).

Summary: Creates new section WAC 182-25-085 for recoupment of subsidy overpayments or assessing penalties for failure to report income or income changes correctly. Revises WAC 182-25-090 to incorporate changes related to sanctions and for clarity and to remove duplication or unnecessary language, as required by Executive Order 97-02.

Reasons Supporting Proposal: SHB 3109, passed by the 1998 legislature, revises RCW 70.47.090(9), giving the Health Care Authority (HCA) the authority to recover the amount of subsidy overpaid when enrollees have underreported income, or to assess penalties of up to 200% of the amount of the subsidy overpayment, and requiring the adoption of rules for these sanctions.

Name of Agency Personnel Responsible for Drafting: Rosanne Reynolds, Lacey, Washington, (360) 923-2948; Implementation and Enforcement: Ida Zodrow, Lacey, Washington, (360) 923-2996.

Name of Proponent: Health Care Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Adopts rules for the recovery of subsidy overpaid to enrollees who have not reported income or income changes correctly. Also clarifies basic health disenrollment processes.

Proposal Changes the Following Existing Rules: WAC 182-25-090 is revised for clarity and to incorporate changes needed for recovery of subsidy overpayments or assessment of penalties for incorrectly reporting income.

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

RCW 34.05.328 does not apply to this rule adoption. RCW 35.05.328 does not apply to Health Care Authority rules unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

Hearing Location: Health Care Authority, 676 Woodland Square Loop S.E., Building B, 3rd Floor Conference Room, Lacey, WA 98504, on May 13, 1999, at 11:00 a.m.

Assistance for Persons with Disabilities: Nikki Johnson by April 29, 1999, TDD (888) 923-5622, or (360) 923-2805.

Submit Written Comments to: Rosanne Reynolds, Basic Health Plan, P.O. Box 42683, Olympia, WA 98504-2683, fax (360) 412-4276, by May 14, 1999.

Date of Intended Adoption: May 26, 1999.

April 6, 1999

Elin Meyer  
Rules Coordinator

## NEW SECTION

**WAC 182-25-085 Enrollees' failure to report correct income.** (1) If the HCA determines that the enrollee has received a subsidy overpayment due to failure to report income correctly, the HCA may:

(a) Bill the enrollee for the amount of subsidy overpaid by the state; or

(b) Impose civil penalties of up to two hundred percent of the subsidy overpayment.

(2) Any HCA determination under subsection (1) of this section is subject to the enrollee appeal provisions in WAC 182-25-105.

(3) When a decision under subsection (1)(a) of this section is final, the HCA may establish a payment schedule and collect the amount owed through future premium statements. The payment schedule will be for a period of no more than six months, unless the HCA approves an alternative payment schedule requested by the enrollee. When a payment schedule is established, the HCA will send the enrollee advance written notice of the schedule and the total amount due. The total amount due each month will include the regular monthly premium plus charges for subsidy overpayment. If an enrollee does not pay the amount due, including charges for subsidy overpayment, the enrollee and all family members enrolled on the account will be disenrolled for nonpayment under WAC 182-25-090 (2)(b).

(4) When a decision under subsection (1)(b) of this section becomes final, the HCA will send the enrollee notice that payment of the civil penalty is due within thirty days after the decision becomes final, unless the HCA approves a different due date at the enrollee's request. If the enrollee does not pay the civil penalty by the due date, the enrollee and all family members on the account will be disenrolled for nonpayment under WAC 182-25-090 (2)(c).

(5) Individuals who are disenrolled from BHP may not reenroll until charges for subsidy overpayments or civil penalties imposed under subsection (1) of this section have been paid or the HCA has approved a payment schedule.

(6) The HCA will take all necessary and appropriate administrative and legal actions to collect the unpaid amount of any subsidy overpayment or civil penalty.

(7) Enrollees under employer group or financial sponsor group coverage who do not follow the income reporting procedures established by BHP and their employer or financial sponsor may be billed directly by the HCA for subsidy overpayments or civil penalties assessed under subsection (1) of this section. Enrollees who do not pay the amount due will be disenrolled under WAC 182-25-090 (2)(b) or (c). Enrollees who are disenrolled for nonpayment of a subsidy overpayment or civil penalties will be excluded from the minimum participation calculation for employer groups under WAC 182-25-050(2).

AMENDATORY SECTION (Amending WSR 98-07-002, filed 3/5/98, effective 4/5/98)

**WAC 182-25-090 Disenrollment from BHP.** (1) An enrollee or employer group may disenroll effective the first day of any month by giving BHP at least ten days prior written notice of the intention to disenroll. ~~((Reenrollment in BHP shall be subject to the provisions of WAC 182-25-040(9). The administrator shall also establish procedures for notice by an enrollee of a disenrollment decision, including the date upon which disenrollment shall become effective. Nonpayment of premium by an enrollee shall be considered an indication of the enrollee's intention to disenroll from BHP.))~~

(2) BHP may disenroll any enrollee or group from BHP for good cause, which ~~((shall))~~ includes:

(a) Failure to meet the eligibility requirements set forth in WAC 182-25-030, 182-25-050, 182-25-060, and 182-25-070;

(b) ~~Nonpayment of premium ((BHP Plus or S-Medical coverage will not be affected if other enrolled family members are disenrolled for nonpayment of premium)))~~ under the provisions of subsection (5) of this section;

(c) Nonpayment of civil penalties assessed under WAC 182-25-085;

(d) Repeated failure to pay co-payments in full on a timely basis;

~~((d))~~ (e) Fraud, failure to provide requested verification of eligibility, or knowingly providing false information;

~~((e))~~ (f) Abuse or intentional misconduct;

~~((f-Risk))~~ (g) Danger or threat to the safety or property of the MHCS or the health care authority or their staff, providers, patients or visitors; and

~~((g))~~ (h) Refusal to accept or follow procedures or treatment determined by a MHCS to be essential to the health of the enrollee, ((where the managed health care system demonstrates)) when the MHCS has advised the enrollee and demonstrated to the satisfaction of BHP that no professionally acceptable alternative form of treatment is available from the ((managed health care system, and the enrollee has been so advised by the managed health care system.

~~In the event that an employer group, a home care agency group or a financial sponsor group is disenrolled under these provisions, the employer or sponsor and all members of that group will be notified of the disenrollment and the enrollees~~

PROPOSED

will be offered coverage under individual accounts. BHP will make every effort to transfer the enrollees to individual accounts without a break in coverage; however, the enrollee will be responsible for ensuring that payment is received by BHP prior to the final disenrollment date for that month.

(3) Enrollees who are disenrolled from BHP in accordance with subsection (2)(c), (d), (e), (f) or (g) of this section may not reenroll for a period of twelve months from the effective date of disenrollment. Enrollees who fail to pay their premium by the due date on the delinquency notice will be suspended from coverage for one month. If payment is not received within the billing cycle for the next coverage month, the enrollee will be disenrolled from BHP for nonpayment, under subsection (2)(b) of this section. If an enrollee's coverage is suspended more than two times in a twelve-month period, the enrollee will be disenrolled for nonpayment under subsection (2)(b) of this section. In these cases, BHP will provide notice to the enrollee indicating intent to disenroll and the effective date of disenrollment, which will be at least ten days from the date of the notice, and informing the enrollee of his or her right to appeal. Enrollees who are disenrolled for nonpayment under subsection (2)(b) of this section may not reenroll for a minimum of twelve months from the effective date of the last suspension. An exception to the twelve-month wait for reenrollment will be made for enrollees who:

- (a) Voluntarily disenrolled or were disenrolled from nonsubsidized BHP for nonpayment of premiums;
- (b) Were on the reservation list for subsidized BHP on or before the date their nonsubsidized coverage began;
- (c) Have been offered coverage from the reservation list; and
- (d) Are at that time enrolling in subsidized BHP.

This exception will not be allowed if the member is applying to reenroll in nonsubsidized BHP.

(4) If a reservation list has been implemented, an enrollee who was disenrolled in accordance with WAC 182-25-090(2) and is eligible to enroll from the reservation list prior to the end of the required twelve-month wait for reenrollment, will not be reenrolled until the end of the twelve-month period. If an enrollee who was disenrolled in accordance with WAC 182-25-090(2) satisfies the required twelve-month wait for reenrollment while on the reservation list, enrollment will not be completed until funding is available to enroll him or her from the reservation list.

BHP shall provide the enrollee or the parent, legal guardian or sponsor of an enrolled dependent with advance written notice of its intent to suspend coverage. Such notice shall specify an effective date of suspension, which shall be at least ten days from the date of the notice. If an enrollee's coverage is suspended, BHP will also send final written notice of suspension to the subscriber, indicating an effective date of the suspension; establishing a final due date for payment to restore coverage; informing the enrollee of the intent to disenroll if payment is not received by the final due date; and of his or her right to appeal the suspension decision. If an enrollee is disenrolled, BHP will send final written notice of disenrollment to the subscriber, indicating the effective date of the disenrollment, describing the procedures for disenrollment, and informing the enrollee of his or her right to appeal

the disenrollment decision as set forth in WAC 182-25-100 and 182-25-105.

(5)) MHCS.

In addition to being disenrolled, any enrollee who knowingly provides false information to BHP or to a participating managed health care system may be ((disenrolled by BHP and may be)) held financially responsible for any covered services fraudulently obtained through BHP.

(3) At least ten days prior to the effective date of disenrollment under subsection (2) of this section, BHP will send enrollees written notice of disenrollment.

(a) The notice of disenrollment will:

(i) State the reason for the disenrollment;

(ii) State the effective date of the disenrollment;

(iii) Describe the procedures for disenrollment; and

(iv) Inform the enrollee of his or her right to appeal the disenrollment decision as set forth in WAC 182-25-100 and 182-25-105.

(b) The notice of disenrollment will be sent to both the employer or sponsor and to all members of an employer group, home care agency group or financial sponsor group that is disenrolled under these provisions. Enrollees affected by the disenrollment of a group account will be offered coverage under individual accounts. Coverage under individual accounts will not begin unless the premium for individual coverage is paid by the due date for the coverage month. A one-month break in coverage may occur for enrollees who choose to transfer to individual accounts.

(4) Enrollees covered under BHP Plus or receiving maternity benefits through medical assistance will not be disenrolled from those programs when other family members lose BHP coverage, as long as they are still eligible for those programs.

(5) Under the provisions of this subsection, BHP will suspend or disenroll enrollees and groups who do not pay their premiums when due, including amounts owed for subsidy overpayment. Partial payment or payment by check which cannot be processed or is returned due to nonsufficient funds will be regarded as nonpayment.

(a) At least ten days before coverage will lapse, BHP will send a delinquency notice to each subscriber whose premium payment has not been received by the due date. The delinquency notice will include a delinquency due date and a notice that BHP coverage will lapse unless payment is received by the delinquency due date.

(b) Except as provided in (c) of this subsection, coverage will be suspended for one month if an enrollee's premium payment is not received by the delinquency due date. BHP will send written notice of suspension to the subscriber, stating:

(i) The effective date of the suspension;

(ii) The due date by which payment must be received to restore coverage after the one-month suspension;

(iii) The subscriber and any enrolled dependents will be disenrolled if payment is not received by the final due date; and

(iv) The enrollee's right to appeal under WAC 182-25-105.

(c) Enrollees whose premium payment has not been received by the delinquency due date, and who have been

suspended twice within the previous twelve months will be disenrolled for nonpayment as of the effective date of the third suspension.

(d) Enrollees who are suspended and do not pay the premium for the next coverage month by the due date on the notice of suspension will be immediately disenrolled and issued a notice of disenrollment as provided in subsection (3)(a) of this section.

(6)(a) Enrollees who voluntarily disenroll or are disenrolled from BHP may not reenroll for a period of twelve months from the date their coverage ended. An exception to this provision will be made for:

(i) Enrollees who left BHP for other health insurance, who are able to provide proof of continuous coverage from the date of disenrollment, and who apply to reenroll in BHP within thirty days of losing the other coverage;

(ii) Enrollees who left BHP because they lost eligibility and who subsequently become eligible to reenroll; and

(iii) Persons enrolling in subsidized BHP, who had enrolled and subsequently disenrolled from nonsubsidized BHP under subsection (1) or (2)(b) of this section while waiting on a reservation list for subsidized coverage.

(b) An enrollee who is required to wait twelve months for reenrollment under (a) of this subsection and who has been waiting on a reservation list for subsidized BHP may not reenroll prior to the end of the required twelve-month wait. If the enrollee satisfies the required twelve-month wait for reenrollment while on the reservation list, enrollment will not be completed until funding is available to enroll him or her from the reservation list.

## WSR 99-08-108

### PROPOSED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed April 7, 1999, 9:12 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 99-04-094.

Title of Rule: Rules relating to standards for apricots, chapter 16-406 WAC.

Purpose: (1) Specify grade tolerance for the lot and the application of tolerances for containers, (2) amend the marking requirements to allow the content in the container to be marked with a count, or net weight and minimum diameter, (3) clarify the language pertaining to size designation by adding "or larger" and "may" to specify the size designation.

Statutory Authority for Adoption: Chapter 15.17 RCW.  
Statute Being Implemented: RCW 15.17.030.

Summary: Agency response to industry request and concerns in regards to uniformity in the grades, packing and marking requirements. The revisions will improve and enhance the marketing of fresh Washington apricots. The consuming public will be served by improved product quality and uniformity while allowing product packaging the flexibility to be responsive to market changes.

Reasons Supporting Proposal: Request from Industry, Washington Apricot Marketing Committee, Growers, Shippers/ Packers.

Name of Agency Personnel Responsible for Drafting: Bob Gonzales, Olympia, Washington, (360) 902-1832; Implementation and Enforcement: Jim Quigley, Olympia, Washington, (360) 902-1833.

Name of Proponent: Washington Apricot Marketing Committee, public.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Agency supports industry request.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of the rule is to clarify the application of the grade tolerances in reference to the lot and individual sample containers. In the current standards, there is no specifications for the application of the lot tolerances to individual sample containers. It also clarifies the definition of diameter when applying the "large" and "small" size designation. The addition of the language "or larger" and "may" specifies a minimum diameter and larger is allowed, and when the minimum diameter is specified, it is not mandatory for the size designation of "large" and "small" to be marked on the container. The marking requirements will allow for the contents within a container to be marked with a count designation, or with a net weight and minimum diameter designation. Currently, the content marking requirements of containers designating count must also designate the net weight in the container.

Proposal Changes the Following Existing Rules: The application of tolerances to individual sample containers is now specified, and makes provision for small containers of ten pounds or less. The marking of the content within a container now allows for the marking of count only instead of both count and net weight.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule change does not change the grade tolerances for apricots, and the marking requirements is not an increased burden to the packer and/or shipper.

Hearing Location: Agricultural Service Center, Main Conference Room, 2nd Floor, 21 North First Avenue, Yakima, WA 98902, on May 26, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen, (360) 902-1996.

Submit Written Comments to: Jim Quigley, Program Manager, Washington State Department of Agriculture Commodity Inspection, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2085, by May 26, 1999.

Date of Intended Adoption: July 9, 1999.

April 6, 1999

Robert W. Gore  
Assistant Director

AMENDATORY SECTION (Amending Order 1015, Regulation B, filed 4/29/66)

**WAC 16-406-020 Tolerances.** (1) In order to allow for variations incident to proper grading and handling, not more than a total of ten percent of the apricots in any ~~((container))~~ lot may be below the requirements of grade, provided that not more than five percent shall be seriously damaged by insects, and not more than one percent shall be allowed for decay or internal breakdown: Provided, That in addition in Washington No. 1 not more than ten percent, by count, of the apricots in any lot may be damaged but not seriously damaged by bruising.

(2) When applying the foregoing tolerances to the combination grade no part of any tolerance shall be used to reduce the percentage of Washington No. 1 apricots required in the combination, but individual containers may have not more than ten percent less than the percentage of Washington No. 1 required, provided that the entire lot averages within the percentage specified.

NEW SECTION

**WAC 16-406-025 Application of tolerances.** (1) The contents of individual samples are subject to the following limitations: Provided, That the averages for the entire lot are within the tolerances specified for this grade.

(2) For packages which contain more than ten pounds, and a tolerance of ten percent or more is provided, individual samples in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than ten pounds and a tolerance of less than ten percent is provided, individual samples in any lot shall have not more than double the tolerance specified: Provided, That not more than one apricot which is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any sample.

(3) Washington No. 1 grade. For packages containing ten pounds or less: Not more than ten percent of the samples may have more than three times the tolerances specified, except that at least one defective apricot may be permitted in any sample: Provided, That not more than one apricot or more than six percent (whichever is the larger amount) may be seriously damaged by insects or affected by decay or internal breakdown.

(4) Washington No. 2 grade. For packages containing ten pounds or less: Not more than ten percent of the samples may contain more than three times the tolerances specified.

AMENDATORY SECTION (Amending Order 1015, Regulation C, filed 4/29/66)

**WAC 16-406-030 Marking and packing requirements.** (1) When the numerical count is used, the apricots in any container shall not vary more than one fourth inch in diameter. In order to allow for variations incident to proper sizing, not more than ten percent, by weight, of the apricots in any package may be below the minimum size specified except when in packed containers when the variation in size in the individual package does not exceed one fourth inch in

diameter. The determination of grade may be made on the count basis.

(2) When apricots are prepared for market and/or offered for sale in containers, open or closed, such containers shall have stamped thereon the variety, grade, and packer's, grower's or shipper's name and address, ~~((and the net weight))~~ count, or net weight and minimum diameter.

(These marking requirements do not apply to apricots being sold or shipped to canneries)

AMENDATORY SECTION (Amending Order 1015, Regulation E, filed 4/29/66)

**WAC 16-406-050 Definition of terms.** As used in these grades:

(1) "Mature" means having reached the stage of maturity which will insure a proper completion of the ripening process.

(2) "Well formed" means having the shape characteristic of the variety.

(3) "Damage" means that the apricot is injured to an extent readily apparent in the process of proper grading and handling. Well healed growth cracks not over three eighths of an inch in length, punctures not over three sixteenths of an inch in diameter, stem pulls not over three-eighths of an inch in diameter (except for the Riland variety - growth cracks not over three-eighths of an inch in length, punctures not over one-fourth of an inch in diameter and stem pulls not over one-half inch in diameter) or smooth shallow limb rubs not more than one-fourth of an inch in diameter or russetting affecting not to exceed one-tenth of the surface of the apricot shall not be regarded as damage. Bruises not to exceed five percent of the surface of the apricot shall not be regarded as damage.

(4) Hail marks that are shallow and superficial or not more than three-eighths of an inch in diameter in the aggregate, or when the skin has been broken, except that not to exceed one well healed hail mark, such mark not to exceed one-eighth of an inch in diameter will not be considered as damage.

(5) "Serious damage" means immaturity, or any deformity or injury which causes breaking of the skin in excess of three-eighths of an inch in diameter or which seriously affects the appearance, but well healed growth cracks, not over one-half inch in length, shall not be regarded as serious damage. Except for the Riland variety - growth cracks that are not well healed and not over one-half inch in length shall not be regarded as serious damage. Bruises not to exceed ten percent of the surface of the apricot shall not be regarded as serious damage. Hail marks that are not more than three-sixteenth of an inch deep, or not more than one-half of an inch in diameter in the aggregate or when the skin has been broken, except that not to exceed four well healed hail marks, each such mark not to exceed one-eighth of an inch in diameter, will not be considered as serious damage.

(6) "Diameter" means the greatest diameter, measured through the center of the apricot, at right angles to a line running from the stem to the blossom end. Apricots having a diameter of one and one-half inches or larger, ring measurement, ~~((shall))~~ may be considered large, while the apricots

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having a diameter of less than one and one-half inches (~~shall~~) may be designated as small.

(7) The following will be taken into consideration in determining maturity:

(a) Ambering—Replacement of the green color of the flesh immediately around the pit by an amber shade is recognized by many authorities on apricots as an indicator of maturity.

(b) Springiness—This condition develops in connection with the separation of the flesh from the pit and is an indication that the fruit is reaching proper tree maturity for picking for fresh shipment. Springiness may be detected by external pressure on the fruit or by cutting the apricot in half at right angles to the longitudinal axis and noting how one-half or both halves slip away from the pit.

(c) Taste—On a tree whose fruit is ready for harvest for fresh shipment it is usually impossible to find at least an occasional fruit which has lost sufficient of its green taste to be fairly palatable. In using this test, do not be misled by fruits which may be maturing abnormally because of worm infestation.

(d) Separation of fruit from stem—The manner in which fruit may be separated from its stem is some indication of maturity, the more immature fruit tending to tear the adjacent skin and flesh more than fruit which is near proper maturity.

(8) The following varieties shall not be considered to have reached that stage of maturity which will insure a proper completion of the ripening process until they have developed characteristic turning or yellow (shades Nos. 3 or 4 on U.S. standard ground color chart) on the minimum percentage of surface area as stated opposite the varietal name:

Moorpark	—20%
Gilbert or Newcastle	—50%
Tilton	—40%
Blenheim	—40%
Royal	—40%

**WSR 99-08-109  
PROPOSED RULES  
COMBINED FUND DRIVE**

[Filed April 7, 1999, 9:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-05-081.

Title of Rule: Basic standards and criteria for charity membership for those charities providing services in the performing, visual, literary and media arts.

Purpose: To all charities that deliver services in the performing, visual, literary and media arts into the Combined Fund Drive.

Statutory Authority for Adoption: Executive Order 84-13 and WAC 240-10-010.

Statute Being Implemented: WAC 240-10-030.

Summary: The Combined Fund Drive wishes to include charities that deliver services to these arts programs in our campaign.

Reasons Supporting Proposal: State employees have requested that charities providing services in the arts be included in the Combined Fund Drive.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Randy Ryan, Olympia, Mailstop 47530, 664-1994.

Name of Proponent: Washington State Employee Combined Fund Drive, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will allow public and private nonprofit organizations, domestic and foreign, that provide services to human beings through the performing, visual, literary and media arts. The purpose of this rule is to expand the availability of entrance into the Combined Fund Drive so that state employees may contribute to a broader range of charities. The anticipated effects are that state employees will have the opportunity to donate to charities that provide services in the area of the arts.

Proposal Changes the Following Existing Rules: The current section of WAC 240-10-030 does not allow charities into the Combined Fund Drive that provide services in the performing, visual, literary, and media arts unless these services are specifically targeted to handicapped or disadvantaged populations. This change will allow charities providing services to the arts, and to the general population into the Combined Fund Drive.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule will not affect small businesses economically, it only affects charities wishing to receive donations from state employees.

RCW 34.05.328 does not apply to this rule adoption. This rule change relates only to internal government operations and is not subject to violation of a nongovernment party, subsection (5)(b)(ii); and the rule does not materially change Washington state rules nor does it change Washington state statutes, subsection (5)(b)(iii).

Hearing Location: Department of Personnel, Board Room, 2nd Floor, 521 Capitol Way South, Olympia, WA, on May 14, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Randy Ryan by May 7, 1999, TDD (360) 586-8260, or (360) 586-9114.

Submit Written Comments to: Randy Ryan, P.O. Box 47530, Olympia, WA 98504-7530, fax (360) 586-6695, by May 7, 1999.

Date of Intended Adoption: May 18, 1999.

April 7, 1999

Mary Alice Grobins  
Senior Fiscal Analyst

AMENDATORY SECTION (Amending WSR 95-09-025, filed 4/12/95, effective 5/13/95)

**WAC 240-10-030 Definitions.** (1) Committee - The Washington state employee combined fund drive committee described in WAC 240-10-010.

(2) State employee combined fund drive campaign - An arrangement by which the committee provides one or more

other participating organizations with the opportunity to receive funds contributed to them in the annual campaign, based on their compliance with the regulations herein.

(3) Participating organization - A health and welfare agency whose application has been accepted by the committee.

(4) Annual campaign - The once-a-year period of organized solicitation of state employees conducted annually to obtain voluntary contributions from state employees for charitable commitments to be allocated during the ensuing year of contributions.

(5) Year of contributions - The annual calendar year for collection of the voluntary payroll deductions for charitable contributions authorized by state employees pursuant to these regulations. The normal, full annual calendar year shall begin with January and end with the ensuing December.

(6) Health and welfare agency - The terms "voluntary agency," "voluntary health and welfare agency," "voluntary charitable agency," and "voluntary charitable health and welfare agency" mean an organization that is organized and operated for the purpose of rendering, or of materially or financially supporting the rendering of, one or more of the following services for the benefit of human beings:

(a) Delivery of health care to ill or infirm individuals;

(b) Education and training of personnel for the delivery of health care to ill or infirm individuals;

(c) Health research for the benefit of ill or infirm individuals;

(d) Delivery of education, training, and care to physically and mentally handicapped individuals;

(e) Treatment, care, rehabilitation, and counseling of juvenile delinquents, criminals, released convicts, persons who abuse drugs or alcohol, persons who are victims of intra-family violence or abuse, persons who are otherwise in need of social adjustment and rehabilitation, and the families of such persons;

(f) Relief of victims of crime, war, casualty, famine, natural disasters, and other catastrophes and emergencies;

(g) Neighborhood and community-wide social services that directly assist needy, poor, and indigent individuals, including provision of emergency relief and shelter, recreation, transportation, the preparation and delivery of meals, educational opportunities, and job training;

(h) Protection of families that, on account of economic or other need, poverty, indigence, or emergency, are in long-term or short-term need of family, child-care, and maternity services, child and marriage counseling, foster care, and guidance or assistance in the management and maintenance of the home and household;

(i) Relief of needy, poor, and indigent infants and children, and of orphans, including the provision of adoption services;

(j) Relief of needy, poor, and indigent adults and of the elderly;

(k) Delivery of services or assistance that conserve, protect, or restore the environment;

(l) Delivery of services or assistance to threatened or endangered species;

(m) Delivery of services in the performing, visual, literary and media arts.

(7) Local presence - Demonstration of direct and substantial presence in the local campaign community:

(a) The availability of services, such as examination treatments, inoculations, preventive care, counseling, training, scholarship assistance, transportation, feeding, institutionalization, shelter, and clothing to persons working or residing in the local campaign community.

(b) The presence within the local campaign community, or within reasonable commuting distance thereof, of a facility at which services may be obtained, such as an office, clinic, mobile unit, field agency, or direct provider, or specific demonstrable effects of research, such as personnel or facilities engaged therein or specific local applications thereof.

(c) The availability to persons working or residing in the local campaign community of communication with the voluntary charitable agency by means of home visits, transportation, or telephone calls, provided by the voluntary agency at no charge to the recipient or beneficiary of the service.

(8) Overseas - Areas outside of the District of Columbia and the fifty states of the United States.

#### WSR 99-08-114

#### PROPOSED RULES

#### INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

[Filed April 7, 1999, 9:24 a.m.]

Original Notice.

Expedited Adoption—Proposed rule-making notice was filed as WSR 99-01-148.

Title of Rule: Nonhighway and off-road vehicle funds, developments—Conversion to other uses.

Purpose: Implement chapter 144, Laws of 1998 (SHB 2826).

Other Identifying Information: Nonhighway vehicle funds distribution to nonprofit off-road vehicle organizations, RCW 46.109.240(1).

Statutory Authority for Adoption: RCW 46.09.240(1).

Statute Being Implemented: RCW 46.09.240(1).

Summary: In 1998, this program's RCW was changed to allow nonprofit ORV organizations to receive funds when the funds will benefit ORV recreation on lands once publicly owned that come into private ownership in a federal land exchange between January 1, 1998 - January 1, 2005. IAC's current NOVA program WACs do not contemplate funding nonprofit organizations.

Reasons Supporting Proposal: This proposal amends the current WAC to ensure that IAC's project "conversion to other use" rules will apply to the nonprofit organizations.

Name of Agency Personnel Responsible for Drafting: Greg Lovelady, 1111 Washington Street S.E., Olympia, WA 98504-0917, (360) 902-3008; Implementation and Enforcement: Laura Eckert Johnson, 1111 Washington Street S.E., Olympia, WA 98504-0917, (360) 902-3000.

Name of Proponent: Interagency Committee for Outdoor Recreational

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

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

Proposal Changes the Following Existing Rules: See Summary and Reasons Supporting Proposal above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule change is directed at one group of IAC grant recipient, that is, nonprofit ORV organizations. If approved, the changes will enhance efficiency and compliance with existing laws and procedures. We do not believe that small businesses will be impacted in any way.

RCW 34.05.328 does not apply to this rule adoption. The Interagency Committee for Outdoor Recreation is exempted under RCW 34.05.328 (5)(a)(i).

Hearing Location: Spokane Center, Okanogan Valley A&B, 334 West Spokane Falls Boulevard, Spokane, WA 99201, on July 16, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Greg Lovelady by July 2, 1999, TDD (360) 902-1996 (leave message), or (360) 902-3008.

Submit Written Comments to: Greg Lovelady, Rules Coordinator, Interagency Committee for Outdoor Recreation, P.O. Box 40917, Olympia, WA 98504-0917, fax (360) 902-2026, by June 18, 1999.

Date of Intended Adoption: July 16, 1999.

April 6, 1999  
Greg Lovelady  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-26-100 Development projects—Conversion to other uses.** (1) Without prior approval of the committee, a facility developed with money granted by the committee (~~(, to state, county, municipality or native American tribal government sponsors,)~~) shall not be converted to a use other than that for which funds were originally approved.

(2) The committee shall only approve such a conversion under conditions which assure that:

(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;

(b) A new development, in the spirit of WAC 286-13-080 ("... aid through the committee is intended to supplement the existing capacity of a sponsor ..."), will serve as a replacement which:

(i) Is of reasonably equivalent recreation utility and location;

(ii) Will be administered by the same political jurisdiction as the converted development;

(iii) Will satisfy need(s) identified in the sponsor's NOVA plan (see WAC 286-26-080); and

(iv) Includes only elements eligible under the committee's program from which funds were originally allocated.

(3) A master agreement signed by the parties shall control the provision of funds granted by the committee for facility developments to any federal agency sponsor.

**WSR 99-08-117**

**PROPOSED RULES**

**DEPARTMENT OF  
NATURAL RESOURCES**

[Order 700—Filed April 7, 1999, 9:49 a.m.]

Original Notice.

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

Title of Rule: Specific rules for burning that requires a written burning permit.

Purpose: Set fees for permits to burn forest debris and specify other conditions for written burning permits.

Statutory Authority for Adoption: RCW 70.94.660 and 76.04.205.

Statute Being Implemented: RCW 70.94.660 and 76.04.205.

Summary: Amend the fee schedule to increase fees by 3.22% as directed under RCW 70.94.660.

Reasons Supporting Proposal: The department is required by RCW 76.04.660 to set fees at a level necessary to support the program. The fee increase will account for inflation in program costs over the last year.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark Gray, Olympia, 902-1300.

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 Clean Air Act requires DNR to take responsibility for issuing and regulating burn permits where DNR has protection responsibilities. The act also requires DNR to assess fees for its permits, and that fees be set at a level to recover costs of the program.

Fees will be adjusted by 3.22%, amount allowed under RCW 43.135.055. The purpose of the proposed change is to adjust the burning permit fee schedule to a level necessary to cover costs of the smoke management program. Fees will be adjusted by 3.22%, the amount allowed under RCW 43.135.055. This will result in a one dollar increase for 90% of permittees, and no more than a fifteen dollar increase for 99% of all burns.

Proposal Changes the Following Existing Rules: The proposal adjusts the fee schedule in WAC 332-24-221 by the amount allowed under RCW 43.135.055.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The fee increase will be one dollar for 90% of all permits issued. The rule does not impose more than minor costs on more than 20% of all industries or more than 10% of one industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Rules that set or adjust fees or rates pursuant to legislative standards are exempt from section 201, chapter 403, Laws of 1995.

Hearing Location: Natural Resources Building, Room 461, 1111 Washington Street S.E., Olympia, WA, on May 12, 1999, at 10:00 a.m.

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Assistance for Persons with Disabilities: Contact Mark Gray by May 5, 1999, TDD (360) 902-1156.

Submit Written Comments to: Mark Gray, fax (360) 902-1757, by May 12, 1999.

Date of Intended Adoption: June 1, 1999.

April 5, 1999  
Charles Baum  
Supervisor

**AMENDATORY SECTION** (Amending WSR 98-13-068, filed 6/15/98, effective 8/1/98)

**WAC 332-24-221 Specific rules for burning that requires a written burning permit.** Persons not able to meet the requirements of WAC 332-24-205 and 332-24-211 must apply for a written burning permit through the department. In addition to the rules outlined in WAC 332-24-205, the following are additional requirements for written permits:

- (1) Written burning permits will be in effect for one year from the validation date, unless suspended or revoked.
- (2) Fees for written burning permits will be charged and collected pursuant to chapter 70.94 RCW and shall be ~~((twenty-four dollars seventy-five))~~ twenty-five dollars fifty cents for under one hundred tons of consumable debris; and for burns one hundred tons of consumable debris and greater as follows:

Consumable Debris	Fee schedule
100 - 500 tons	<del>((123))</del> <u>\$127</u>
501 - 1,000 tons	<del>((379))</del> <u>391</u>
1,001 - 1,500 tons	<del>((634))</del> <u>651</u>
1,501 - 2,000 tons	<del>((885))</del> <u>914</u>
2,001 - 2,500 tons	<del>((1,138))</del> <u>1,175</u>
2,501 - 3,000 tons	<del>((1,392))</del> <u>1,438</u>
3,001 - 3,500 tons	<del>((1,643))</del> <u>1,697</u>
3,501 - 4,000 tons	<del>((1,897))</del> <u>1,959</u>
4,001 - 4,500 tons	<del>((2,151))</del> <u>2,222</u>
4,501 - 5,000 tons	<del>((2,404))</del> <u>2,483</u>
5,001 - 5,500 tons	<del>((2,658))</del> <u>2,746</u>
5,501 - 6,000 tons	<del>((2,911))</del> <u>3,007</u>
6,001 - 6,500 tons	<del>((3,166))</del> <u>3,271</u>
6,501 - 7,000 tons	<del>((3,419))</del> <u>3,532</u>
7,001 - 7,500 tons	<del>((3,673))</del> <u>3,794</u>
7,501 - 8,000 tons	<del>((3,926))</del> <u>4,056</u>
8,001 - 8,500 tons	<del>((4,180))</del> <u>4,318</u>
8,501 - 9,000 tons	<del>((4,433))</del> <u>4,580</u>
9,001 - 9,500 tons	<del>((4,688))</del> <u>4,843</u>
9,501 - 10,000 tons	<del>((4,939))</del> <u>5,102</u>
10,001 + tons	<del>((5,193))</del> <u>5,365</u>

For purposes of this section, consumable debris is the amount of debris that the department determines will be consumed by the proposed burning.

(3) Written burning permits are not considered valid unless all of the following conditions apply:

(a) The written permit has been signed by the applicant agreeing to follow all requirements of chapter 332-24 WAC, the smoke management plan in effect at the time of the burning, and any additional terms and conditions specified by the department in writing; and

(b) The required permit fee has been secured or paid according to approved department procedures; and

(c) The person doing the burning has the permit in possession while burning and is complying with all terms and conditions of such permit, the smoke management plan in effect at the time of the burning, and all applicable portions of chapter 332-24 WAC.

(4) Permits are written only for the burn site and fuel quantity that is presented at the time of the inspection. Addition of fuel, or changing the burn site after the site inspection has been made, is prohibited unless a new inspection is made and an added permit fee is paid, if required.

**WSR 99-08-118**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed April 7, 1999, 9:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-01-163.

Title of Rule: WAC 388-478-0070 and 388-478-0080.

Purpose: Implements the increased federal standards for the one-person medically needy income level, for the medically indigent program and the SSI-related categorically needy income level.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.575.

Statute Being Implemented: RCW 74.04.057.

Summary: Increased federal standards as described under Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, Mailstop 45530, Olympia, WA 98504-5530, (360) 753-7462.

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: See Purpose above.

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule has no impact on small businesses. It affects eligibility for medical assistance programs.

RCW 34.05.328 does not apply to this rule adoption. This rule does not meet the definition of a significant legislative rule.

PROPOSED

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 904-B, Lacey, WA 98503, on May 11, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by April 27, 1999, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by May 11, 1999.

Date of Intended Adoption: No sooner than May 12, 1999.

April 5, 1999  
Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-478-0070 Monthly income and countable resource standards for medically needy (MN) and medically indigent ((~~MN and~~) MI) programs.** (1) Beginning January 1, ((1998)) 1999, the medically needy income level (MNIL) and MI monthly income standards ((~~to be applied to a medical assistance unit~~)) are as follows:

- (a) One person \$((~~524~~)) 527
- (b) Two persons \$592
- (c) Three persons \$667
- (d) Four persons \$742
- (e) Five persons \$858
- (f) Six persons \$975
- (g) Seven persons \$1,125
- (h) Eight persons \$1,242
- (i) Nine persons \$1,358
- (j) Ten persons and more \$1,483

(2) The MNIL standard for a person((s)) meeting ((the)) institutional status requirements ((of chapter 388-513 WAC, a special MNIL is used. That standard)) is in WAC 388-513-1305(2).

(3) ((~~The MN and MI program~~)) Countable resource standards for the MN and MI programs are:

- (a) One person \$2,000
- (b) A legally married couple \$3,000
- (c) For each additional family member add \$50

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-478-0080 SSI-related ((~~CNIL medical monthly income~~)) categorically needy income level (CNIL) and countable resource standards.** (1) The SSI-related CNIL standard is the same as the SSI monthly payment standard based upon the area of the state where the person lives. Area 1 is defined as the following counties: King, Pierce, Snohomish, Thurston, and Kitsap. Area 2 is all

other counties. Beginning January 1, 1999, the CNIL monthly income standards are as follows:

	Area 1	Area 2
(a) Single person	\$(( <del>521.00</del> )) <u>527.00</u>	\$(( <del>500.55</del> )) <u>506.55</u>
(b) A legally married couple <u>who are both eligible</u>	\$(( <del>762.00</del> )) <u>772.00</u>	\$(( <del>741.00</del> )) <u>751.00</u>

(2) The countable resource standards for the SSI-related CN medical program are:

- (a) One person \$2,000
- (b) A legally married couple \$3,000

**WSR 99-08-121**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(WorkFirst Division)  
[Filed April 7, 1999, 10:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-20-096.

Title of Rule: Amends WAC 388-290-010; repeals existing chapter 388-290 WAC; and proposes new rules WAC 388-290-015, 388-290-075, 388-290-125, 388-290-150, 388-290-200, 388-290-250, 388-290-260, 388-290-300, 388-290-350, 388-290-400, 388-290-450, 388-290-475, 388-290-500, 388-290-525, 388-290-550, 388-290-600, 388-290-650, 388-290-700, 388-290-750, 388-290-800, 388-290-850, 388-290-900, 388-290-1000, 388-290-1050, 388-290-1100, 388-290-1150, 388-290-1200, 388-290-1250, 388-290-1300, 388-290-1350, 388-290-1375, and 388-290-1400.

Purpose: To clarify the rules for the working connections child care (WCCC) program, with the goal of making them easier for clients to understand, and for field staff to apply consistently.

Statutory Authority for Adoption: RCW 74.04.050, 74.13.0903, and Public Law 104-193, Sections 407 and 605.

Statute Being Implemented: RCW 74.04.050, 74.13.0903, and Public Law 104-193, Sections 407 and 605.

Summary: This new version of chapter 388-290 WAC is necessary to clarify and improve the WCCC program rules in accordance with Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Roger Long, P.O. Box 45480, Olympia, WA 98504-5480, (360) 413-3259.

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: This WAC chapter will clarify and streamline eligibility rules for the WCCC program to be more consistent

PROPOSED

with: (1) The recommendations of the child care quality improvement team; (2) best practices in the field; and (3) the principles of clear rules laid out in Executive Order 97-02.

Proposal Changes the Following Existing Rules: Amends WAC 388-290-010; and repealed existing chapter 388-290 WAC. See also Explanation of Rule, Purpose and Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not impact small business.

RCW 34.05.328 does not apply to this rule adoption. These changes are editorial in nature and do not meet the definition of a significant legislative rule.

Hearing Location: Lacey Government Center (behind Tokyo O'Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey WA 98503, on May 25, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by May 14, 1999, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by May 25, 1999.

Date of Intended Adoption: May 26, 1999.

April 6, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policy Assistance Unit

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 99-09 issue of the Register.

**WSR 99-08-122**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)

[Filed April 7, 1999, 10:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-050.

Title of Rule: Chapter 388-552 WAC, Oxygen and respiratory therapy.

Purpose: To adopt current policies into WAC, and to repeal outdated rules, WAC 388-86-097 and 388-87-080.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.09.520, and 74.09.530.

Statute Being Implemented: RCW 74.09.530, 74.08.090, 74.04.050, and 74.09.520.

Summary: This chapter sets into WAC: Payment methodology the department uses to reimburse for oxygen and respiratory therapy services, equipment, and supplies; items and services covered by the department; and requirements for reimbursement.

Reasons Supporting Proposal: To codify payment methodology and requirements for reimbursement.

Name of Agency Personnel Responsible for Drafting: Leslie Saeger, P.O. Box 45530, Olympia, WA 98504, (360)

664-2315; Implementation and Enforcement: Julie Lake, P.O. Box 45530, Olympia, WA 98504, (360) 664-2315.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: This chapter puts current policy into rule. It describes covered services, methods used by the department to determine reimbursement rates, and requirements for reimbursement.

Proposal Changes the Following Existing Rules: Previous rules stated that the department would make oxygen and related equipment and supplies available through contract. These rules clarify that all providers who have a signed core agreement with the Medical Assistance Administration may now provide services according to this chapter.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Medical Assistance Administration analyzed the proposed rules and concludes that no new costs will be imposed on small businesses affected by them.

RCW 34.05.328 applies to this rule adoption. An evaluation of probable costs and benefits is available from the program staff person listed in Name of Agency Personnel above.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on May 11, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by April 30, 1999, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by May 11, 1999.

Date of Intended Adoption: May 17, 1999.

March 31, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**Chapter 388-552 WAC**

**OXYGEN AND RESPIRATORY THERAPY**

**NEW SECTION**

**WAC 388-552-001 Scope.** (1) This chapter applies to:

(a) Medical assistance administration (MAA) clients who require medically necessary **oxygen** and/or respiratory therapy equipment, supplies, and services in their homes and nursing facilities; and

(b) Providers who furnish **oxygen** and respiratory therapy equipment, supplies and services to eligible MAA clients.

(2) Instructions for clients covered by Medicare are located in Medicare's Durable Medical Equipment Regional Carrier (DMERC) Manual.

NEW SECTION

**WAC 388-552-005 Definitions.** The following definitions and those in WAC 388-500-0005 apply to this chapter. If a definition in WAC 388-500-0005 differs with the definition in this section, the definition in this section applies. Defined words and phrases are bolded in the text.

"**Authorized prescriber**" means a health care practitioner authorized by law or rule in the state of Washington to prescribe oxygen and respiratory therapy equipment, supplies, and services.

"**Base year,**" as used in this chapter, means the year in which the oxygen and respiratory therapy billing instructions' current fee schedule is adopted.

"**Maximum allowable**" means the maximum dollar amount MAA reimburses a provider for a specific service, supply, or piece of equipment.

"**Oxygen**" means United States Pure (USP) medical grade liquid or gaseous oxygen.

"**Oxygen and respiratory therapy billing instructions**" means a booklet containing procedures for billing, which is available by writing to Medical Assistance Administration, Division of Program Support, PO Box 45562, Olympia, WA, 98504-5562.

"**Oxygen system**" means all equipment necessary to provide oxygen to a person.

"**Portable system**" means a small system which allows the client to be independent of the stationary system for several hours, thereby providing mobility outside of the residence.

"**Provider**" means a person or company with a signed core provider agreement with MAA to furnish oxygen and respiratory therapy equipment, supplies, and services to eligible MAA clients.

"**Respiratory care practitioner**" means a person certified by the department of health according to chapter 18.89 RCW and chapter 246-928 RCW.

"**Stationary system**" means equipment designed to be used in one location, generally for the purpose of continuous use or frequent intermittent use.

**CLIENT ELIGIBILITY**NEW SECTION

**WAC 388-552-100 Client eligibility.** (1) All MAA fee-for-service clients are eligible for oxygen and respiratory therapy equipment, supplies, and services when medically necessary, with the following limitations:

(a) Clients on the medically indigent program are not eligible under this chapter; and

(b) Clients on the categorically needy/qualified Medicare beneficiaries and medically needy/qualified Medicare beneficiaries programs are covered by Medicare and Medicaid as follows:

(i) If Medicare covers the service, MAA will pay the lesser of:

(A) The full co-insurance and deductible amounts due, based upon Medicaid's allowed amount; or

(B) MAA's **maximum allowable** for that service minus the amount paid by Medicare.

(ii) If Medicare does not cover or denies equipment, supplies, or services that MAA covers according to this chapter, MAA reimburses at MAA's **maximum allowable**; except, MAA does not reimburse for clients on the qualified Medicare beneficiaries (QMB) only program.

(2) Services for clients enrolled in a healthy options managed care plan receive all oxygen and respiratory therapy equipment, supplies, and services through their designated plan, subject to the plan's coverages and limitations.

**PROVIDERS**NEW SECTION

**WAC 388-552-200 Providers—General responsibilities.** (1) The provider must verify that the client's original prescription is signed and dated by the **authorized prescriber** no more than ninety days prior to the initial date of service. The prescription must include, at a minimum:

(a) The client's medical diagnosis, prognosis, and documentation of the medical necessity for oxygen and/or respiratory therapy equipment, supplies, and/or services, and any modifications;

(b) If oxygen is prescribed:

(i) Flow rate of oxygen;

(ii) Estimated duration of need;

(iii) Frequency and duration of oxygen use; and

(iv) Lab values or oxygen saturation measurements upon the client's discharge from the hospital.

(2) The provider must provide instructions to the client and/or caregiver on the safe and proper use of equipment provided.

NEW SECTION

**WAC 388-552-210 Required records.** (1) A provider must maintain legible, accurate, and complete charts and records for each client. These records must support and justify claims that the provider submits to MAA for reimbursement. Records must include, at a minimum the:

(a) Date(s) of service;

(b) Client's name and date of birth;

(c) Name and title of person performing the service, when it is someone other than the billing practitioner;

(d) Chief complaint or reason for each visit;

(e) Pertinent medical history;

(f) Pertinent findings on examination;

(g) **Oxygen**, equipment, supplies, and/or services prescribed or provided;

(h) The original and subsequent prescriptions according to the requirements in WAC 388-552-200 and 388-552-220;

(i) Description of treatment (when applicable);

(j) Recommendations for additional treatments, procedures, or consultations;

(k) X-rays, tests, and results;

(l) Plan of treatment/care/outcome;

(m) Logs of oxygen saturations and lab values taken to substantiate the medical necessity of continuous oxygen, as required by WAC 388-552-220;

(n) Logs of oximetry readings if required by WAC 388-552-380 for a client seventeen years of age or younger; and

(o) Recommendations and evaluations if required by WAC 388-552-230 for the infant apnea monitor program.

(2) The provider must make required charts and records available to DSHS or its contractor(s) upon request.

(3) MAA may require additional information in order to process a submitted claim.

#### NEW SECTION

**WAC 388-552-220 Requirements for oxygen providers.** Oxygen providers must:

(1) Obtain a renewed prescription every six months if the client's condition warrants continued service;

(2) Verify, at least every six months, that oxygen saturations or lab values substantiate the need for continued oxygen use for each client. The provider may perform the oxygen saturation measurements. MAA does not accept lifetime certificates of medical need (CMNs).

#### NEW SECTION

**WAC 388-552-230 Requirements for infant apnea monitor programs.** (1) MAA does not reimburse for apnea monitors unless the provider has a respiratory care practitioner or registered nurse with expertise in pediatric respiratory care who is responsible for their apnea monitor program.

(2) MAA does not require a confirming second opinion for the initial rental period for diagnoses of apnea of prematurity, primary apnea, obstructed airway, or congenital conditions associated with apnea. For other diagnoses, a neonatologist's confirming assessment and recommendation must be maintained as a second opinion in the client's file. The initial rental period must not exceed six months.

(3) Regardless of diagnosis, the provider must maintain in the client's file, a neonatologist's clinical evaluation justifying each subsequent rental period.

#### NEW SECTION

**WAC 388-552-240 Requirements for respiratory care practitioners.** (1) A respiratory care practitioner must comply with chapter 18.89 RCW and chapter 246-928 WAC to qualify for reimbursement.

(2) A respiratory care practitioner must complete at least the following in each client visit:

(a) Check equipment and ensure equipment settings continue to meet the client's needs; and

(b) Communicate with the client's physician if there are any concerns or recommendations.

## COVERAGE

#### NEW SECTION

**WAC 388-552-300 Coverage.** (1) Due to legislative appropriations, MAA may reduce or eliminate coverage for oxygen and respiratory therapy equipment, supplies, and services which are not part of home health or hospice programs.

(2) MAA does not reimburse for a service or product if any of the following apply:

(a) The service or product is not covered by MAA;

(b) The service or product is not medically necessary;

(c) The client has third party coverage and the third party pays as much as, or more than, MAA allows for the service or product; or

(d) The client and provider do not meet the requirements in this chapter.

#### NEW SECTION

**WAC 388-552-310 Coverage—Oxygen and oxygen equipment.** (1) MAA reimburses for oxygen provided to:

(a) Clients eighteen years of age or older with:

(i)  $PO_2 \leq$  fifty-five mm on room air; or

(ii)  $SaO_2 \leq$  eighty-eight percent on room air; or

(iii)  $PaO_2 \leq$  fifty-five mm on room air.

(b) Clients seventeen years of age or younger to maintain  $SaO_2$  at:

(i) Ninety-two percent; or

(ii) Ninety-four percent in a child with cor pulmonale or pulmonary hypertension.

(2) MAA may cover spare tanks of oxygen and other equipment if the provider and attending physician document that travel distance or potential weather conditions could reasonably be expected to interfere with routine delivery of such equipment and supplies.

#### NEW SECTION

**WAC 388-552-320 Coverage—Continuous positive airway pressure (CPAP) and supplies.** (1) MAA covers the rental and/or purchase of medically necessary CPAP equipment and related accessories when all of the following apply:

(a) The results of a prior sleep study indicate the client has sleep apnea;

(b) The client's attending physician determines that the client's sleep apnea is chronic;

(c) CPAP is the least costly, most effective treatment modality;

(d) The item is to be used exclusively by the client for whom it is requested;

(e) The item is FDA-approved; and

(f) The item requested is not included in any other reimbursement methodology such as, but not limited to, diagnosis-related group (DRG).

(2) MAA covers the rental of CPAP equipment for a maximum of two months. Thereafter, if the client's primary physician determines the equipment is tolerated and beneficial to the client, MAA reimburses for its purchase.

(3) Refer to **oxygen and respiratory therapy billing instructions** to determine which CPAP accessories are covered.

#### NEW SECTION

**WAC 388-552-330 Coverage—Ventilator therapy, equipment, and supplies.** (1) MAA covers medically necessary ventilator equipment rental and related disposable supplies when all of the following apply:

(a) The ventilator is to be used exclusively by the client for whom it is requested;

(b) The ventilator is FDA-approved; and

(c) The item requested is not included in any other reimbursement methodology such as, but not limited to, diagnosis-related group (DRG).

(2) MAA's monthly rental payment includes medically necessary accessories, including, but not limited to: humidifiers, nebulizers, alarms, temperature probes, adapters, connectors, fittings, and tubing.

(3) MAA covers a secondary (back-up) ventilator at fifty percent of the monthly rental if medically necessary.

(4) MAA covers the purchase of durable accessories for client-owned ventilator systems according to the fee schedule in the current **oxygen and respiratory therapy billing instructions**.

#### NEW SECTION

**WAC 388-552-340 Coverage—Infant apnea monitor program.** (1) A provider must comply with WAC 388-552-230 to qualify for reimbursement for the infant apnea monitor program.

(2) MAA covers infant apnea monitors on a rental basis.

(3) MAA includes all home visits, follow-up calls, and training in the rental allowance.

#### NEW SECTION

**WAC 388-552-350 Coverage—Respiratory and ventilator therapy.** (1) MAA covers prescribed medically necessary respiratory and ventilator therapy services in the home.

(2) Therapy services must be provided by a certified respiratory care practitioner;

(3) MAA does not reimburse separately for respiratory and ventilator therapy services provided to clients residing in nursing facilities. This service is included in the nursing facility's per diem.

#### NEW SECTION

**WAC 388-552-360 Coverage—Suction pumps and supplies.** (1) MAA covers suction pumps and supplies when medically necessary for deep oral or tracheostomy suctioning.

(2) MAA may cover one stationary and one portable suction pump for the same client if warranted by the client's condition. The provider and attending physician must document that either:

(a) Travel distance or potential weather conditions could reasonably be expected to interfere with the delivery of medically necessary replacement equipment; or

(b) The client requires suctioning while away from the client's place of residence.

#### NEW SECTION

**WAC 388-552-370 Coverage—Inhalation drugs and solutions.** Inhalation drugs and solutions are included in the prescription drug program. Refer to chapter 388-530 WAC.

#### NEW SECTION

**WAC 388-552-380 Coverage—Oximeters.** (1) MAA covers oximeters for clients seventeen years of age or younger when the client has one of the following conditions:

(a) Chronic lung disease, is on supplemental oxygen, and is at risk for desaturation with sleep, stress, or feeding;

(b) A compromised or artificial airway, and is at risk for major obstructive events or aspiration events; or

(c) Chronic lung disease, requires ventilator or BIPAP support, and may be at risk for atelectasis or pneumonia as well as hypoventilation.

(2) The provider must review oximetry needs and fluctuations in oxygen levels monthly, and log results in the client's records.

#### NEW SECTION

**WAC 388-552-390 Coverage—Nursing facilities.** (1) MAA reimburses according to this chapter for the chronic use of medically necessary oxygen, and oxygen and respiratory equipment and supplies to eligible clients who reside in nursing facilities.

(2) Nursing facilities are reimbursed in their per diem rate for:

(a) Oxygen and oxygen equipment and supplies used in emergency situations; and

(b) Respiratory and ventilator therapy services.

(3) Nursing facilities with a "piped" oxygen system may submit a written request to MAA for permission to bill MAA for oxygen. See **oxygen and respiratory therapy billing instructions**.

### REIMBURSEMENT

#### NEW SECTION

**WAC 388-552-400 Reimbursement for covered services.** (1) A provider must bill MAA according to the procedures and codes in the current **oxygen and respiratory therapy billing instructions**.

(2) MAA does not reimburse separately for telephone calls, mileage, or travel time. These services are included in the reimbursement for other equipment and/or services.

NEW SECTION

**WAC 388-552-410 Reimbursement methods.** MAA bases the decision to rent or purchase medical equipment for a client, or pay for repairs to client-owned equipment, on the least costly and/or equally effective alternative.

**(1) Rental.**

(a) Types of rental equipment:

(i) Equipment that normally requires frequent maintenance (such as ventilators and concentrators) is reimbursed on a rental basis for as long as medically necessary; and

(ii) Equipment with lower maintenance requirements (such as suction pumps and humidifiers) is reimbursed on a rental basis for a specified rental period, after which the equipment is considered purchased and owned by the client. Refer to the **oxygen and respiratory therapy billing instructions** for detailed information.

(b) The monthly rental rate includes, but is not limited to:

(i) A full service warranty covering the rental period;

(ii) Any adjustments, modifications, repairs or replacements required to keep the equipment in good working condition on a continuous basis throughout the total rental period;

(iii) All medically necessary accessories and disposable supplies, unless separately billable according to current **oxygen and respiratory therapy billing instructions**;

(iv) Instructions to the client and/or caregiver for safe and proper use of the equipment; and

(v) Cost of pick-up and delivery to the client's residence or nursing facility and, when appropriate, to the room in which the equipment will be used.

**(2) Purchase.**

(a) Purchased equipment becomes the property of the client;

(b) MAA reimburses for:

(i) Equipment that is new at the time of purchase, unless otherwise specified in current **oxygen and respiratory therapy billing instructions**; and

(ii) One maintenance and service visit every six months for purchased equipment.

(c) MAA does not reimburse for:

(i) Defective equipment;

(ii) The cost of materials covered under the manufacturer's warranty; or

(iii) Repair or replacement of equipment if evidence indicates malicious damage, culpable neglect, or wrongful disposition.

(d) The reimbursement rate for purchased equipment includes, but is not limited to:

(i) A manufacturer's warranty for a minimum warranty period of one year for medical equipment, not including disposable/non-reusable supplies;

(ii) Instructions to the client and/or caregiver for safe and proper use of the equipment; and

(iii) The cost of delivery to the client's residence or nursing facility and, when appropriate, to the room in which the equipment will be used.

(e) The provider must make warranty information, including date of purchase and warranty period, available to MAA upon request.

NEW SECTION

**WAC 388-552-420 Reimbursement methodology.** MAA, at its discretion, uses the following methods to determine the **maximum allowable** amount for each purchased and rented item and service:

**(1) Monthly rental reimbursement methodology.**

(a) Medicare's fee as of October 31 of the year prior to the base year; or

(b) A **maximum allowable** equal to:

(i) One-tenth of the purchase **maximum allowable** for that product; or

(ii) If MAA does not reimburse for the purchase of that product, one-tenth of the amount calculated using the methodology in subsection (1) of this section.

**(2) Purchase reimbursement methodology.**

(a) Medicare's fee as of October 31 of the year prior to the **base year**; or

(b) A **maximum allowable** equal to the seventieth percentile price of an array of input prices.

(i) The number of input prices included in each array may be limited by MAA based on consideration of product quality, cost, available alternatives, and client needs.

(ii) An input price used in the **maximum allowable** calculation is the lesser of:

(A) Eighty percent of the manufacturer's list or suggested retail price as of October 31 of the **base year**; or

(B) One hundred thirty-five percent of the wholesale acquisition cost as of October 31 of the **base year**.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-86-097                      Respiratory therapy services.

WAC 388-87-080                      Payment—Oxygen.

**WSR 99-08-124****PROPOSED RULES****DEPARTMENT OF ECOLOGY**

[Order 95-17a—Filed April 7, 1999, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-22-068.

Title of Rule: Chapter 173-26 WAC, State master program approval/amendment procedures.

Purpose: To update and replace chapter 173-16 WAC, Shoreline Management Act guidelines for development of master programs; to implement regulatory reform measures integrating shorelines, growth management and related statutes; to create minimum requirements for local shoreline master programs which regulate shoreline development; to protect and restore fish and wildlife habitat, including salmon, within shorelines of the state.

Statutory Authority for Adoption: RCW 90.58.060, 90.58.200.

PROPOSED

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: The proposed rule creates updated requirements for regulation of uses and activities conducted in shoreline areas throughout the state, implementing the Shoreline Management Act. The rule also provides criteria for local government and the department in developing and amending local shoreline master program policies and regulations.

Reasons Supporting Proposal: The shoreline guidelines have never been comprehensively updated since originally adopted in 1972. The proposed changes recognize new advancements in science and shoreline management practice affecting human shoreline uses, activities and fish and wildlife habitat. The changes will eliminate burdensome and outdated regulations, clarify state interests in shorelines and incorporate more efficient and effective regulatory reform measures in the guidelines. The legislature, with passage of ESHB 1724 in 1995, required ecology to review and update the guidelines.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Peter Skowlund, Lacey, Washington, (360) 407-6522.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Update of the shoreline master program guidelines is required by the Shoreline Management Act. The guidelines are being updated to recognize changes in shoreline management law, science and practice. Update of the guidelines will require local governments to revise as necessary their local shoreline master programs to comply with new standards for public and private construction and location of structures and activities in shoreline areas, dredging, drilling, dumping, filling, removal of minerals, removal/restoration of vegetation, bulkheading and related shoreline stabilization devices, driving of pilings, placing of obstructions or any project which interferes with the normal public use of surface waters of the state. The guidelines apply to water areas, associated wetlands and adjacent uplands subject to the Shoreline Management Act.

Proposal Changes the Following Existing Rules: Amends chapter 173-26 WAC and repeals chapter 173-16 WAC in its entirety.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.025(3) provides, "This chapter does not apply to the adoption of a rule described in RCW 34.05.310(4)." One of the categories of rules referenced by the above is "Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party."

In this case, the regulated community consists of local governments required to prepare and implement shoreline master programs by the Shoreline Management Act. It is clear that this process will affect private businesses and individuals, but the nature of those impacts will depend on the specific choices made by each jurisdiction as it complies with these guidelines. Further, that process will involve signifi-

cant public involvement at the local level, during which these concerns can be raised and addressed.

RCW 34.05.328 applies to this rule adoption. These rules are significant under RCW 34.05.328 because they adopt new or make significant amendments to a policy or regulatory program. The department has conducted the additional analysis required under RCW 34.05.328.

Hearing Location: Ellensburg, on Wednesday, May 19, 1999, at the Hal Holmes Community Center, 201 North Ruby, open house 5:30 p.m., public hearing 7:00 p.m.

In Spokane, on Thursday, May 20, 1999, at the Public Health Center, West 1101 College, Room 140, open house 5:30 p.m., public hearing 7:00 p.m.

In Olympia/Lacey, on Tuesday, May 25, 1999, at the Ecology Headquarters Auditorium, 300 Desmond Drive, open house 6:00 p.m., public hearing 7:30 p.m.

In Seattle, on Wednesday, May 26, 1999, at the Mountaineers Building, 300 Third Avenue West, Tahoma Room 2, open house 5:30 p.m., public hearing 7:00 p.m.

Assistance for Persons with Disabilities: Contact Tim Gates by May 12, 1999, TDD (360) 407-6006, or (360) 407-7256, P.O. Box 47600.

Submit Written Comments to: Amy Johnson, Department of Ecology, Shorelands and Environmental Assistance Program, P.O. Box 47600, Olympia, WA 98504-7600, e-mail ajoh461@ecy.wa.gov, fax (360) 407-6902, by June 21, 1999.

Date of Intended Adoption: August 4, 1999.

March 30, 1999

Daniel J. Silver  
Deputy Director

## Chapter 173-26 WAC

### STATE MASTER PROGRAM APPROVAL/AMENDMENT PROCEDURES AND SHORELINE MASTER PROGRAM GUIDELINES

AMENDATORY SECTION (Amending Order 95-17, filed 9/30/96, effective 10/31/96)

**WAC 173-26-020 Definitions.** As used herein, the following words and phrases shall have the following meanings:

(1) "Adaptive management" means the modification of management practices and activities, including policies, regulations, physical improvements, and supporting programs to address changing conditions and new knowledge regarding the issues and objectives in question. A key provision of adaptive management is the willingness to change adaptively in response to new understanding or information. As applied to environmental protection, the concept of adaptive management seeks to reduce the risk of destruction of natural shoreline functions and values through an ongoing effort to correct trends adversely affecting the natural environment.

In terms of shoreline management practices, adaptive management involves the monitoring of shoreline conditions and the revision of regulatory and physical improvement measures to more fully achieve the objectives of RCW 90.58.020.

(2) "Adoption by rule" means an official action by the department to make a local government shoreline master program effective through rule consistent with the requirements of the Administrative Procedure Act, chapter 34.05 RCW, thereby incorporating the adopted shoreline master program or amendment into the state master program;

((2)) (3) "Amendment" means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program;

((3)) (4) "Approval" means an official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to the department for review and official action pursuant to this chapter; or an official action by the department to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program;

((4)) (5) "Bank full width" means the width of a river or stream channel at bank full stage. "Bank full stage" occurs when the water level reaches the level of the flood plain and corresponds to the river height at which channel formation and migration are most active. Bank full width is determined by a hydrologic analysis. Where such analysis has not been done, bank full width shall be measured at the top of the bank nearest the stream or river channel that can support mature tree growth.

(6) "Best available science" means scientific information or scientific methods that:

- Must be the product of a valid scientific process. A valid scientific process contains the following characteristics:

- Peer review;
- Clearly stated and replicable methodology;
- Logical conclusions and reasonable inferences;
- Statistical analysis;
- Context is established and appropriately framed; and
- References to credible and pertinent existing information.

- Must be based on some or all of the following valid scientific sources:

- Research used to test a specific hypothesis;
- Monitoring that collects data over time to determine trends or evaluate a management program;
- Inventories that collect data from entire populations or ecosystems or segments of populations or ecosystems;
- Surveys that collect data from a statistical sample of a population or ecosystem;
- Assessments of site-specific information by a qualified scientific expert;

- Syntheses or comprehensive review and presentation of pertinent literature and other relevant knowledge by a qualified scientific expert; or
- Expert opinion or statement of a qualified scientific discipline.

- A qualified scientific expert is determined by professional credentials and/or certification, advanced degrees earned in the pertinent discipline, years of experience in the pertinent scientific discipline, and authorship in peer-reviewed journals or other professional literature.

- Anecdotal information, nonexpert opinion and hearsay are not considered best available science.

Best available science is used to develop management recommendations by qualified scientific experts. The management recommendations are then applied to local decision making processes.

For the purposes of this chapter, best available science shall mean conformance to RCW 90.58.100(1) and 36.70A.172 in addition to the characteristics listed above.

(7) "Channel migration zone" means the area of a river corridor where the active channel is prone to lateral movement, usually evidenced by abandoned channels, recent sediment, topographic changes, and vegetation character. The channel migration zone generally consists of the area that a stream has occupied or could be expected to occupy within the time it would take the trees to reach their site potential tree height.

(8) "Department" means the state department of ecology;

((5)) (9) "Developed shorelines" means those shoreline areas that are characterized by existing uses or permanent structures located within shoreline jurisdiction.

(10) "Development regulations" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto;

((6)) (11) "Document of record" means the most current shoreline master program officially approved or adopted by rule by the department for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190;

((7)) (12) "Ecological functions," or "natural shoreline functions" means those natural physical and biological processes which contribute to the shoreline ecology, including, but not limited to:

- Geomorphic processes;
- Hydrographic response and flooding;
- Sediment transport and deposition;
- Erosion and bank stability;
- Biological production;
- Litter and woody debris production;
- Sediment removal and filtration;
- Microclimate and temperature regulation;
- Fish and wildlife habitat and refuge;
- Vegetation growth; and
- Littoral drift.

(13) "Ecologically altered shorelines" means those shorelines that have had their vegetation or shoreline configuration substantially changed in a manner that significantly modifies or reduces the natural shoreline functions.

(14) "Ecologically intact shorelines" means those shoreline areas that retain the majority of their natural shoreline functions and values, as evidenced by vegetation and shoreline configuration. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human activities. In unmanaged forested areas, they generally include native vegetation with a diversity of species, multiple canopy layers, and large woody debris available for recruitment.

PROPOSED

Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this definition is intended to delineate those shoreline areas that provide valuable functions for the larger shoreline ecosystem which would be lost by significant human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis using best available science.

The term "ecologically intact shorelines" applies all shoreline areas meeting the criteria ranging from larger reaches may include several properties to small areas located within a single property. For example, in establishing boundaries for "natural" environment designations as called for in section WAC 173-26-090(6), the term "ecologically intact" may apply to continuous, multiparcel sections of shorelines. In applying shoreline stabilization standards to an individual property, the term may apply to a portion of the property.

(15) "Feasible" means, for the purpose of this chapter, that an action meets all of the following conditions:

(a) It can be accomplished with technologies and methods that have been used in the past or if studies or tests have demonstrated that such technologies are likely to achieve the intended results;

(b) It provides a reasonable likelihood of achieving its intended purpose; and

(c) It does not preclude achieving the project's primary intended use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is placed upon the applicant.

In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short and long term time frames.

(16) "Geotechnical report" or "geotechnical analysis" means a scientific study or evaluation conducted by a qualified expert that includes a description of the site hydrology and geology, the affected land form and its susceptibility to mass wasting, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site specific and cumulative impacts of the proposed development including the potential adverse impacts to adjacent and downstream material resource. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified engineers or geologists who are knowledgeable about the regional and local geology.

(17) "Guidelines" means those standards adopted by the department to implement the policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs;

((8)) (18) "In-stream structure" means a dam or other structure for the impoundment, diversion, or use of water for hydroelectric generation and transmission, flood control, irrigation, water supply, recreational or fisheries enhancement,

(19) "Local government" means any county, incorporated city or town which contains within its boundaries shorelines of the state subject to chapter 90.58 RCW;

((9)) (20) "Mitigation" or "mitigation sequencing" means the process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal, including the following listed in the order of sequence priority. Measure (a) shall be applied first and subsequent measures applied only after higher priority measures are demonstrated to be not feasible or applicable.

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and  
(f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

(21) "Nonpoint pollution" means pollution not originating from a specific point such as a wastewater outfall.

(22) "Nonwater-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.

(23) "Priority habitat" means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- Comparatively high fish and wildlife density;
- Comparatively high fish and wildlife species diversity;
- Important fish and wildlife breeding habitat;
- Important fish and wildlife seasonal ranges;
- Important fish and wildlife movement corridors;
- Limited availability;
- High vulnerability to habitat alteration; or
- Unique or dependent species.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as, oak woodlands, eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as, consolidated marine/estuarine shorelines, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

(24) "Priority species" means fish and wildlife species requiring protective measures and/or management guidelines to ensure their perpetuation. Priority species are those that meet any of the criteria listed below.

(a) Criterion 1. State-listed or state candidate species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State candidate species are those fish and wildlife species that

will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297. Federal candidate species are evaluated individually to determine their status in Washington and whether inclusion as a priority species is justified.

(b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or state-wide, by virtue of their inclination to congregate. Examples include heron rookeries, seabird concentrations, marine mammal haulouts, shellfish beds, and fish spawning and rearing areas.

(c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

(d) Criterion 4. Species listed under the Endangered Species Act as either threatened or endangered.

(25) "Provisions" means policies, regulations, standards, guideline criteria or designations.

(26) "Rehabilitation" or "ecological rehabilitation" means the significant upgrading of ecological shoreline functions and values such as revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials.

(27) "Shoreline areas" and "shoreline jurisdiction" means all "shoreslines of the state" and "shorelands" as defined in RCW 90.58.030.

(28) "Shoreline master program" or "master program" means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020;

As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations; and

~~((+4))~~ (29) "Shoreline modification activities" means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, dredged basin, landfill, or bulkhead. They can include other actions, such as clearing, grading, or application of chemicals.

(30) "Shoreline property" means an individual property wholly or partially within shoreline jurisdiction.

(31) "Significant vegetation removal" means the removal of trees, shrubs, and/or ground cover by clearing, grading, cutting, chemical means, or other activity that threatens the viability of shoreline vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal.

(32) "Site potential tree height" means the average height, at age one hundred years, of the tallest mature native conifer species that is capable of growing in the soils found at the site and for which height measurements are noted in the soil survey reports published by the natural resource conservation service and other sources. Each local natural resource conservation service field office maintains the surveys for its area.

West of the Cascade summit, the site potential tree height will be based on either Douglas fir or western hemlock. East of the summit, the species could be ponderosa pine, lodgepole pine, western larch, Englemann spruce, subalpine fir, grand fir, or Douglas fir.

For sites that historically supported cottonwoods as the largest tree, the site potential tree height is the average height, at age seventy-five years, of a black cottonwood tree growing under those site conditions.

(33) "State master program" means the cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by the department.

(34) "Storm water" means surface water runoff collected and transported by a managed system.

(35) "Substantially degrade" means to cause damage or harm to an area's natural ecological functions. An action is considered to substantially degrade the environment if:

(a) The damaged ecological function or functions affect other related functions or the viability of the larger ecosystem; or

(b) The damage is not reversed or self-correcting through natural means within approximately two years; or

(c) There is the threat, as determined by best available science, that the degrading action could cause significant damage to shoreline ecological functions under foreseeable conditions; or

(d) There is the threat that the action could contribute to damaging ecological functions as part of cumulative impacts from similar permitted activities on nearby shorelines.

(36) "Surface water runoff" means water draining on the surface of the ground on its way to a shoreline.

(37) "Uplands" means those areas lying landward of the shoreline and outside shoreline jurisdiction.

(38) "Vegetation management corridor" means the area extending from a stream or river channel or the bank of a lake or marine shoreline to a distance at least one site potential tree height. On streams or rivers the corridor width is measured landward from the bank full width. On lakes and marine shorelines, the corridor is measured landward of the nearest bank that can support mature tree growth.

(39) "Water-dependent use" means a use or portion of a use which cannot exist in a location that is not adjacent to the water but is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include ship cargo terminal loading areas, fishing, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, hydroelectric dams, irrigation facilities, and sewer outfalls.

(40) "Water-enjoyment use" means a recreational use, or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for

recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through the location, design, and operation assures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to:

- Parks with activities enhanced by proximity to the water;
- Piers and other improvements that facilitate public access to shorelines of the state;
- Restaurants with water views and public access improvements;
- Museums with an orientation to shoreline topics;
- Aquariums;
- Scientific/ecological reserves;
- Resorts with uses open to the public and public access to the shoreline; and any combination of those uses listed above.

(41) "Water-oriented use" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

(42) "Water-related use" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

(a) Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

(b) The use provides a necessary service supportive of the water-dependent activities and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the product's cost, professional services serving primarily water-dependent activities and storage of water-transported foods. Examples of water-related uses may include the warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and log storage.

In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, shall also apply as used herein.

#### **NEW SECTION**

**WAC 173-26-095 Reserved.**

**AMENDATORY SECTION** (Amending Order 95-17, filed 9/30/96, effective 10/31/96)

**WAC 173-26-100 Local process for approving/amending shoreline master programs.** Prior to submittal of a new or amended master program to the department, local government shall solicit public and agency comment during the drafting of proposed new or amended master programs.

The degree of public and agency involvement sought by local government should be gauged according to the level of complexity, anticipated controversy, and range of issues covered in the draft proposal. Recognizing that the department must approve all master programs before they become effective, early and continuous consultation with the department is encouraged during the drafting of new or amended master programs. For local governments planning under chapter 36.70A RCW, local citizen involvement strategies should be implemented that insure early and continuous public participation consistent with WAC 365-195-600.

At a minimum, local government shall:

(1) Conduct at least one public hearing to consider the draft proposal;

(2) Publish notice of the hearing in one or more newspapers of general circulation in the area in which the hearing is to be held. The notice shall include:

(a) Reference to the authority(s) under which the action(s) is proposed;

(b) A statement or summary of the proposed changes to the master program;

(c) The date, time, and location of the hearing, and the manner in which interested persons may present their views; and

(d) Reference to the availability of the draft proposal for public inspection at the local government office or upon request;

(3) Consult with and solicit the comments of any persons, groups, federal, state, regional, or local agency, and tribes, having interests or responsibilities relating to the subject shorelines or any special expertise with respect to any environmental impact. The consultation process should include adjacent local governments with jurisdiction over common shorelines of the state;

(4) Where amendments are proposed to a county or regional master program which has been adopted by cities or towns, the county shall coordinate with those jurisdictions and verify concurrence with or denial of the proposal. For concurring jurisdictions, the amendments should be packaged and processed together. The procedural requirements of this section may be consolidated for concurring jurisdictions;

(5)(a) Solicit comments on the draft proposal from the department prior to local approval((-)); or

(b) For local governments planning under the Growth Management Act, the local government shall:

(i) Solicit comments from the department on the draft proposal prior to commencing the sixty-day formal review period pursuant to RCW 36.70A.106; and

(ii) When submitted in accordance with the provisions of WAC 173-26-110, the notice of intent to adopt as provided for in RCW 36.70A.106 may, at the option of local government, constitute submittal of the proposal for formal review and final action by the department pursuant to WAC 173-26-110 and 173-26-120.

If a local government planning under the Growth Management Act chooses not to submit the proposal for formal review as provided above, the local government shall notify both the department and the department of community, trade, and economic development of its intent to adopt shoreline

policies or regulations, at least sixty days prior to final local approval, pursuant to RCW 36.70A.106;

(6) Comply with chapter 43.21C RCW, the State Environmental Policy Act; and

(7) Approve the proposal.

(8) For local governments not planning pursuant to the Growth Management Act or for local governments planning pursuant to the Growth Management Act and not choosing to submit pursuant to subsection (6)(b)(ii) of this section, the local government must approve the proposal.

**AMENDATORY SECTION** (Amending Order 95-17, filed 9/30/96, effective 10/31/96)

**WAC 173-26-110 Submittal to department of proposed master programs/amendments.** A master program or amendment proposed by local government shall be submitted to the department for its review and formal action. A complete submittal shall include two copies of the following, where applicable:

(1) Documentation (i.e., signed resolution or ordinance);

(a) That the proposal has been approved by the local government; or

(b) For local governments planning pursuant to the Growth Management Act, a notice of intent to adopt pursuant to RCW 36.70A.106 may be submitted provided that:

(i) Said notice is approved and issued by the governing body of the local government; and

(ii) The notice clearly indicates that the proposal is being submitted to the department for formal review and action by the department; and

(iii) The formal review process conducted by the department will include opportunity for public and agency review and comment as provided in WAC 173-26-120; and

(iv) No further action may be taken to modify or adopt the proposal until completion of the state review process; and

(v) Final action on the proposal must be in conformance with the decision of the department on the proposal;

(2) If the proposal includes text amending a master program document of record, it shall be submitted in a form that can replace or be easily incorporated within the existing document. Amended text shall show strikeouts for deleted text and underlining for new text, clearly identifying the proposed changes. At the discretion of the department, strikeouts and underlined text may not be required provided the new or deleted portions of the master program are clearly identifiable;

(3) Amended environment designation map(s), showing both existing and proposed designations, together with corresponding boundaries described in text for each change of environment. Environment designation maps shall include a scale and north arrow and shall be of standard size using distinct reproducible noncolor patterns. All proposals for changes in environment designation and redesignation shall provide written justification for such based on existing development patterns, the biophysical capabilities and limitations of the shoreline being considered, and the goals and aspirations of the local citizenry as reflected in the locally adopted comprehensive land use plan;

(4) A summary of proposed amendments together with explanatory text indicating the scope and intent of the proposal, staff reports, records of the hearing, and/or other materials which document the necessity for the proposed changes to the master program;

(5) Evidence of compliance with chapter 43.21C RCW, the State Environmental Policy Act, specific to the proposal;

(6) Copies of all public, agency and tribal comments received, including a record of names and addresses of interested parties involved in the local government review process or, where no comments have been received, a comment to that effect.

**AMENDATORY SECTION** (Amending Order 95-17, filed 9/30/96, effective 10/31/96)

**WAC 173-26-120 State process for approving/amending shoreline master programs.** Review and approval of master programs and amendments by the department shall follow the procedures set forth below:

**FORMAL REVIEW:**

(1) The department shall review the submitted master program or amendment for compliance with WAC 173-26-100 and 173-26-110. The department shall notify the local government in writing when it determines that a complete submittal has been received. If the submittal is determined to be incomplete, the department will identify the deficiencies and so notify the local government in writing. The review process will not commence until the department determines the submittal is complete.

(2) The department shall provide reasonable notice and opportunity for written comment to all parties of record who expressed interest regarding the local government proposal and to all persons, groups, agencies, and tribes that have requested in writing notice of proposed master programs or amendments generally or for a specific subject matter. The comment period shall be at least thirty days, unless the department determines that a lack of complexity or controversy surrounding the proposal supports a shorter period.

(3) For master program or amendment proposals involving local governments planning under chapter 36.70A RCW, the department shall provide notice to the department of community, trade, and economic development of its intent to commence formal review of the local government proposal.

(4) At the department's discretion, it may conduct a public hearing during the comment period in the jurisdiction proposing the master program or amendment.

(5) If the department conducts a hearing pursuant to subsection (4) of this section, it shall publish notice of the hearing in at least one newspaper of general circulation in the area affected by the master program. The public notice shall include:

(a) A description of the proposed master program or amendment;

(b) Reference to the authority under which the action is proposed;

(c) The dates, times, and locations of the public hearing, and the manner in which interested persons may obtain copies of the proposal and present their views.

For master program or amendment proposals involving adoption by rule, the notice of the hearing shall be published at least once in each of the three weeks immediately preceding the hearing in one or more newspapers of general circulation in the county in which the hearing is to be held.

(6) Within fifteen days after the close of the department's public comment period, the department shall request of the local government submitting the proposal a review of the issues if any, identified by the public, interested parties, groups, agencies, and tribes, and a written response as to how the proposal addresses the identified issues consistent with the policy of RCW 90.58.020 and the applicable guidelines. Local government shall submit its response to the department within forty-five days of the date of the department's letter requesting a response. If no response is received by the department within the forty-five-day period, the department may proceed with action on the proposal according to subsection (7) of this section. Within the forty-five-day period, the local government may request in writing additional time to prepare a response.

#### APPROVAL:

(7) Within thirty days after receipt of the local government written response pursuant to subsection (6) of this section, the department shall make written findings and conclusions regarding the consistency of the proposal with the policy of RCW 90.58.020 and the applicable guidelines, provide a response to the issues identified in subsection (6) of this section and either approve the proposal as submitted, recommend specific changes necessary to make the proposal consistent with chapter 90.58 RCW policy and its applicable guidelines, or deny the proposal in those instances where no alteration of the proposal appears likely to be consistent with the policy of RCW 90.58.020 and the applicable guidelines. The written findings and conclusions shall be provided to the local government, all interested parties, tribes, and agencies of record on the proposal.

In reaching its determination of consistency with the policy of RCW 90.58.020 and the applicable guidelines, the department shall approve those parts of a master program relating to shorelines unless it determines that the submitted parts are not consistent with the policy of RCW 90.58.020 and the applicable guidelines. The department shall approve those parts of a master program relating to shorelines of state-wide significance only after determining the program provides for optimum implementation of the state-wide interest as set forth in the policy of RCW 90.58.020 and the applicable guidelines.

(a) In cases where the proposal has been approved by the local government prior to submittal and subsequently:

(i) Is approved by the department as submitted, the effective date of the approved master program or amendment shall be the date of the department's letter to local government approving the submitted master program or amendments.

~~((b) If)~~ (ii) The department recommends changes to the proposal, within thirty days after the department mails the written findings and conclusions to the local government pursuant to this subsection (7), the local government may:

~~((c) A)~~ (A) Agree to the proposed changes. Receipt by the department of the written notice of agreement from the local

government shall constitute final action by the department approving the revised submittal. Written notice of the local government acceptance shall be provided by the department to all parties of record. In such cases, the effective date of the approved master program or amendment is the date the department receives from local government the written notice of agreement; or

~~((c) B)~~ (B) Submit an alternative proposal. If, in the opinion of the department, the alternative is consistent with the purpose and intent of the changes originally proposed by the department in this subsection (7) and with the policy of RCW 90.58.020 and the applicable guidelines, it shall approve the alternative changes and provide written notice to all parties of record. In such cases, the effective date of the approved master program or amendments is the date of the department's letter to local government approving the alternative proposal.

If the department determines the alternative proposal is not consistent with the purpose and intent of the changes proposed by the department, the department may either deny the alternative proposal or at the request of local government start anew with the review and approval process beginning at WAC 173-26-120.

(b) In cases where the proposal has been submitted prior to final approval by the local government, the department's transmittal of written findings, conclusions and decision shall authorize the local government to take action on the proposal in conformance with the decision of the department.

If the department recommends changes to the proposal, the local government may either accept those changes or submit an alternative proposal.

(i) In those cases where the department accepts the proposal as submitted or where changes are recommended by the department and accepted by the local government, final action may be taken on the proposal by local government and the department shall be notified of the action in writing. The department shall acknowledge receipt of the notice of action in writing which shall constitute final action in approving the proposal. The effective date of the master program or amendment shall be the date of the letter of acknowledgement by the department.

(ii) In those cases where the department recommends changes to the proposal and the local government submits an alternative proposal;

(A) If, in the opinion of the department, the alternative is consistent with the purpose and intent of the changes originally proposed by the department in this subsection (7) and with the policy of RCW 90.58.020 and the applicable guidelines, it shall approve the alternative changes and provide written notice to all parties of record and the local government. Final action may be taken on the proposal by local government and the department shall be notified of the action in writing. The department shall acknowledge in writing receipt of the notice of action which shall constitute final action in approving the proposal. The effective date of the master program or amendment shall be the date of the letter of acknowledgement by the department.

(B) If the department determines the alternative proposal is not consistent with the purpose and intent of the changes proposed by the department, the department may either deny the alternative proposal or at the request of local government

start anew with the review and approval process beginning at WAC 173-26-120.

(8) A master program or amendment thereto takes effect when and in such form as it is approved or adopted by rule by the department except when appealed to the shorelines board as provided for in RCW 90.58.190(4) for local governments not planning under chapter 36.70A RCW. The department's approved document of record, filed at the department, constitutes the official master program.

(9) For local governments planning under chapter 36.70A RCW, after final action by the department on a local government's shoreline master program or amendment the local government shall (pursuant to RCW 90.58.090) promptly publish a notice that the department has taken final action on the master program or amendment. For purposes of this section, the date of publication for the master program adoption or amendment shall be the date on which the local government publishes the notice that the department has taken final action on the master program or amendment.

### PART III

#### SHORELINE MASTER PROGRAM GUIDELINES

##### NEW SECTION

**WAC 173-26-170 Purpose of Part III.** WAC 173-26-170 through 173-26-250 are adopted pursuant to chapter 90.58 RCW, the Shoreline Management Act of 1971, to serve as standards for implementation of the policy of chapter 90.58 RCW for regulation of uses of the shorelines; and provide criteria to local governments and the department of ecology in developing and amending master programs. The purposes of Part III are to: (Text in quotations is excerpted from RCW 90.58.020.)

(1) "Protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life. . . ."

(a) Provide measures for the restoration, preservation, and protection of the state shorelines, which are "among the state's most valuable and fragile of its natural resources."

(b) Design and conduct permitted uses and activities "in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area. . . ."

(c) Prepare standards governing the protection of single-family residences and appurtenant structures from shoreline erosion, giving preference to measures to protect single-family residences occupied before January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment. (See RCW 90.58.100(6).)

(2) Protect the public's right to use and access the surface waters of the state.

(a) "Insure the development of shorelines of the state in a manner which, while allowing limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest."

(b) "Protect generally public rights of navigation and corollary rights incidental thereto."

(c) Preserve "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state to

the greatest extent feasible consistent with the overall best interest of the state and the people generally."

(d) Regulate the design, construction, and operation of "permitted uses in the shorelines of the state to minimize, insofar as practical, any interference with the public's use of the water."

(3) Foster reasonable and appropriate uses that are in the public's best interest.

(a) Give preference to uses "which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline." Alterations to the natural conditions of the shorelines of the state, in those limited instances where authorized, shall be given priority for:

- "Single-family residences and their appurtenant structures;

- Ports; shoreline recreational uses, including, but not limited to, parks, marinas, piers, and other improvements facilitating public access to the shorelines of the state;

- Industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state; and

- Other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state."

(b) Conduct the "coordinated planning necessary to protect the public's interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest." Ensure equal treatment and fairness to all parties with respect to the use of shoreline resources.

(c) Undertake a "planned, rational, and concerted effort, jointly performed by federal, state and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

(d) "Appropriately classify the shorelines and shorelands of the state and revise these classifications when circumstances warrant regardless of whether the change in the circumstances occurs through man-made causes or natural causes."

(e) Reflect that state-owned shorelines of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational activities for the public and give appropriate special consideration to same. (See RCW 90.58.100(4).)

RCW 90.58.050 gives local governments the responsibility of "initiating the planning required by this chapter and administering the regulatory program consistent with the policy and provisions of this chapter." Recognizing that local governments largely bear the costs associated with shoreline management, the policies in this chapter are limited to those necessary to meet the objectives of the act. Nothing in this chapter is intended to reduce the opportunity for local governments to pursue local shoreline management objectives, provided they are consistent with the policies of the act and this chapter.

In 1995, the Washington state legislature passed Engrossed Substitute House Bill 1724, an act relating to implementing the recommendations of the governor's task force on regulatory reform on integrating growth manage-

ment planning and environmental review. The bill amended, among other statutes, the Growth Management Act, chapter 36.70A RCW; the Shoreline Management Act, chapter 90.58 RCW; and the State Environmental Policy Act, chapter 43.21C RCW. Section 304 of Engrossed Substitute House Bill 1724 amended RCW 90.58.060(1) to read:

*(1) The department shall periodically review and adopt guidelines consistent with RCW 90.58.020, containing the elements specified in RCW 90.58.100 for:*

*(a) Development of master programs for regulation of the uses of shorelines; and*

*(b) Development of master programs for regulation of the uses of shorelines of state-wide significance.*

These guidelines implement the directive to integrate referenced statutes. Specifically, the guidelines are directed toward more efficient planning, permitting, and environmental review and more effective resource management.

#### NEW SECTION

**WAC 173-26-180 Applicability of Part III.** WAC 173-26-170 through 173-26-250 apply to actions taken in the preparation, amendment, and review of local shoreline master programs pursuant to RCW 90.58.060(1). The master programs prepared or amended pursuant to this chapter, when adopted or approved by the department, shall constitute use regulations for the shorelines of the state. WAC 173-26-260 implements the Ocean Resources Management Act (ORMA), chapter 43.143 RCW. WAC 173-26-260 applies to uses conducted in Washington's coastal waters as referenced in WAC 173-26-260(2).

#### NEW SECTION

**WAC 173-26-190 Master program contents.** (1) Master program concepts. The following four concepts are the basis for effective management of Washington's shorelines.

(a) The shoreline master programs are both planning and regulatory tools. RCW 90.58.020 establishes the need for both planning and regulatory action.

*The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefor [sic], a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.*

The act expresses this dual function in RCW 90.58.030 (3)(b):

*"Master program" means the comprehensive use plan for a described area and the use regulations, together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.*

Master programs serve a planning function in several ways. First, they balance and integrate the objectives and interests of local citizens insofar as they are consistent with

the Shoreline Management Act. Therefore, the preparation and amending of master programs shall involve active public participation, as called for in WAC 173-26-200(3). Second, they address the full variety of conditions on the shoreline. Third, they consider and, where necessary to achieve the objectives of chapter 90.58 RCW, influence upland planning and regulatory measures. For jurisdictions planning under chapter 36.70A RCW, the Growth Management Act, the requirements for integration of upland and shoreline planning are more specific and are described in subsection (2)(a) of this section. Fourth, master programs address conditions and opportunities of specific shoreline segments identified during shoreline planning efforts by classifying the shorelines into "environment designations" as described in (d) of this subsection.

The results of shoreline planning are summarized in shoreline master program policies that establish broad shoreline management directives. The policies are the basis for regulations that govern use and development along the shoreline. Some development requires a shoreline permit prior to construction. Local governments evaluate the permit application with respect to the shoreline master program policies and regulations and issue a permit only after determining that the development conforms to them. The regulations apply to all uses and activities within shoreline jurisdiction, whether or not a shoreline permit is required and are implemented through other permitting and regulation activities of the local government. See RCW 90.58.140.

(b) Master program elements. RCW 90.58.100(2) states that the master programs shall, when appropriate, include the following elements:

*(i) An economic development element for the location and design of industries, transportation facilities, port facilities, tourist facilities, commerce, and other developments that are particularly dependent on their location on or use of shorelines of the state.*

*(ii) A public access element for making provision for public access to publicly owned areas.*

*(iii) A recreational element for the preservation and enlargement of recreational opportunities, including, but not limited to, parks, tidelands, beaches, and recreational areas.*

*(iv) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element.*

*(v) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land.*

*(vi) A conservation element for the preservation of natural resources, including, but not limited to, scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protections.*

*(vii) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values.*

*(viii) An element that gives consideration to the state-wide interest in the prevention and minimization of flood damages.*

*(ix) Any other element deemed appropriate or necessary to effectuate the policy of this chapter.*

The Growth Management Act (chapter 36.70A RCW) also uses the word "element" for discrete sections or chapters of a comprehensive plan. To avoid confusion, "master pro-

gram element" refers to the definition in the Shoreline Management Act.

Master programs are not required to address master program elements listed in the Shoreline Management Act as discrete sections. Master programs may treat the master program elements as topics addressed throughout master program provisions rather than as a means to organize the master program.

(c) Shorelines of state-wide significance. The Shoreline Management Act identifies certain shorelines as "shorelines of state-wide significance" and raises their status in two ways. First, the Shoreline Management Act sets specific priorities for uses of shorelines of state-wide significance. RCW 90.58.020 states:

*The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of state-wide significance. The department, in adopting guidelines for shorelines of state-wide significance, and local government, in developing master programs for shorelines of state-wide significance, shall give preference to uses in the following order of preference which:*

- (1) Recognize and protect the state-wide interest over local interest;*
- (2) Preserve the natural character of the shoreline;*
- (3) Result in long term over short term benefit;*
- (4) Protect the resources and ecology of the shoreline;*
- (5) Increase public access to publicly owned areas of the shorelines;*
- (6) Increase recreational opportunities for the public in the shoreline;*
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.*

Second, the Shoreline Management Act calls for a higher level of effort in implementing its objectives on shorelines of state-wide significance. RCW 90.58.090(4) states:

*The department shall approve those segments of the master program relating to shorelines of state-wide significance only after determining the program provides optimum implementation of the policy of this chapter to satisfy the state-wide interest.*

WAC 173-26-100 describes methods to provide for the priorities listed in RCW 90.58.020 and to achieve "optimum implementation" as called for in RCW 90.58.090(4).

(d) Shoreline environment designations. Shoreline management must address a wide range of physical conditions and development settings along shoreline areas. Effective shoreline management requires that the shoreline master program prescribe different environment protection measures, allowable use provisions, and development standards for each of these shoreline segments. Therefore, a system is needed for applying policies and use regulations within distinctively different shoreline areas.

The method for local government to account for different shoreline conditions is to assign an environment designation to each distinct shoreline section in its jurisdiction. The environment designation assignments provide the framework for implementing shoreline policies and regulatory measures specific to the environment designation. WAC 173-26-210 presents guidelines for environment designations in greater detail.

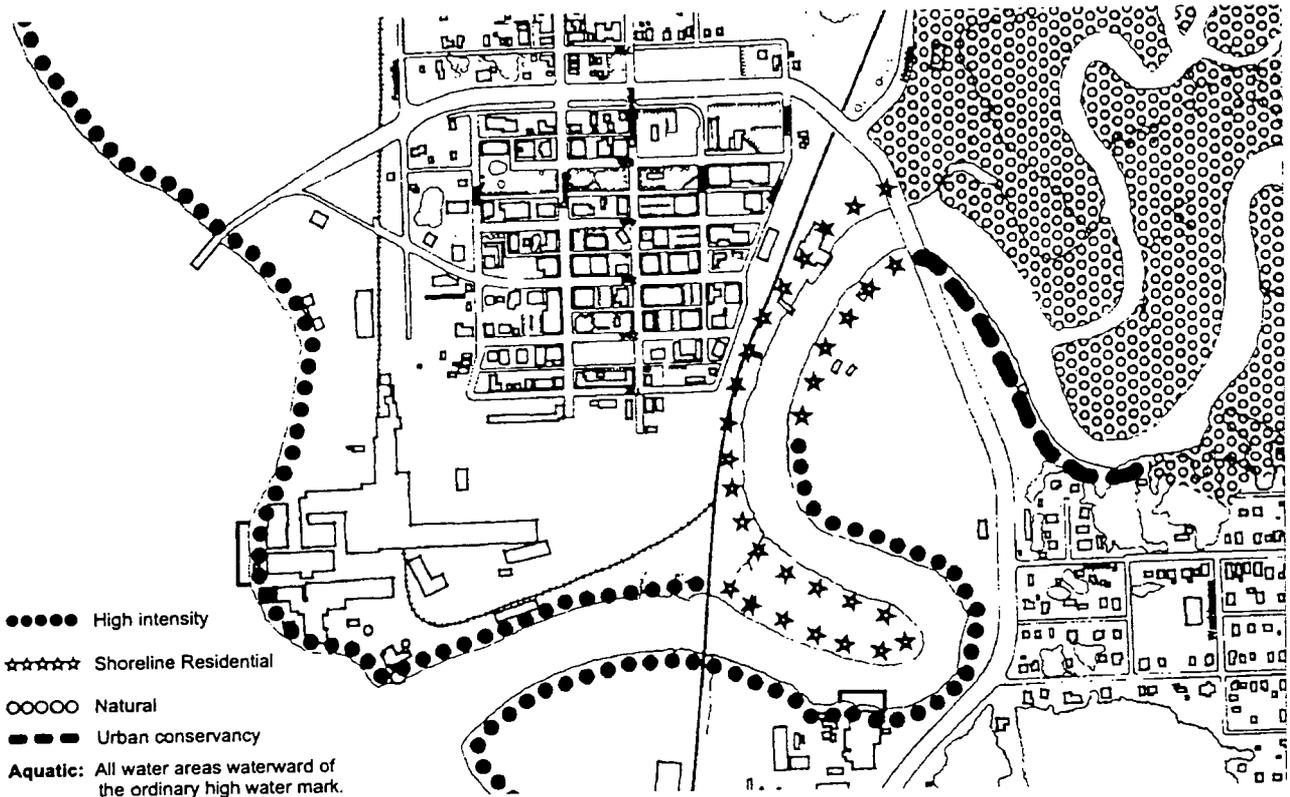


Figure 1. Example of typical environment designations.  
 (This figure is for illustration purposes only and does not supplement or add to the language in the chapter text.)

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(2) Basic requirements. Part III of this chapter describes the basic components and content required in a master program. The terms "shall," "must," and "are required" and the imperative voice mean a mandate; the action must be done. The term "should" means that the particular action is required unless there is a compelling reason with respect to the policies of the Shoreline Management Act against doing it. Part III also contains suggestions for fulfilling the requirements which local governments may or may not choose to follow. The term "may" indicates that the action is acceptable, provided it satisfies all other provisions in this chapter. A master program as submitted to the department for approval shall be sufficient and complete to implement the Shoreline Management Act and the provisions of this chapter. A master program shall contain all of the policies and regulations necessary for the department and other reviewers to evaluate shoreline permits for conformance to the Shoreline Management Act and this chapter.

(a) Consistency with comprehensive planning and other development regulations. Shoreline management is most effective when accomplished within the context of comprehensive planning. For cities and counties planning under the Growth Management Act, chapter 36.70A RCW requires mutual and internal consistency between the comprehensive plan elements and implementing development regulations

(including master programs). The requirement for consistency is amplified in WAC 365-195-500:

*Each comprehensive plan shall be an internally consistent document and all elements shall be consistent with the future land use map. This means that each part of the plan should be integrated with all other parts and that all should be capable of implementation together. Internal consistency involves at least two aspects:*

- (1) Ability of physical aspects of the plan to coexist on the available land.
- (2) Ability of the plan to provide that adequate public facilities are available when the impacts of development occur (concurrency).

*Each plan should provide mechanisms for ongoing review of its implementation and adjustment of its terms whenever internal conflicts become apparent.*

The Growth Management Act also calls for coordination between local jurisdictions. RCW 36.70A.100 states:

*... The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to RCW 36.70A.00 of other counties or cities with which the county or city has, in part, common borders or related regional issues.*

This statutory provision complements watershed-wide or regional planning described in WAC 173-26-200.

Furthermore, legislative findings provided in Engrossed Substitute House Bill 1724, section 1, chapter 347, Laws of 1995 states:

The legislature recognizes by this act that the Growth Management Act is a fundamental building block of regulatory reform. The state and local governments have invested considerable resources in an act that should serve as the integrating framework for all other land-use related laws. The Growth Management Act provides the means to effectively combine certainty for development decisions, reasonable environmental protection, long-range planning for cost-effective infrastructure, and orderly growth and development.

Engrossed Substitute House Bill 1724 also added RCW 36.70A.480(1) to the Growth Management Act, which states:

For shorelines of the state, the goals and policies of the Shoreline Management Act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

Furthermore, RCW 36.70A.481 states:

Nothing in RCW 36.70A.480 shall be construed to authorize a county or city to adopt regulations applicable to shorelands as defined in RCW 90.58.030 that are inconsistent with the provisions of chapter 90.58 RCW.

The Shoreline Management Act addresses the issue of consistency in RCW 90.58.340, which states:

All state agencies, counties and public and municipal corporations shall review administrative and management policies, regulations, plans and ordinances relative to lands under their respective jurisdictions adjacent to the shorelines of the state so as to achieve a use policy on said land that is consistent with the policy of this chapter, the guidelines, and the master programs for the shorelines of the state.

Pursuant to the statutes cited above, the intent of these guidelines is to assist local governments in preparing and amending master programs that fit within the framework of applicable comprehensive plans and facilitate consistent, efficient environmental review as well as effective implementation of the Shoreline Management Act.

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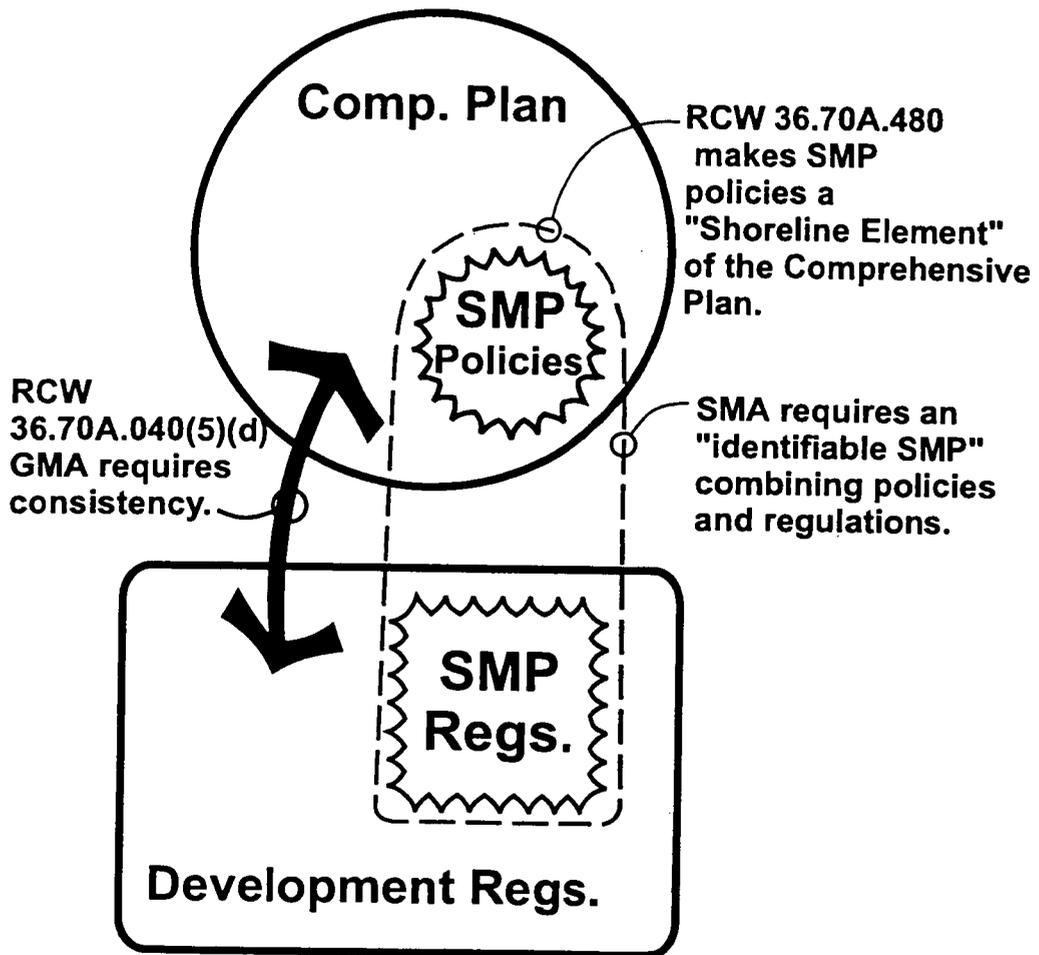


Figure 2. Diagram illustrating relationship of master program policies and regulations to comprehensive plan and local development regulations for governments planning under RCW 36.70A. (This figure is for illustration purposes only and does not supplement or add to the language in the chapter text.)

Several sections in these guidelines include methods to achieve the consistency required by both the Shoreline Management Act and the Growth Management Act.

- First, (b) and (d) of this subsection describe optional methods to integrate master programs and other development regulations and the local comprehensive plan.

- Second, WAC 173-26-220 through 173-26-260 translate the broad objectives in the Shoreline Management Act into more specific policies. They also provide a more defined policy basis on which to frame local shoreline master program provisions and to evaluate the consistency of applicable sections of a local comprehensive plan with the Shoreline Management Act.

- Third, this chapter incorporates the concepts of best available science and ecological functions congruent with both the Shoreline Management Act and the Growth Management Act to achieve greater consistency in critical area regulations and environmental protection in the framework of comprehensive planning.

- Finally, WAC 173-26-210(3) presents specific methods for testing consistency between shoreline environment designations and comprehensive plan land use designations.

(b) Including other documents in a master program by reference. Shoreline master program provisions sometimes address similar issues as other comprehensive plan elements and development regulations such as the zoning code and

critical area ordinance. For the purposes of completeness and consistency, local governments may include other locally adopted policies and regulations within their master programs. For example, a local government may include specific portions of its critical area ordinance in the master program, provided the critical area ordinance is consistent with this chapter. This can further reduce duplication by allowing other regulations to satisfy Shoreline Management Act requirements and ensure that local master programs are consistent with other regulations. However, if the critical area ordinance is amended, the corresponding master program provisions will not be altered except through a master program amendment.

Shoreline master programs may include other regulations by referencing a specific, dated edition. In the adoption process the department of ecology will review the referenced development regulation sections for approval as part of the master program. A copy of the referenced regulations shall be submitted to the department with the proposed master program or amendment. If the development regulation is amended, the edition referenced within the master program will still be the operative regulation in the master program. Changing the referenced regulations in the master program to the new edition requires approval of a master program amendment.

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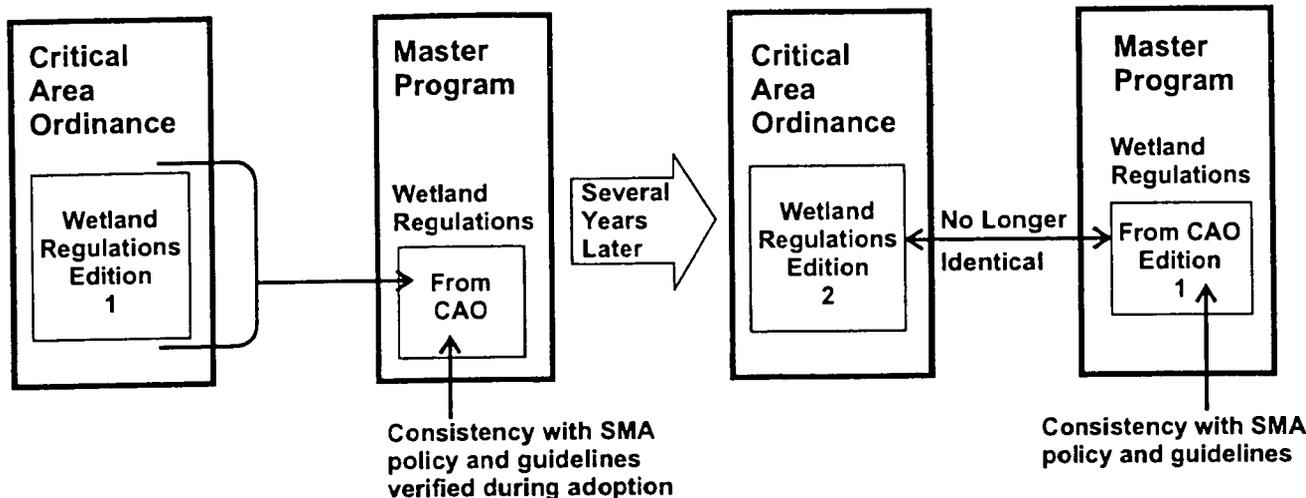


Figure 3. Optional method to incorporate other development regulations into master programs by reference. (This figure is for illustration purposes only and does not supplement or add to the language in the chapter text.)

(c) Incorporating master program provisions into other plans and regulations. Local governments may integrate master program, policies, and regulations into their comprehensive plan policies and implementing development regulations. Master program provisions that are integrated into

such plans and development regulations shall be clearly identified so that the department of ecology can review these provisions for approval and evaluate development proposals for compliance. RCW 90.58.120 requires that all adopted regulations, designations, and master programs be available for

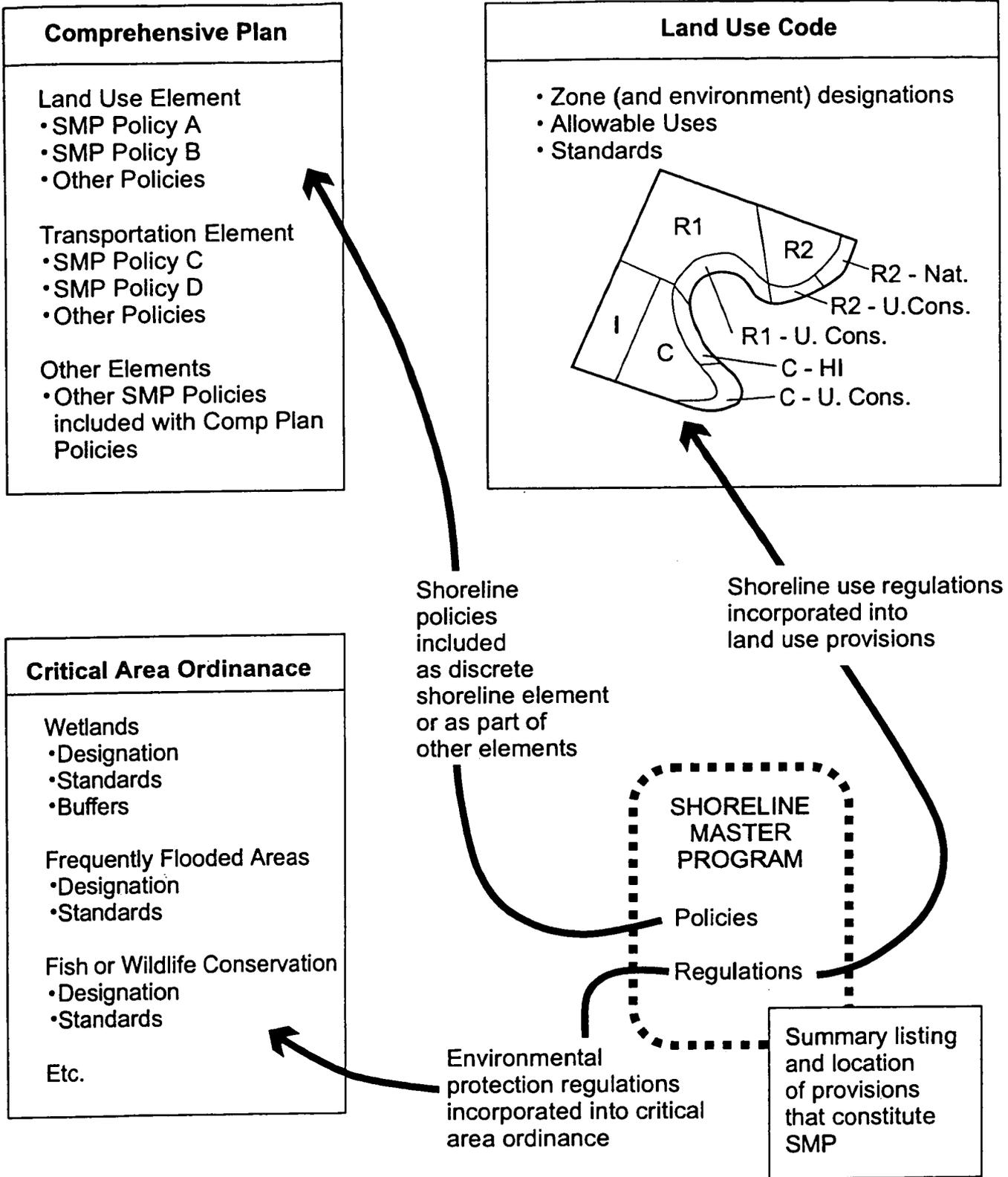
public inspection at the department of ecology or the appropriate county or city. Local governments shall identify all documents which contain master program provisions and which provisions constitute part of the master program. Clear identification of master program provisions is also necessary so that interested persons and entities may be involved in master program preparation and amendment, as called for in RCW 90.58.130.

Local governments integrating all or portions of their master program provisions into other plans and regulations shall submit a listing to the department of ecology and copies of all provisions that constitute the master program. The master program shall also be sufficiently complete and defined to provide:

- Clear directions to applicants applying for shoreline permits; and
- Clear evaluation criteria and standards to the local governments, the department, other agencies, and the public for reviewing permit applications with respect to state and local shoreline management provisions.

(d) Multijurisdictional master program. Two or more adjacent local governments are encouraged to jointly prepare master programs. Jointly proposed master programs may offer opportunities to effectively manage natural resources that cross jurisdictional boundaries. Local governments jointly preparing master programs shall provide the opportunity for public participation locally in each jurisdiction, as called for in WAC 173-26-200 (3)(b) and submit to the department the multijurisdictional master program for approval.

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Figure 4. Method to incorporate master program provisions into a comprehensive plan and local development regulations. (Note: All master program provisions must be clearly identified as such.)

(This figure is for illustration purposes only and does not supplement or add to the language in the chapter text.)

(e) Master program contents. Master programs shall include the following contents described in (e)(i) through (iii) of this subsection.

(i) Master program policies. Master programs shall provide clear, consistent policies that translate broad state-wide objectives of this chapter into local directives. Policies are statements of intent directing or authorizing a course of action or specifying criteria on which to make a public decision. They provide a comprehensive basis for the shoreline master program regulations, which generally are more specific, and prescriptive standards used to evaluate shoreline development.

Shoreline policies shall be developed through a comprehensive shoreline planning process allowing for public and affected Indian tribes participation. For governments planning under the Growth Management Act, the policies shall also be consistent with the planning goals of RCW 36.70A.020 and master program policies are considered a shoreline element of the local comprehensive plan.

At a minimum, shoreline master program policies shall:

(A) Be consistent with state shoreline management policies listed in this chapter and the objectives of the Shoreline Management Act.

(B) Address the master program elements of RCW 90.58.020.

(C) Include policies for environment designations as described in WAC 173-26-060. The policies shall be accompanied by a map or physical description of the schematic environment designation boundaries in sufficient detail to compare with comprehensive plan land use designations. Environment designations include "high-intensity," "shoreline residential," "urban conservancy," "rural conservancy," "natural," and "aquatic." However, local governments may establish their own sub-classifications or retain current designations, provided they are consistent with this chapter.

(ii) Master program regulations. RCW 90.58.100 states:

*The master programs provided for in this chapter, when adopted or approved by the department, shall constitute use regulations for the various shorelines of the state.*

In order to implement the directives of the Shoreline Management Act, master program regulations shall:

(A) Be in sufficient scope and detail to ensure the implementation of the Shoreline Management Act, state-wide shoreline management policies of this chapter, and local master program policies;

(B) Include environment designation regulations sufficient to describe: Allowed uses, prohibited uses, conditional uses, and development standards, such as: Shoreline setbacks, vegetation management requirements, development intensity, and shoreline modification provisions, necessary to: Protect the public trust, provide for preferred uses, and protect the environment within shoreline areas.

(C) Include general regulations applicable to all environment designations, use regulations that address issues of concern to specific uses, and shoreline modification activity regulations that protect the shoreline ecology from the effects of human-made modifications to the shoreline.

Local governments are encouraged to prepare master program provisions that distinguish between shoreline modi-

fication activities and shoreline uses. Shoreline modification activities are generally related to construction of a physical element such as a dike, breakwater, dredged basins, or landfill, but they can include other actions such as clearing, grading, or application of chemicals. Shoreline modification activities usually are undertaken in support of or in preparation for a shoreline use; for example, landfill (shoreline modification activity) required for a cargo terminal (industrial use) or dredging (shoreline modification activity) to allow for a marina (boating facility use).

(iii) Administrative provisions.

(A) Statement of applicability. The Shoreline Management Act's provisions apply to all development and use activities within its jurisdiction, whether or not those activities require a shoreline permit. Many activities that may not require a permit, such as clearing vegetation, fertilizing crops, and residential bulkhead construction, can cause serious damage to adjacent properties and lands held in public trust by the state. Furthermore, there has been, historically, some public confusion regarding the Shoreline Management Act's applicability. Therefore, all master programs shall include the following statement:

"All uses, development, and activities occurring within shoreline jurisdiction must conform to chapter 90.58 RCW: The Shoreline Management Act, chapter 173-26 of the Washington Administrative Code, and this master program."

(B) Conditional use and variance provisions. RCW 90.58.100(5) states:

*Each master program shall contain provisions to allow for the varying of the application of use regulations of the program, including provisions for permits for conditional uses and variances, to insure that strict implementation of a program will not create unnecessary hardships or thwart the policy enumerated in RCW 90.58.020. Any such varying shall be allowed only if extraordinary circumstances are shown and the public interest suffers no substantial detrimental effect. The concept of this subsection shall be incorporated in the rules adopted by the department relating to the establishment of a permit system as provided in RCW 90.58.140(3).*

All master programs shall include standards for reviewing conditional use permits and variances which conform to chapter 173-27 WAC. Conditional use provisions shall conform to guidelines in WAC 173-26-080 (2)(f).

(C) Administrative permit review and enforcement procedures. RCW 90.58.140(3) states:

*The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.*

Except for items noted in (e)(i) and (ii) of this subsection, which must be included in the master program, local governments may, but are not required to, include administrative, enforcement, and permit review procedures into the master program. These procedures shall conform to the Shoreline Management Act, specifically RCW 90.58.140, and to chapter 173-25 WAC. However, the procedures may be defined by a local government ordinance separate from the master program.

Adopting review and enforcement procedures separate from the master program allows local governments greater flexibility in revising their shoreline permit review proce-

dures and integrating them with other permit processing activities.

(3) Monitoring and documentation. For the purposes of monitoring shoreline development and assessing the cumulative impacts, trends and effectiveness of shoreline management practices, local governments shall retain application documentation of all permits and project review actions issued for development within shoreline jurisdiction, including building permits, land subdivision permits, permits for septic systems and sewage facilities, SEPA documentation, and letters of exemption. These materials shall be accessible to state agencies and the public for monitoring shoreline conditions. WAC 173-26-200 (3)(i) describes procedural requirements for monitoring.

(4) Consistency and compliance with other laws. There are many other state and federal laws and treaty rights addressing issues related to shoreline management and activities within shoreline jurisdictions. The intent and provisions of these laws should be incorporated into local master programs, where appropriate, in order to achieve a more integrated regulatory system. Likewise, the Shoreline Management Act applies, within shoreline jurisdiction, to activities specific to these other laws.

RCW 90.58.260 states:

*The state, through the department of ecology and the attorney general, shall represent its interest before water resource regulation management, development, and use agencies of the United States, including among others, the federal power commission, environmental protection agency, corps of engineers, department of the interior, department of agriculture and the atomic energy commission, before interstate agencies and the courts with regard to activities or uses of shorelines of the state and the program of this chapter. Where federal or interstate agency plans, activities, or procedures conflict with state policies, all reasonable steps available shall be taken by the state to preserve the integrity of its policies.*

Where there is a perceived conflict or inconsistency between the Shoreline Management Act or this chapter and other state or federal laws or their implementation guidelines, contact the department of ecology. Contact affected Indian tribes if treaty rights issues are identified.

## NEW SECTION

**WAC 173-26-200 Comprehensive process to prepare or amend shoreline master programs.** (1) Applicability. This section outlines a comprehensive process to prepare or amend a shoreline master program. Local governments shall incorporate the steps indicated if one or more of the following criteria apply:

(a) The master program amendments being considered represent a significant modification to shoreline management practices within the local jurisdiction; they modify more than one environment designation boundary, significantly add, change or delete or use regulations, or change where specific uses are allowed;

(b) Physical shoreline conditions have changed significantly, such as substantial changes in shoreline use or priority habitat integrity, since the last comprehensive master program amendment;

(c) The master program amendments being considered contain provisions that will affect a substantial portion of the local government's shoreline areas;

(d) There are substantive issues such as priority species recovery or water resource management that must be addressed on a comprehensive basis;

(e) The current master program and the comprehensive plan are not mutually consistent; or

(f) There was no previous comprehensive master program amendment since the original adoption.

If a local jurisdiction has undertaken a recent comprehensive update of the master program but seeks to make minor revisions to bring the master program into compliance with these guidelines or other state requirements, these modifications may be made without undertaking a comprehensive process, provided the issues can be addressed by revising individual provisions that do not affect other aspects of the master program.

(2) Basic concepts, definitions, and principles.

(a) Use of scientific and technical information. RCW 90.58.100(1) states:

*In preparing the master programs and any amendments thereto, the department and local governments shall, to the extent feasible:*

(a) *Utilize a systematic interdisciplinary approach that will ensure the integrated use of the natural and social science and the environmental design arts;*

(b) *Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;*

(c) *Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;*

(d) *Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;*

(e) *Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;*

(f) *Employ, when feasible, all appropriate modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered.*

This requirement is consistent with RCW 36.70A.172(1) of the Growth Management Act, which states:

*(1) In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities shall give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.*

In order to better integrate Shoreline Management Act and Growth Management Act activities, where so noted, the requirement for best available science refers to both the provisions of RCW 90.58.100(1) noted above, the definition in WAC 173-26-020 and the provisions of Washington Administrative Code implementing RCW 36.70A.172.

To address the requirements for the use of best available science, local governments shall incorporate the following three steps into their master program development and amendment process.

(i) Identify and assemble information that represents best available science applicable to the issue of concern. At a minimum, local governments should make use of, and where applicable, incorporate scientific information, aerial photography, inventory data, technical assistance materials, manuals and services from reliable sources of science. Local govern-

ments should also contact relevant state agencies, universities, and affected Indian tribes for available information. If local governments initiate scientific research as a basis for master program provisions, that research shall adhere to best available science principles. Local governments are encouraged to work interactively with state resource agencies and affected Indian tribes to address technical issues beyond the scope of existing information resources or locally initiated research.

(ii) Prepare management recommendations that are based on best available science. Where ecological systems extend beyond the local jurisdiction, management recommendations should be consistent with state-wide and regional management efforts such as watershed planning.

(iii) Base master program provisions on the science based management recommendations. Local governments should be prepared to identify the following:

- Scientific information and management recommendations on which the master program provisions are based;
- Assumptions and information gaps in the scientific analysis;
- Risks to ecological functions associated with master program provisions and methods to monitor conditions and adapt management practices over time.

(b) Adaptive management. Adaptive management involves the monitoring of shoreline conditions and the revision of regulatory and physical improvement measures to more fully achieve the objectives in RCW 90.58.020. Because there are unavoidable gaps in scientific knowledge, adaptive management is necessary to monitor and correct deficient management practices.

A necessary first step in effective adaptive management is securing shoreline inventory information as a base line sufficient to document changing conditions over time. Monitoring activities shall be sufficiently detailed and timed to identify changes in conditions in time to effectively modify practices. Some adaptive management activities may be local, such as the monitoring of water quality or sediment transport on a particular shoreline. Other issues will be more effectively addressed through watershed, regional or state-wide activities.

The concept of adaptive management may also be applied to shoreline use objectives. For example, monitoring the changes in harbor uses from water-dependent activities to nonwater-dependent activities can alert the local government to the need to revise shoreline use policies.

(c) Ecological functions. The concept of ecological functions, as defined in WAC 173-26-020, recognizes that successful management of the shoreline environment in both undeveloped and developed areas depends on sustaining the interaction between the various functions and that the loss of one or more function can limit the viability of the shoreline ecology in general. Therefore, shoreline master programs shall address the full range of riparian, marine, estuarine, wetland, and upland ecological functions, including, but not limited to, those identified in WAC 173-26-020.

Nearly all shoreline areas, even substantially developed or degraded areas, retain some important ecological functions. For example, an intensely developed harbor area may also serve as a fish migration corridor and feeding area criti-

cal to species survival. Also, ecological systems found within shoreline jurisdictions are themselves interconnected. For example, the life cycle of anadromous fish depends upon the viability of freshwater marine and terrestrial shoreline ecosystems, and many wildlife species associated with the shoreline depend on the health of both terrestrial and aquatic environments. Therefore, the objectives for maintenance and enhancement of ecological functions generally apply to all shoreline areas not just those that remain relatively unaltered.

(d) Preferred uses. RCW 90.58.020 states:

*In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including, but not limited to, parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes.*

Consistent with this policy, these guidelines use the terms "water-dependent," "water-related," and "water-enjoyment," as defined in WAC 173-26-030, when discussing appropriate uses for various shoreline areas.

Shoreline areas, being a limited ecological and economic resource, are the setting for competing uses and ecological preservation and rehabilitation activities. Consistent with RCW 90.58.020, local governments shall apply the following priorities, starting with (i) as the top priority, when determining allowable uses and resolving use conflicts on shorelines within their jurisdiction.

(i) Protect the integrity of existing ecological functions. Improve ecological functions over time on a comprehensive basis (for example, within a watershed or littoral drift cell).

(ii) Reserve shoreline areas for water-dependent uses and establish policies and regulations so that water-dependent development is consistent with comprehensive ecological protection and enhancement objectives.

(iii) Reserve shoreline areas for water-related and water-enjoyment uses and establish policies and regulations so that water-related development is compatible with water-dependent uses and ecological protection and enhancement objectives.

(iv) Establish policies and regulations so that nonwater-oriented uses, including residential uses, are limited to those locations where either water-oriented uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

Local conditions and environmental constraints may result in lower priority uses being accommodated. For example, an estuarine shoreline may not be an appropriate site for a water-dependent use, such as a boating facility, but may

accommodate a bird watching trail (water-enjoyment) of a lower priority.

(3) Steps in developing a master program.

(a) Process overview. Figure 5 below illustrates a generalized process to prepare or comprehensively amend a shoreline master program. Local governments may modify the timing of the various steps, integrate the process into other planning activities, add steps or activities to the process, or work jointly with other jurisdictions or regional efforts, provided the provisions of this chapter are met.

The department of ecology will provide a shoreline master program amendment checklist to help local governments identify issues to address. The checklist will not create new or additional requirements beyond the provisions of this chapter. The checklist is intended to aid the preparation and review of master program amendments. Local governments shall submit the completed checklist with the proposed master program amendments. The department will send completed checklists to other resource agencies and affected Indian tribes reviewing the master program.

PROPOSED

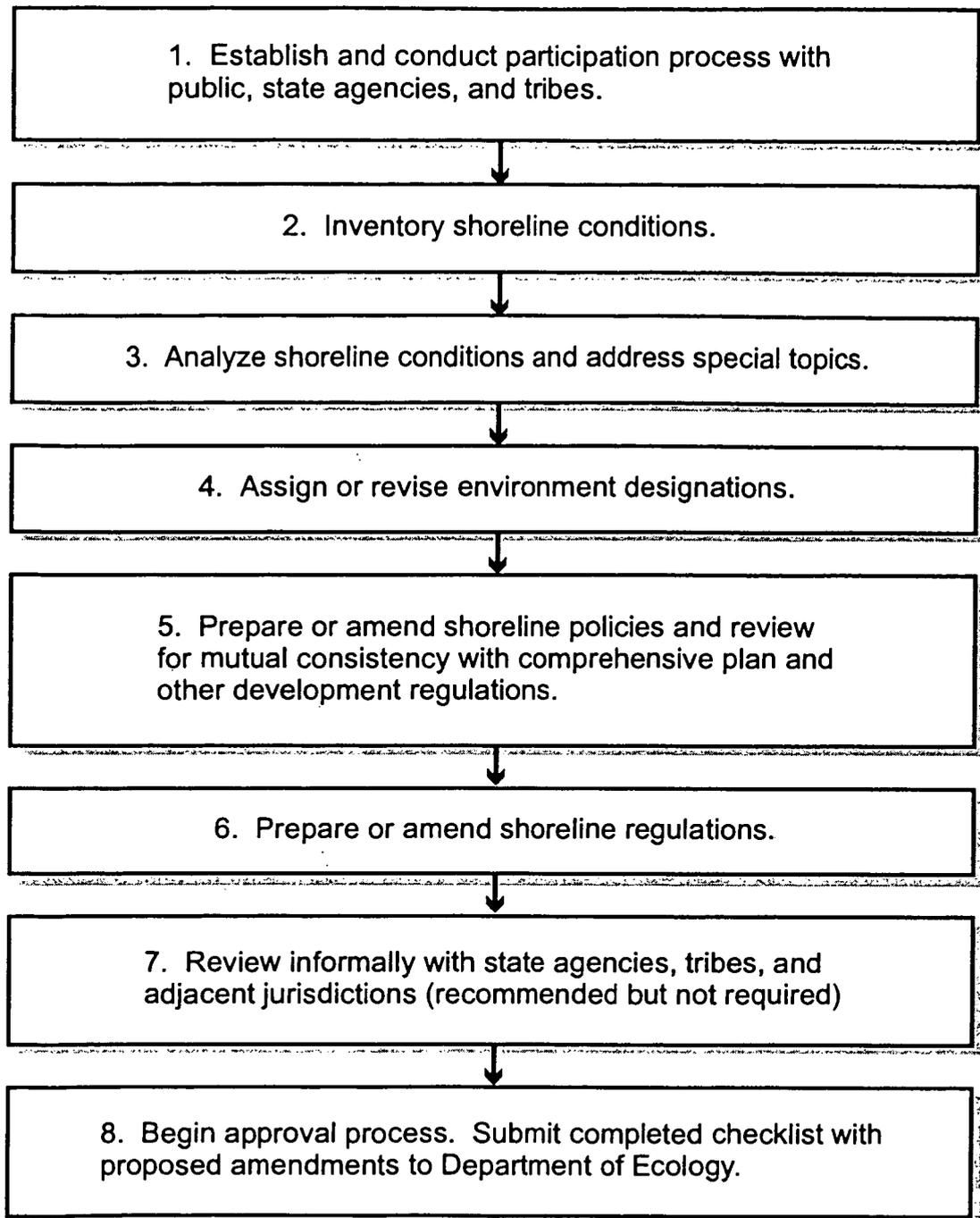


Figure 5. Steps in preparing comprehensive shoreline master program amendments. (This figure is for illustration purposes only and does not supplement or add to the language in the chapter text.)

(b) Establish public and intergovernmental participation process.

(i) Public participation. RCW 90.58.130 states:

*To insure that all persons and entities having an interest in the guidelines and master programs developed under this chapter are provided with a full opportunity for involvement in both their development and implementation, the department and local governments shall:*

*(1) Make reasonable efforts to inform the people of the state about the shoreline management program of this chapter and in the performance of the responsibilities provided in this chapter, shall not only invite but actively encourage participation by all persons and private groups and entities showing an interest in shoreline management programs of this chapter; and*

*(2) Invite and encourage participation by all agencies of federal, state, and local government, including municipal and public corporations, having interests or responsibilities relating to the shorelines of the state. State and local agencies are directed to participate fully to insure that their interests are fully considered by the department and local governments.*

For local governments planning under the Growth Management Act, the provisions of RCW 36.70A.140 also apply.

At a minimum, all local governments shall be prepared to describe and document their methods to ensure that all interested parties have a meaningful opportunity to participate. If a local committee or other group is appointed to advise the amendment process, local governments shall ensure that that body represents a broad range of interests reflective of all local citizens and not a selected segment of the populace.

(ii) Communication with state agencies. Before undertaking substantial work, local governments shall notify applicable state resource agencies to identify state interests, relevant regional and state-wide efforts, available information, and methods for coordination and input. Contact the department of ecology for a list of applicable agencies to be notified.

(iii) Communications with affected Indian tribes. Prior to undertaking substantial work, local governments shall notify affected Indian tribes to identify tribal interests, relevant tribal efforts, available information and methods for coordination and input. Contact the individual tribes or coordinating bodies such as the Northwest Indian Fisheries Commission for a list of affected Indian tribes to be notified.

(c) Inventory shoreline conditions. This chapter requires that several shoreline issues such as critical area protection, vegetation management and shoreline stabilization be addressed on a comprehensive basis to achieve a net gain in ecological functions over time within the shoreline ecosystem considered as a whole. To accomplish this requires an inventory that is significantly comprehensive to characterize the shoreline ecosystems and sufficiently detailed to provide baseline information for monitoring and adaptive management.

The preferred method for local governments to accomplish a detailed comprehensive inventory of ecological conditions is to participate in a interjurisdictional state-wide, regional, or watershed based inventory. If such an inventory is being conducted to improve resource management efforts, local governments preparing master program amendments should work with the applicable state agencies and affected Indian tribes to determine the level of detail, methodology and cooperative steps necessary to provide base line for monitoring purposes.

The department of ecology will seek to secure services and resources for coordinated, interjurisdictional inventory work. If there is not an interjurisdictional inventory process and if the resources necessary to accomplish a detailed and comprehensive inventory described above are not available from the state or other sources, local governments preparing comprehensive master program amendments shall, at a minimum, conduct an inventory in sufficient detail to designate shoreline environments and write provisions to protect existing resources and accommodate preferred shoreline uses, in accordance with the following provisions in (c) of this subsection.

Use best available science. Gather and incorporate all available information, existing inventory data and materials from state agencies, affected Indian tribes, watershed management planning, and other appropriate sources. In conjunction with state agencies, ensure that, wherever possible, inventory methods and protocols are consistent with those of neighboring jurisdictions and state efforts so that the information can be compiled on a regional and state-wide basis. Contact the department of ecology to determine information sources and other relevant efforts.

At a minimum, and to the extent such information is reasonably available, address the following:

(i) Shoreline use and adjacent upland land use and activity patterns.

(ii) Critical areas, as required by RCW 36.70.170, and opportunities for ecological rehabilitation.

(iii) Areas of special interest, such as priority habitats, rapidly developing waterfronts, cleanup sites, or eroding shorelines, to be addressed in new master program provisions.

(iv) Conditions and regulations in shoreland and upland areas that affect shorelines, such as surface water management and land use regulations.

(v) Existing and potential shoreline public access sites.

(vi) General location of bank full width limits, channel migration zones, and flood plains.

(vii) Gaps in existing information. During the initial inventory, local governments should identify what additional information may be necessary for more effective shoreline management.

(viii) If the shoreline is rapidly developing or subject to substantial human changes such as forestry practices, a more definitive analysis of existing trends based on past records or aerial photographs may be necessary to identify cumulative impacts such as bulkhead construction, intrusive development on priority habitats, and conversion of harbor areas to nonwater-oriented uses.

(ix) If archaeological or historic resources have been identified in shoreline jurisdiction, consult with the state historic preservation office and local affected Indian tribes regarding existing archaeological, and historical information.

Even if an interjurisdictional inventory is being performed, the local government shall collect inventory information described in (c)(i) through (ix) of this subsection not addressed by the interjurisdictional program. An inventory's level of detail will be a consideration in setting shoreline regulations. As a general rule, the less known about existing resources the more stringent shoreline master program provi-

sions need to be to ensure protection. If there is a question about the extent or condition of an existing ecological resource, then the master program provisions shall be sufficiently restrictive to ensure that the resource is not damaged.

(d) Analyze shoreline conditions based on best available science and address special topics. Before establishing specific master program provisions, local governments shall perform analysis and planning tasks necessary to ensure effective shoreline management provisions, including the topics below, if applicable.

(i) Ecological systems analysis. Prepare a generalized characterization of comprehensive ecological systems, such as riparian corridors, estuaries, sediment transportation, channel migration, and aquatic habitats. To the extent reasonable and necessary for establishing master program provisions, identify the primary ecological functions of the shoreline as an ecological system. Evaluate how these ecological functions are managed under the current master program and will be managed under proposed provisions. For shorelines of state-wide significance, the requirement for optimum implementation places a greater imperative on identifying and understanding ecological functions that support resources of state-wide importance.

The intent of this requirement is to, at a minimum, present a generalized understanding of the ecological resources within the jurisdiction and to indicate the broad measures necessary to protect and improve their ecological viability. Also, the guidelines for riparian corridor management, critical saltwater habitats, vegetation management, flood hazard reduction, and shoreline stabilization require that these issues be addressed on a comprehensive basis. Master program provisions for these topics shall be based on a systematic analysis of the measures necessary to achieve no net loss and net gain in ecological functions over time, as measured on a watershed- or ecosystem-wide basis.

Local governments are encouraged to accomplish this analysis by participating in state-led or interjurisdictional efforts. If the jurisdiction is part of an intergovernmental watershed management plan or other regional plan, incorporate the applicable recommendations of that effort, provided the recommendations are consistent with the Shoreline Management Act and these guidelines.

If the jurisdiction contains priority habitats or species as defined by the state, work with federal, state, and local resource agency teams and affected Indian tribes to identify specific master program provisions, monitoring techniques and, additional studies that may be needed.

(ii) Shoreline use analysis and priorities. If extensive development or change in use of the jurisdiction's shoreline areas is projected, conduct an analysis to determine the future demand for shoreline space and methods to resolve potential use conflicts. Characterize current shoreline use patterns and projected trends to ensure a balance of uses consistent with chapter 90.58 RCW and subsection (2)(d) of this section and WAC 173-26-210(5).

If the jurisdiction includes a harbor area or urban waterfront with intensive uses or significant development issues, work with the Washington state department of natural resources and port authorities to ensure consistency with harbor area statutes and regulations. Identify measures and strat-

egies to encourage appropriate use of these shoreline areas while pursuing opportunities for environmental rehabilitation.

Harbor areas and areas that are generally considered navigable for commercial purposes shall be reserved for water-dependent and water-related uses unless the local governments can demonstrate that adequate shoreline is reserved for future water-dependent and water-related needs. Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.

(iii) Cumulative impacts. If the area is experiencing substantial cumulative adverse impacts to the shoreline environment due to incremental development, such as residential bulkheads, residential piers, or runoff from newly developed properties, or if substantial incremental development is expected along the shoreline, develop, in conjunction with the department of ecology, methods to assess, minimize, and mitigate cumulative impacts to the shoreline environment. This assessment should include potential impacts due to all development including those activities not requiring a shoreline permit. At a minimum, local governments, with the assistance of state agencies, should project the ultimate allowed full build-out condition for existing and proposed master program provisions being considered.

(iv) Shorelines of state-wide significance. If the area contains substantial amounts of shorelines of state-wide significance, undertake the steps outlined in WAC 173-26-250.

(v) Special area planning. If the jurisdiction includes a complex shoreline ecology, changing uses, or other unique features or issues, the local government may undertake special area planning and request state assistance to conduct a shoreline ecological planning and development plan that provides additional scientific information and guidance in techniques to accommodate necessary water-dependent development while enhancing the shoreline's overall ecological viability. Special area planning may be used to address: Public access, vegetation management, shoreline use compatibility, port development master planning, ecological rehabilitation, or other issues best addressed on a comprehensive basis.

The resultant plans may serve as the basis for facilitating state and local government coordination and permit review. Special-area planning shall provide for public and affected Indian tribe participation.

(vi) Public access. Identify public access needs and opportunities within the jurisdiction and explore actions to enhance shoreline recreation facilities. For local governments planning under the Growth Management Act, conduct this task in conjunction with the comprehensive plan open space element. (See WAC 173-26-220(4).)

(vii) Enforcement and coordination with other regulatory programs. Local governments planning under the Growth Management Act shall review their comprehensive plan policies and development regulations to ensure consistency. In order to effectively administer and enforce master program provisions as well as other development regulations, local governments should also review their current permit review and inspection practices to identify ways to increase effi-

ciency and effectiveness and to ensure consistency with this chapter.

(viii) Ecological rehabilitation. Where rehabilitation of the shoreline is necessary for endangered species recovery efforts, management of priority species or habitats, or to provide optimum implementation for shorelines of state-wide significance, local governments should base rehabilitation requirements on comprehensive rehabilitation planning using best available science that identifies specific sites, preferred methods, and implementation incentives, requirements, and projects.

(ix) Water quality. Identify water quality issues relevant to master program provisions. At a minimum, consult with the department of ecology, the local health department, the Army Corps of Engineers, the environmental protection agency, affected Indian tribes, and state department of health.

(e) Establish environment designations and identify permitted uses, activities, and development standards for each environment designation.

Based on the inventory of step (c) and the analysis of step (d), assign each shoreline segment an environment designation.

Through a citizen involvement process, ensure that environment designations reflect local values and objectives for the development, use, and conservation of different shoreline areas.

In accordance with RCW 90.58.100(4), ensure that master program provisions reflect that state-owned shorelines are particularly adapted to wilderness beaches, ecological study areas, and other recreational activities for the public and give appropriate special consideration to the same.

In accordance with WAC 173-26-210, environment designation policies and regulations shall identify and protect ecologically intact shorelines that are largely free of human influence, prevent further loss of ecological functions on a comprehensive basis, and identify urban areas suitable for water-dependent uses and ecological rehabilitation.

In the master program environment designation provisions and boundaries, identify the areas where structural shoreline stabilization measures are prohibited or greatly restricted to avoid injury to natural shoreline functions, those areas where restoration of natural shoreline processes are encouraged or required, and those areas where shoreline stabilization may be appropriate because of the potential for property damage or the needs of water-dependent uses.

Test the environment designations for mutual consistency with comprehensive plan land use designations as indicated in WAC 173-26-210(3).

In determining the boundaries and classifications of environment designations, adhere to the priorities in subsection (2)(d)(i) through (v) of this section.

(f) Establish shoreline polices.

(i) Address all of the elements listed in RCW 90.58.100(2).

(ii) Test for mutual consistency with the comprehensive plan policies.

(iii) If there are shorelines of state-wide significance, ensure that the other comprehensive plan policies are consistent with the objectives of RCW 90.58.020 and 90.58.090(4).

(g) Establish shoreline regulations based on the analyses described in this section and the guidelines of this chapter.

(h) Identify a monitoring and adaptive management program. If the local jurisdiction includes priority habitat or species or endangered species or habitats, contact the department of ecology to determine a cooperative program supporting state-wide efforts to monitor:

- Implementation. How effective are the ecological management policies and plans being implemented? This may require documentation of permits, legal and illegal construction, and other activities on the shoreline.

- Effectiveness. Trends in ecological functions, in fish and wildlife populations and other ecological indicators.

- Validation. Analysis of findings of implementation actions and environmental responses to verify or alter environmental management practices.

Identify a procedure to address deteriorating or changing conditions if they should occur.

(i) Submit for review and adoption. Local governments are encouraged to submit draft master program provisions to the department of ecology for informal advisory review.

Local governments shall submit the completed checklist with their master program amendments proposed for adoption. Master program review and formal adoption procedures are described in Parts I and II of this chapter.

## NEW SECTION

### **WAC 173-26-210 Environment designation system.**

(1) Applicability. This section applies to the establishment of environment designation boundaries and provisions as described in WAC 173-26-190 (1)(d).

(2) Basic requirements for environment designation classification and provisions.

(a) Master programs shall contain a system to classify shoreline areas into specific environment designations. Each master program's classification system shall conform to that described in subsection (4) of this section unless there is a compelling reason to the contrary.

(b) For each environment designation, the shoreline master program shall describe:

(i) The statement of purpose, describing the shoreline management objectives of the designation in a manner that distinguishes it from other designations.

(ii) Clearly stated criteria or basis for classifying, assigning, or reassigning environment designations to a specific shoreline area.

(iii) Management policies forming the basis of the regulations. These policies shall be in sufficient detail and to assist in the interpretation of the environment designation regulations and, for jurisdiction planning under chapter 36.70A RCW, to evaluate consistency with the local comprehensive plan.

(iv) Regulations translating the management policies into enforceable requirements and development standards. Environment-specific regulations shall address where necessary to implement environment specific management policies or to account for different shoreline conditions:

(A) Preferred shoreline use requirements (where water-dependent, water-related, water-enjoyment, and nonwater-oriented uses are permitted or prohibited).

(B) Types of shoreline uses and activities permitted, conditionally permitted, and prohibited. Master programs should also include provisions to address existing nonconforming uses.

(C) Building or structure height and bulk limits, setbacks, maximum density (or minimum frontage) requirements, and site development standards.

(D) Environment-specific requirements for vegetation management, shoreline stabilization, parking, signs, public access, and other topics not covered in general use and activity regulations.

(E) Public access requirements specific to the particular environment.

(c) Master programs shall contain a map delineating the environment designations and their boundaries.

An up-to-date and accurate map of the shoreline area and environments shall be maintained in the local government office that administers shoreline permits. If it is not feasible to accurately designate individual parcels on a map, the master program text shall include a clear basis for identifying the boundaries, explicit criteria or "common" boundary descriptions to accurately define environment boundaries that can be used to distinguish the environments on the ground.

To facilitate consistency with land use planning, shoreline designations should be illustrated on the comprehensive plan Future Land Use Map as described in WAC 365-195-300 (2)(d) for jurisdictions planning under chapter 36.70A RCW.

Where jurisdiction has been reduced to floodway plus two hundred feet, the map should clearly indicate any areas (flood plains, river deltas, associated wetlands) beyond the two hundred-foot limit that are in shoreline management jurisdiction and what environment designation applies. The master program should also make it clear that in the event of a mapping error, the jurisdiction will rely upon common boundary descriptions and the criteria contained in chapter 173-22 WAC pertaining to wetlands, as amended, rather than the incorrect or outdated map.

The map and the master program should note that all areas within shoreline jurisdiction that are not mapped and/or designated are automatically assigned a "rural conservancy" designation until the shoreline can be redesignated through a master program amendment.

The following diagram summarizes the components of the environment designation provisions.

**1. List of Designations**

- Aquatic
- Shoreline Residential
- Rural Conservancy
- Natural
- Others

**2. Common Legal Descriptions**

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**3. Map**

**4. For Each Designation**

- Purpose of Designation
- Designation Criteria
- Management Policies

**6. Environment Specific Regulations**

- Site Development
- Vegetation Management
- Public Access

Etc.

**5. Matrices (Optional)**

Use Category	Environment			
	S. Resid.	Rural Cons.		
	P	C		
	P	C		
	X	P		
<b>Activities</b>				
	P	P		
	C	P		
	C	P		
Height	20'	30'		
Setback	60'	120'		
Etc.				

**PROPOSED**

Figure 6. Diagram summarizing the components of the environment designation provisions. (This figure is for illustration purposes only and does not supplement or add to the language in the chapter text.)

(3) Consistency between shoreline environment designations and the local comprehensive plan. As noted in WAC 173-26-190 (2)(a), RCW 90.58.340 requires that policies for lands adjacent to the shorelines be consistent with the Shoreline Management Act, implementing rules, and the applicable master program. Conversely, local comprehensive plans constitute the underlying framework within which master program provisions should fit. The Growth Management Act, where applicable, designates shoreline master program policies as an element of the comprehensive plan and requires that all elements be internally consistent. Chapter 36.70A RCW also requires development regulations to be consistent with the comprehensive plan.

The following criteria are intended to assist local governments and the department in evaluating the consistency between master program environment designation provisions and the corresponding comprehensive plan elements and development regulations. In order for shoreline designation provisions, local comprehensive plan land use designations, and development regulations to be internally consistent, all four of the conditions below should be met.

(a) The comprehensive plan provisions and shoreline environment designation provisions do not preclude one another. To meet this criteria, the provisions of both the comprehensive plan and the master program must be able to be met. For example, a local comprehensive plan may identify a large tract of land with a stream corridor running through it as suitable for a new residential development. The comprehensive plan and the master program may be consistent even if the stream is designated "natural," because these two objectives could be achieved in a number of ways: Development could be restricted to two hundred feet landward of the ordinary high-water mark or the stream corridor could be dedicated as a passive park and trail system. In this case, the comprehensive plan should make specific provisions for resolving any apparent inconsistency.

(b) The master program regulations and the development regulations allow some viable use or activity on all ownership parcels, except where biophysical limitations such as steep slopes or wetlands preclude development. For example, if the zoning ordinance allows only residential development on a section of shoreline designated in the master program exclusively for water-dependent industrial use, then the two sets of regulations are not consistent. If the zoning ordinance allows both residential and industrial uses, then the two may be consistent.

(c) Land use policies and regulations protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent water-oriented uses, especially water-dependent uses, from being restricted on shoreline areas because of impacts to nearby nonwater-oriented uses. To be consistent, master programs, comprehensive plans, and development regulations should not allow uses that are not compatible with preferred uses in locations where they may restrict preferred use activities or development. For example, new residential development should not be allowed near heavy shoreline industrial areas unless the impacts can be mitigated through design standard applied to the new residential development.

(d) Infrastructure and services provided in the comprehensive plan are sufficient to support allowed shoreline uses. Shoreline uses shall not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. For example, high-density residential development, marinas, and industrial uses shall not be allowed unless the comprehensive plan makes provision for needed infrastructure and services at appropriate locations.

In delineating environment designations and urban growth area boundaries, as defined in RCW 36.70A.110, local governments should ensure that shoreline environmental quality can be enhanced with the proposed pattern and intensity of urban growth. Conversely, infrastructure plans must be consistent with shoreline designations. Utility services routed through shoreline areas shall not be a sole justification for more intense development.

(4) Recommended environment designation classifications. The recommended classification system consists of six basic environments: "High-intensity," "shoreline residential," "urban conservancy," "rural conservancy," "natural," and "aquatic." Local governments shall assign all shoreline areas an environment designation consistent with subsection (5) of this section.

Local governments may establish different subdesignations. For example, a local government wishing to differentiate between "conservancy" shorelines used for park purposes and those for habitat restoration might establish "conservancy-park" and "conservancy-habitat" designations, each with separate purposes, criteria, policies, and use provisions. Or, a local government may wish to set site-specific standards for pier and dock construction in more sensitive aquatic areas and restrict aquaculture in harbor areas by establishing "aquatic-conservancy" and "aquatic-harbor" environments, each with different allowable uses and development standards. Shoreline master programs shall include clearly defined purpose statements, criteria, policies, use regulations, and development standards for each subdesignation as noted in subsection (1) of this section.

Local governments may use "parallel environments" where appropriate. Parallel environments divide shorelands into different sections running parallel to the shoreline and are useful, for example, to accommodate both resource protection near the shoreline and development opportunities further from the shoreline.

Local governments may retain their current environment designations provided they can demonstrate that the environment designation provisions are consistent with this chapter. Specifically, the environment designation system shall meet the purpose and management policies of subsection (4) of this section.

(a) "Natural" environment.

(i) Purpose. The "natural" environment is intended to preserve and enhance those shoreline areas relatively free of human influence or possessing natural shoreline functions intolerant of human use. These systems require severe restrictions on the intensities and types of uses permitted so as to maintain the integrity of the natural shoreline environment.

(ii) Management policies.

(A) Any use or activity that would substantially degrade the ecological functions or natural character of the shoreline area shall not be allowed.

(B) The following uses shall not be allowed in "natural" environments:

- Residences.
- Commercial activities.
- Industrial activities.
- Forestry, except as directed to enhance the natural ecology.
- Agriculture.
- Nonwater-oriented recreation.
- Roads and parking areas that can be located outside of natural-designated shorelines.

(C) Limited access should be permitted for scientific, historical, cultural, educational, and low-intensity recreational purposes, provided that no significant adverse impact on the area will result.

(b) "Rural conservancy" environment.

(i) Purpose. The intent of the "rural conservancy" environment is to protect, conserve, and enhance ecological functions, existing natural resources, and valuable historic and cultural areas in order to achieve ecological protection, sustain resource use, and provide recreational opportunities. Examples of uses that are appropriate in a "rural conservancy" environment include dispersed outdoor recreation activities, timber harvesting on a sustained-yield basis, agricultural uses such as farming, pasture, and range lands, low-intensity aquaculture, residential development consistent with the local comprehensive plan's rural element and chapter 36.70A RCW, and other related low-intensity uses and activities.

(ii) Management policies.

(A) Preferred uses in the "rural conservancy" environment are those which are nonconsumptive of the shoreline area's physical and biological resources and uses and activities of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area. Shoreline habitat restoration and environmental enhancement are preferred uses.

Except as noted below, commercial and industrial uses should not be allowed except for agricultural practices, commercial forestry, and aquaculture when consistent with provisions of this chapter. Nonconsumptive, water-oriented commercial and industrial uses may be permitted in the limited instances where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the development.

Nonconsumptive water-dependent and water-enjoyment recreation facilities, such as boat launches, angling, wildlife viewing trails, and swimming beaches, are preferred uses, provided environmental damage to the shoreline is mitigated.

(B) Activities and uses that would substantially degrade or permanently deplete the physical or biological resources of the area shall not be allowed.

(C) Construction of new structural shoreline stabilization and flood control works shall not be allowed except where there is a demonstrated need to protect an existing structure and mitigation is applied consistent with WAC 173-26-230,

or to protect ecological functions. New development shall be designed to preclude the need for such work.

(D) For government planning under the Growth Management Act, new residential development in the "rural conservancy" environment shall be consistent with the comprehensive plan rural element and with RCW 36.70A.070(5). Where existing development does not conform to rural element provisions, means to address nonconforming uses and reduce impacts to the ecology should be identified.

For jurisdictions not planning under the Growth Management Act, residential development intensity within shorelands shall be limited to a maximum of ten percent total impervious surface area within the lot or parcel area lying in shoreline jurisdiction, unless an alternative standard is developed based on best available science that meets the provisions of this chapter and protects the shoreline ecology in residential areas outside incorporated cities or towns.

(E) Shoreline stabilization, flood control measures, vegetation removal, and other shoreline modifications shall be designed and managed to ensure that the natural shoreline functions are enhanced over time. Shoreline rehabilitation should be required of new development where applicable.

(c) "Aquatic" environment.

(i) Purpose. The purpose of this designation is to protect the unique characteristics of the areas waterward of the ordinary high-water mark by managing uses and activities and by assuring compatibility between upland and aquatic uses. It is designed to promote the wise use of the natural features and resources of water areas.

(ii) Management policies.

(A) Allow over-water structures only for uses that are water-dependent or for public access.

(B) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged, provided that use conflicts can be avoided. For example, community docks providing moorage for several residences should be encouraged over individual residential docks.

(C) All developments and activities using navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

(D) Activities that substantially degrade critical saltwater and freshwater habitats should not be allowed. Where those activities are necessary to achieve the objectives of RCW 90.58.020, their impacts shall be mitigated to provide a net gain of critical ecological functions.

(E) Shoreline uses and modification activities shall be designed and managed to prevent damage to water quality.

(d) High-intensity environment.

(i) Purpose. The high-intensity environment is an area for high-intensity water-oriented commercial and industrial uses. The purpose of this environment is to ensure optimum use of shorelines that are either presently urbanized or planned for urbanization while protecting and enhancing ecological functions. Development in high-intensity areas shall be managed for a variety of urban uses.

(ii) Management policies.

(A) First priority shall be given to water-dependent uses over other uses. Second priority shall be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments supporting water-dependent uses. See also subsection (5)(d) of this section.

(B) Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated high-intensity. Redevelopment of underused areas should be encouraged.

(C) Where applicable, new development shall include environmental cleanup and rehabilitation of the shoreline ecology in accordance with state and federal requirements.

(D) Where feasible, visual and physical public access shall be required as provided for in WAC 173-26-220 (4)(d). Where appropriate, industrial and commercial facilities should be designed to permit pedestrian shoreline access. Planning for the acquisition of land for permanent public access to the water in the high-intensity environment should be encouraged and implemented through a comprehensive public access plan.

(E) Aesthetic objectives should be actively implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers. (Local governments may implement this guideline by adopting a master program policy for aesthetic objectives on the shoreline and implement the policy through other development regulations, such as sign or design review ordinances.)

(e) "Urban conservancy" environment.

(i) Purpose. The purpose of this designation is to provide ecological protection and rehabilitation in urban and developed settings while allowing a variety of water-oriented uses and uses consistent with effective environmental management.

(ii) Management policies.

(A) During development and redevelopment, all reasonable efforts should be taken to enhance ecological functions. Where feasible, shoreline rehabilitation and public access should be required of all nonwater-dependent development.

(B) Standards shall be established for shoreline stabilization measures, vegetation management, water quality, and shoreline modifications within the "urban conservancy" designation to ensure that new development does not further degrade the shoreline.

(C) Public access and public recreation objectives should be implemented whenever feasible and significant adverse impacts can be mitigated.

(D) Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

(f) "Shoreline residential" environment.

(i) Purpose. The "shoreline residential" environment is reserved for shorelines uses dominated by or planned for residential development within incorporated areas or urban growth areas as defined by the Growth Management Act. The purposes of this environment are to accommodate resi-

dential development and associated uses that are consistent with this chapter and where there are adequate water and sewage disposal services; to minimize residential development impacts; and to provide appropriate public access and recreational uses.

(ii) Management policies.

(A) Developments shall be permitted only in those shoreline areas where the environment can support the proposed use in a manner which protects and enhances the ecological functions.

(B) Densities or minimum frontage standards in the "shoreline residential" environment shall be set to protect the shoreline ecology and functions based on the following criteria.

- Biophysical limitations and sensitivity of the shoreline area.
- The development character and land parcel pattern.
- Level of infrastructure and services available or planned.
- Other comprehensive planning considerations.

Local governments may establish two or more different "shoreline residential" environments to accommodate different shoreline densities or conditions.

(C) Development standards for shoreline stabilization, vegetation management, critical area protection, and water quality shall be established to protect and, where significant ecological degradation has occurred, enhance ecological functions over time.

(D) Multifamily and multilot residential and recreational developments shall provide public access and areas for joint use, community, or public open space.

(E) Access, utilities, and public services shall be available and adequate to serve existing needs and/or planned future development.

(F) Commercial development should be limited to water-oriented uses that serve local residents.

(5) Criteria for assigning environment designation boundaries. Local governments shall assign shoreline environment designations (environments) to all shoreline areas consistent with the directions in (a) through (f) of this subsection. Local governments shall designate a shoreline area "natural" if the criteria in (a) apply, "rural conservancy" if the criteria in (b) apply, and "aquatic" if the criteria in (c) apply.

(a) Identify those shoreline areas with any of the following characteristics:

- (i) Ecologically intact;
- (ii) Currently performing an important, irreplaceable function in the shoreline ecosystem;
- (iii) Considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
- (iv) Unsuitable for development because of biophysical limitations.

Assign these shoreline areas a "natural" environment designation with regulations that preclude any development that could significantly damage the shoreline ecology. Such shoreline areas include wetlands, largely undisturbed marine estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact riparian habitats. Shorelines inside or outside urban growth areas may be designated as "natural."

(b) Identify those shoreline areas outside urban growth areas as defined by RCW 36.70A.110 with any of the following characteristics:

- (i) Supporting lesser-intensity, resource-based activities, such as agriculture, forestry, or recreational uses;
- (ii) Currently accommodating residential uses outside urban growth areas and incorporated cities or towns;
- (iii) Supporting human activities but subject to biophysical limitations, such as properties that include or are adjacent to steep banks, feeder bluffs, or flood-prone areas; or
- (iv) Of high recreational value or with unique historic or cultural resources.

Assign these shoreline areas a "rural conservancy" environment designation, with regulations that allow for the continuation of those activities but provide protection for the essential functions of the shoreline ecology. Include provisions that provide optimum environmental protection if the area converts to a more intensive use such as forestry or agriculture to residential use.

(c) Assign "aquatic" environment designation(s) for submerged and intertidal lands waterward of the ordinary high-water mark. Apply use and activity regulations for the following activities in the general order of priority, with (i) being the highest.

- (i) Identify those waters with important ecological functions, including critical saltwater habitats that should remain undisturbed, and where development restrictions are necessary to protect the health of the ecology.
- (ii) Identify those areas that should remain open to protect rights of navigation.
- (iii) Identify those areas with especially scenic value and unique recreational opportunities that should be protected for those values and activities.

Local governments may designate submerged and intertidal lands with shoreland designations (e.g., high intensity or rural conservancy) if the management policies and objectives for aquatic areas are met. In this case, the local government shall be prepared to demonstrate that the designation system used provides regulations for managing submerged and intertidal lands that are clear and consistent with the aquatic environment management policies.

(d) Identify shoreline areas that currently support, or are suitable and planned for, water-dependent uses related to commerce and navigation, such as harbor areas and marinas. Assign these shoreline areas a "high-intensity" environment designation, with regulations that retain the area's capacity to support water-dependent uses. If an analysis of water-dependent use needs and local conditions as described in WAC 173-26-200 (3)(d) demonstrates the opportunity to allow a mix of water-dependent, water-related, water-enjoyment, and nonwater-dependent uses on the shoreline, then provisions for a mix of uses may be established, provided the needs of existing and envisioned water-dependent uses are met for the planning period. If those shoreline areas also provide functions essential to ecosystem viability, establish use standards to ensure that the functions are not diminished.

(e) Identify those shoreline areas in urban settings or areas planned for development that are less suitable for water-dependent uses but that have any of the following characteristics:

- (i) Are suitable for a mix of water-enjoyment recreational uses with other uses that allow a substantial number of people to enjoy the shoreline;
- (ii) Are flood plains or other areas that should not be more intensively developed;
- (iii) Have the potential for ecological rehabilitation; or
- (iv) Retain important ecological functions, even though partially developed.

Assign these shoreline areas an "urban conservancy" environment designation that encourages a mix of uses with substantial public access and environmental restoration.

(f) Identify those shoreline areas inside urban growth areas as defined in RCW 36.70A.110 or within an incorporated city or town that are predominantly single-family or multifamily residential development or that are planned and platted for residential development. Assign these shoreline areas a "shoreline residential" environment designation with appropriate densities based on the biophysical limitations of the shoreline environment, compatibility with other uses, and the local comprehensive plan. Establish provisions to ensure that new development or expansion or remodeling of existing development does not substantially degrade the shoreline ecology or conflict with water-dependent uses.

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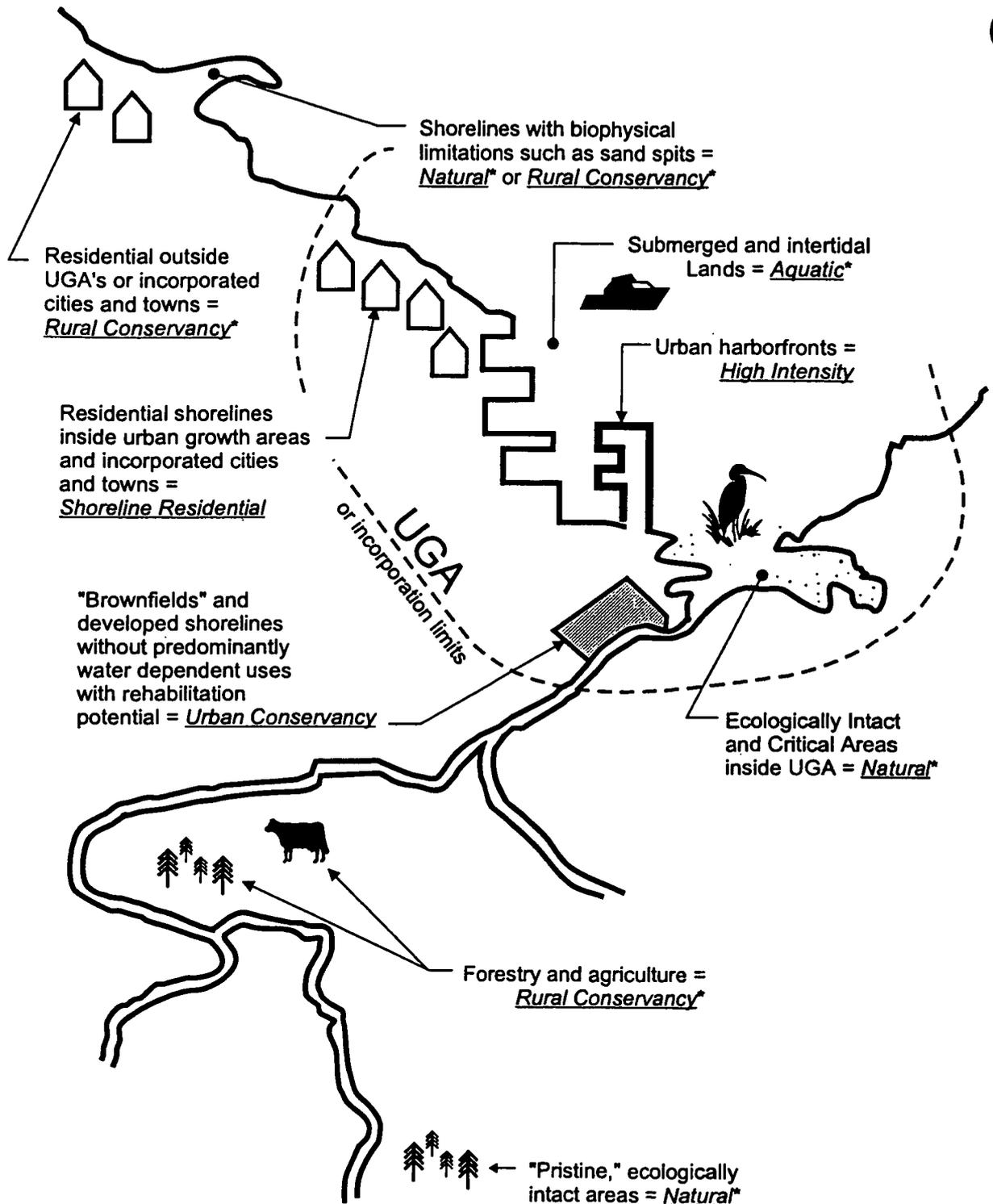


Figure 7. Schematic illustration of typical environment designations. (\*=Prescribed designation) (This figure is for illustration purposes only and does not supplement or add to the language in the chapter text.)

NEW SECTION**WAC 173-26-220 General master program provisions.** (1) Archaeological and historic resources.

(a) Applicability. The following provisions apply to archaeological and historic resources that are either recorded at the State Historic Preservation Office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and shall comply with chapter 25-48 WAC as well as the provisions of this chapter.

(b) Principles. Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities including affected Indian tribes.

(c) Standards. Local shoreline master programs shall include policies and regulations to protect historic, archaeological, and cultural features and qualities of shorelines and implement the following standards. A local government may reference historic inventories or regulations. Contact affected Indian tribes for additional information.

(i) Require that developers and property owners immediately stop work and notify the local government and affected Indian tribes if anything of possible archaeological interest is uncovered during excavation.

(ii) Require that permits issued in areas known to contain archaeological artifacts and data require a site inspection or evaluation by an archaeologist in coordination with affected Indian tribes.

**(2) Critical areas.**

(a) Applicability. The provisions of this section shall apply to all critical areas as defined by chapter 36.70A RCW that lie within shoreline jurisdictions. RCW 36.70A.030 defines critical areas as stated below:

(5) "Critical areas" include the following areas and ecosystems:

(a) Wetlands;

(b) Areas with a critical recharging effect on aquifers used for potable waters;

(c) Fish and wildlife habitat conservation areas;

(d) Frequently flooded areas; and

(e) Geologically hazardous areas.

See WAC 365-190-080 for further definition of critical area categories.

(b) Principles. Local master programs shall implement the following principles:

(i) Protect and enhance the ecological functions found within critical areas on a system-wide basis; that is, identify and address interrelationships upon which the ecosystem's integrity depends. (See WAC 173-26-200 (3)(d)(i).)

(ii) In addressing issues related to critical areas, use "best available science," as defined in this chapter and as provided for in chapter 36.70A RCW:

(iii) Where necessary for the protection of the functions of a critical area, implement provisions outside the designated critical area consistent with RCW 90.58.340.

(iv) In protecting and enhancing critical areas within shoreline jurisdictions, incorporate the full spectrum of planning and regulatory measures, including the comprehensive plan, interlocal watershed plans, local development regulations, and state, tribal, and federal programs.

(v) The goal of shoreline management provisions for critical areas shall be a net gain of ecological functions on a system-wide basis. Appropriate systems to address this goal include a littoral drift cell for marine waters, or all or an identifiable portion of a watershed for fresh waters. The intent of this provision is to effect an increase in ecological functions and ecosystem integrity over time. It does not necessarily require that each development or action on the shoreline individually improve ecological functions.

(c) Standards. Shoreline master programs shall adhere to the following standards, unless it is demonstrated through best available science that an alternative approach provides better resource protection.

**(i) Wetlands.**

(A) Wetland use regulations. Use regulations shall address the following activities, where appropriate, to achieve no net loss and, over time, a net gain in ecological functions provided by wetlands:

- The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;

- The dumping, discharging, or filling with any material, including discharges of storm water and domestic, commercial, or industrially treated wastewater;

- The draining, flooding, or disturbing of the water level, duration of inundation, or water table, including the propagation of deleterious waves or currents, such as boat wakes;

- The driving of pilings;

- The placing of obstructions;

- The construction, reconstruction, demolition, or expansion of any structure;

- The destruction or alteration of wetlands vegetation through the clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules; or

- Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of wetlands water sources, including quantity, or the introduction of pollutants.

In the absence of more current, detailed or specific information, consult department of ecology technical assistance materials.

(B) Wetland classification. The management of wetlands shall be based on resource value. Resource value is given to the ecological functions performed by wetlands. Resource value shall be determined according to best available science. Where current classification methods are adopted by state resource agencies, classify wetlands consistent with those methods and standards.

(C) Alterations to wetlands. Master program provisions addressing alterations to wetlands shall be consistent with the policy for a net gain, on a system-wide basis, in wetland func-

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tions, best available science, and the mitigation priority sequence defined in WAC 173-26-020.

(D) **Buffers.** Wetland buffer zones shall be established, restored and/or maintained in a natural condition. Widths of buffer zones and management standards shall be based on best available scientific information and consider the type of wetland and the functions it contributes, the characteristics and setting of the existing buffer, the potential impacts associated with the adjacent land use, and other relevant factors.

(E) **Mitigation.** When compensating for wetland impacts, the following options may be considered, alone or in combination, as appropriate compensatory mitigation consistent with best available science:

- On-site, successful replacement of critical functions that are lost due to project impacts that cannot be compensated for off-site and that will not be negatively influenced by adjacent development pressures are generally preferred.

- Impacted functions that are of high quality and are limiting within the watershed and are critical for replacement and the continued health of the watershed or shoreline area shall be replaced.

- Impacted functions may be adequately replaced off-site if: The project proponent can demonstrate that greater limiting or critical functions can be achieved off-site than on-site; impacted functions are of low quality and an off-site location can be restored, preserved, or created to provide higher quality functions than what is impacted; and it is demonstrated that on-site opportunities do not have a high likelihood of success.

- Out-of-kind compensation may be appropriate when resources impacted are of low quality and out-of-kind functions proposed to be created are demonstrated by the proponent to provide a net gain in ecological functions within the watershed or shoreline.

- Preservation of irreplaceable areas having multiple critical or limiting functions may be accepted as part of a mitigation plan so long as there is not loss of ecological functions overall in the watershed. These areas must be demonstrated to be at risk of destruction or degradation and their size sufficient to replace impacted functions at higher ratios than traditional forms of mitigation.

- Credits from a mitigation bank may be used after the standard sequencing of mitigation as defined in WAC 173-26-020.

(ii) **Geologically hazardous areas.** Development shall be restricted on unstable bluffs and river banks and landslide areas in consideration of minimum guidelines for geologically hazardous areas, WAC 365-190-080(4).

Local master programs shall comply with (c)(ii)(A) or (B) of this subsection:

(A) All shoreline development, including development exempted from a shoreline permit, shall require a geotechnical report when in or proximate to a geologically hazardous area, or when the development may affect the stability of geological conditions; or

(B) Local shoreline master program provisions addressing development on or near geologically hazardous areas shall be based on a scientific or engineering study of geological conditions.

Do not allow new development that requires structural shoreline stabilization, such as bulkheads, revetments, and biotechnical measures, within the geological hazardous areas. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed water-dependent uses where no alternative locations are available and adverse impacts are mitigated. The stabilization measures shall conform to WAC 173-26-230.

(iii) **Critical saltwater habitats.** Critical saltwater habitats include kelp beds, eelgrass beds, herring and smelt spawning areas, commercial and recreational shellfish beds, and areas with which endangered, threatened, and sensitive species have a primary association. Shoreline master programs shall implement, where applicable, the minimum guidelines in WAC 365-190-080(5) to address the objective of no net loss and net gain over time of ecological functions provided by critical saltwater habitats.

(A) **Comprehensive saltwater habitat management.** Shoreline master programs shall implement cooperative saltwater habitat management planning to enhance the resource through preservation, restoration, advanced planned mitigation, and other means. The management planning shall incorporate the participation of state resource agencies and affected Indian tribes and may serve as the basis for master program provisions, permit conditioning, and the coordinated review of development proposals by state agencies. Local governments may base management planning on information provided by state resource agencies.

The management planning shall address the following, where applicable:

- Preserving and enhancing a system of fish and wildlife habitats with connections between larger habitat blocks and open spaces;

- Evaluating the level of human activity in such areas, including the presence of roads and the level of recreation types (passive or active recreation may be appropriate for certain areas and habitats);

- Protecting riparian and estuarine ecosystems;
- Evaluating land uses surrounding critical saltwater habitat areas that may negatively impact these areas;

- Establishing buffer zones around these areas to separate incompatible uses from the habitat areas;

- Restoring lost salmonid habitat; and

- Protecting fresh water and sediment inflow regimens.

Local governments, in conjunction with state resource agencies and affected Indian tribes, shall classify and protect seasonal ranges and habitat elements with which federal- and state-listed endangered, threatened, and sensitive species have a primary association and which, if altered, may reduce the likelihood that the species will maintain its population and reproduce over the long term.

Local governments, in conjunction with state resource agencies and affected Indian tribes, should determine which habitats and species are of local importance. Habitats and species may be further classified in terms of their relative importance. Local governments should use information prepared by the Washington department of fish and wildlife when available to classify and designate locally important habitats and species, unless there is more current information.

All public and private tidelands or bedlands suitable for shellfish harvest shall be classified as critical areas. Local governments should consider both commercial and recreational shellfish areas. Local governments should review the Washington department of health classification of commercial and recreational shellfish growing areas to determine the existing condition of these areas. Further consideration should be given to the vulnerability of these areas to contamination. Shellfish protection districts established pursuant to chapter 90.72 RCW shall be included in the classification of critical shellfish areas. Local governments shall classify kelp and eelgrass beds identified by the department of natural resources' aquatic lands division, the department of ecology, and affected Indian tribes. Though it is not an inclusive inventory, locations of kelp and eelgrass beds are compiled in the *Puget Sound Environmental Atlas, Volumes 1 and 2*. Herring and smelt spawning times and locations are outlined in WAC 220-110-240 through 220-110-260 and the *Puget Sound Environmental Atlas*.

Comprehensive saltwater habitat management planning shall identify methods for monitoring conditions and adapting management practices to new information.

(B) Conditions for development. Docks, bulkheads, bridges, landfill, floats, jetties, and other human-made structures shall not intrude into or over critical saltwater habitats except for a water-dependent use or environmental enhancement and when all of the conditions below are met:

- The public's need for such a structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;
- Avoidance of critical areas by an alternative alignment or location is not feasible;
- The project is designed to minimize its impacts on critical saltwater habitats and the environment;
- Significant adverse impacts will be mitigated through the mitigation sequence described in WAC 173-26-020; and
- The project is consistent with the state's interest in resource protection and species recovery.

If an inventory of critical saltwater habitat has not been done, shoreline master programs shall condition all over-water developments where critical saltwater habitats may occur with the requirement for an inventory of the site to assess the presence of those habitats. The methods and extent of the inventory shall be as approved by the department of ecology in consultation with the department of fish and wildlife; the department of natural resources, if the site is located on state-owned land; and affected Indian tribes.

(iv) Riparian corridors and other critical fresh water habitats.

(A) Applicability. The following provisions apply to master program provisions and shoreline management activities affecting riparian corridors within shoreline jurisdiction, including streams, rivers, and wetlands and lakes associated with riparian systems.

(B) Principles. The ecological health of riparian corridors depends both on the continuity of the natural environment along the length of the shoreline and the conditions of the surrounding lands on either side of the river channel. Significant damage to the environment, such as a polluting outfall, can destroy the shoreline ecology downstream. Like-

wise, gradual destruction of the vegetation along the corridor or extensive flood plain development can raise water temperatures and alter hydrographic conditions, thereby making the corridor uninhabitable for priority species and susceptible to catastrophic flooding and droughts. Therefore, effective management of riparian corridors depends on (I) planning, regulating and/or enhancing the whole length of the corridor, from headwaters to and including its mouth, and (II) regulating the uses and activities within the stream channel, channel migration zone, adjacent land, and the flood plain. Water quality and hydrological processes also depend upon surface water run-off and ground water in lands outside the flood plain. For this reason, comprehensive watershed efforts are the most effective approach to corridor management.

In terms of master program measures, effective corridor management requires integrating several categories of master program provisions, including shoreline stabilization, landfill, vegetation management, water quality, flood damage minimization, and specific uses such as forest practices, agriculture, residential development and commercial and industrial activities, to address the corridor's various ecological functions.

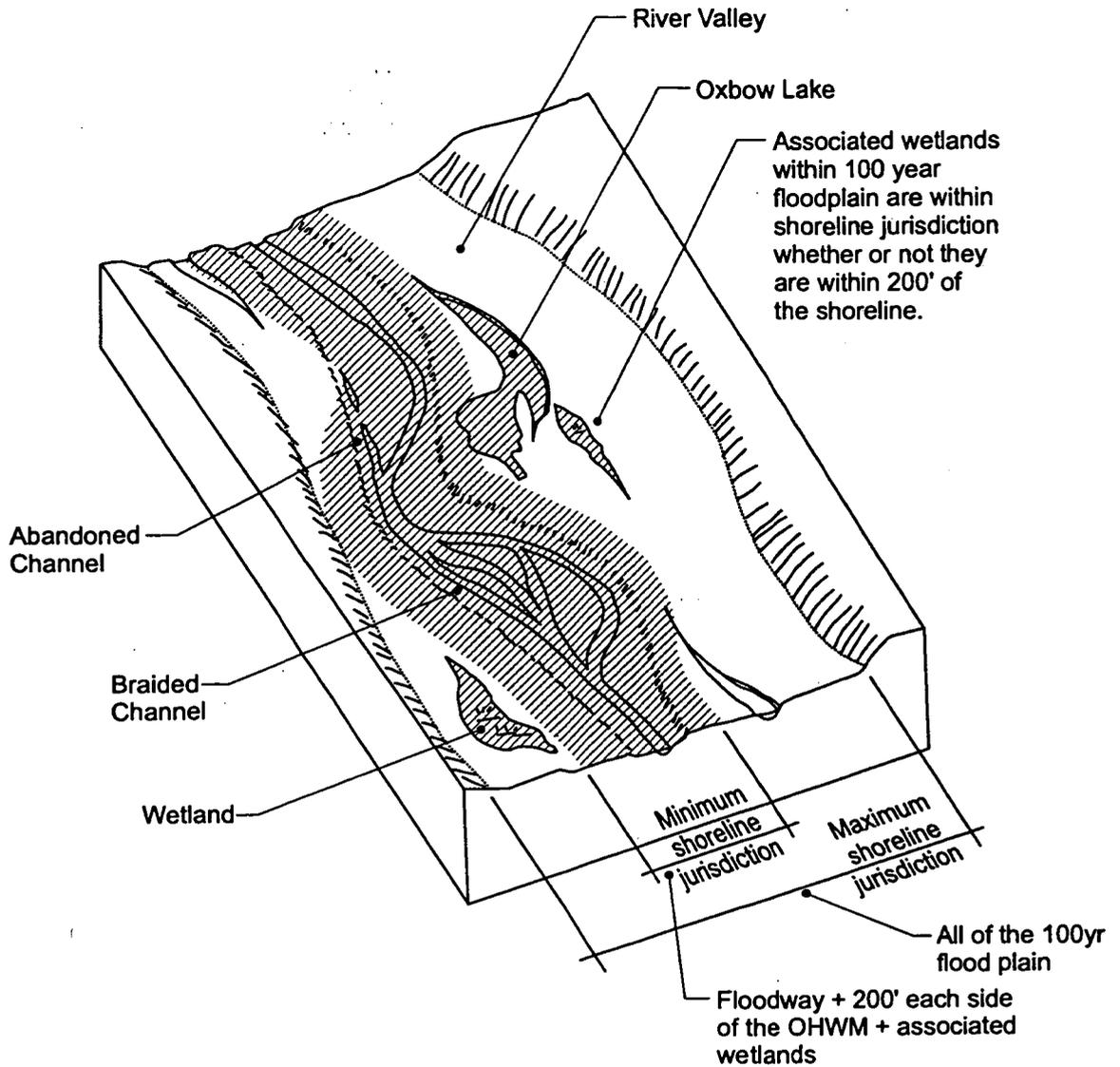
To more clearly translate the ecological functions of riparian corridors into workable master program regulations, several characteristic zones within a river corridor have been identified. These are illustrated in Figure 8 and defined in WAC 173-26-020.

Recognizing that long stretches of riparian shorelines have been altered or degraded from their natural condition, effective riparian management usually requires a two-part strategy of:

- Preventing damage to river shoreline areas that retain their ecological functions; and
- Rehabilitating degraded shoreline areas wherever feasible.

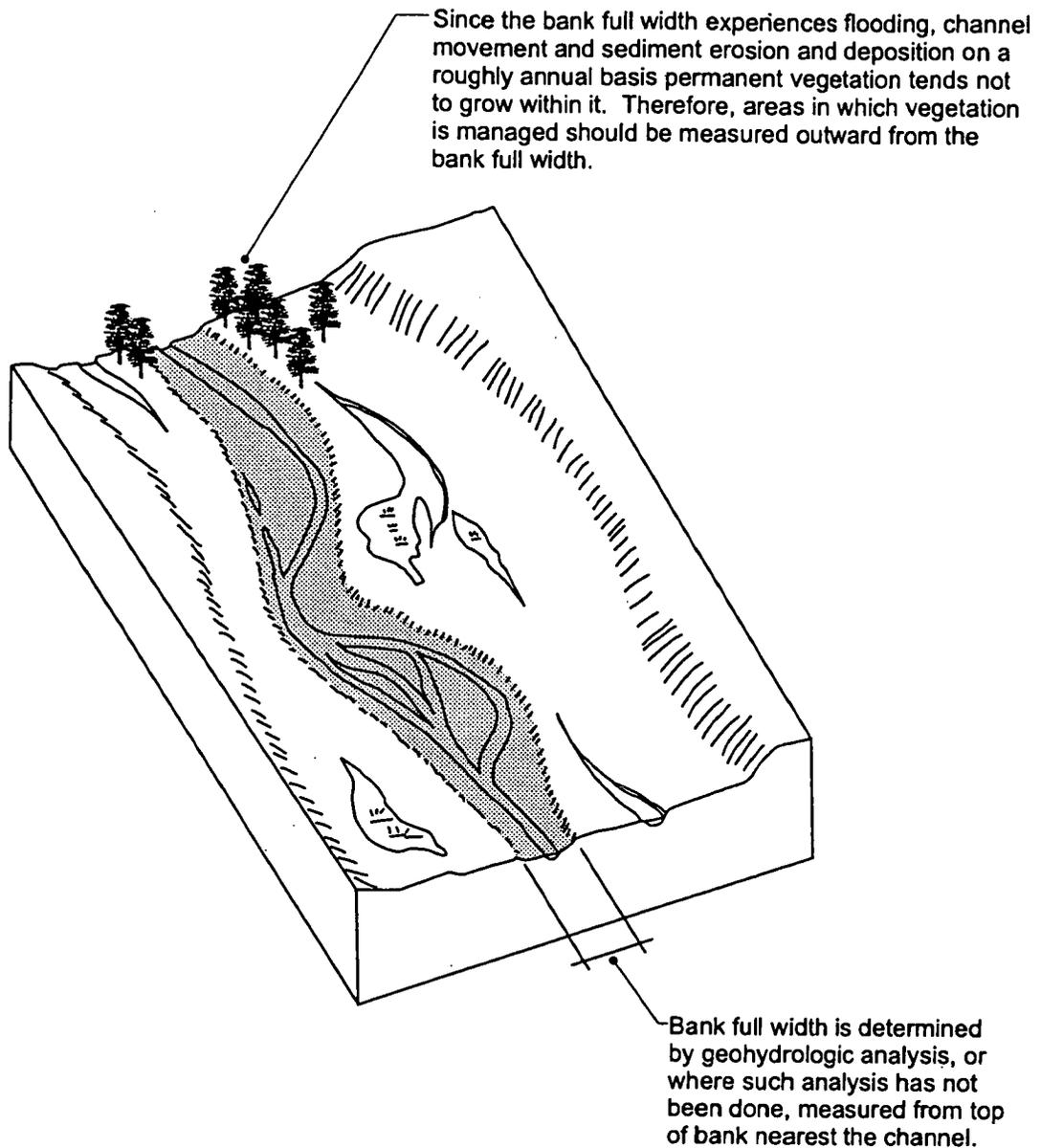
Therefore, local governments shall base master program provisions on a comprehensive approach that allows for upgraded management as new information emerges.

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**Figure 8a. Important areas within riparian corridors: Shoreline Jurisdiction**

"Shoreline jurisdiction"; "Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and other deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of 90.58 RCW; the same to be designated as to location by the department of ecology. Any country or city may determine that portion of a one-hundred-year-flood plain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom; (sec RCW 90.58.030(2)(f))  
 (This figure is for illustration purposes only and does not supplement or add to the language in the chapter text.)



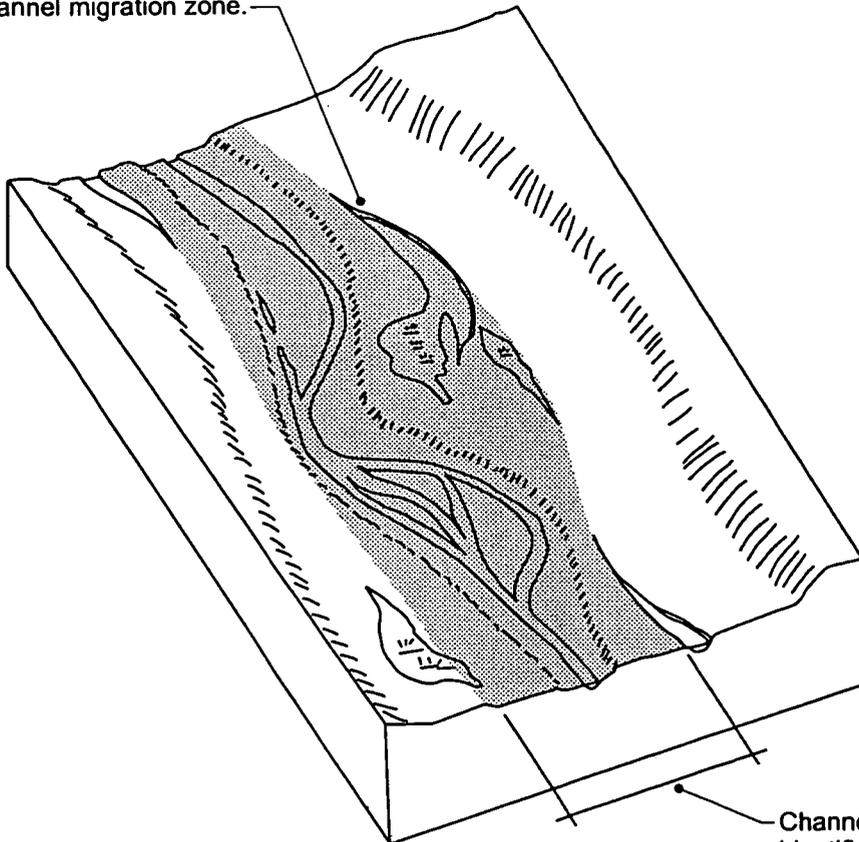
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**Figure 8b. Important areas within riparian corridors: Bank Full Width**

"Bank full width" means the channel width at "bank full stage" which occurs when the water level reaches the level of the flood plain and covers ponds to the river height at which channel formation and migration are most active.

*(This figure is for illustration purposes only and does not supplement or add to the language in the chapter text.)*

Since channel migration zone is the area where the channel has a tendency to move within over time (not necessarily on an annual basis) it is important that new structures uses and activities do not reduce dynamic geohydrological processes within it. Therefore, shoreline modifications such as stabilization, levees, and dikes should be placed outside the channel migration zone.



Channel migration zone is identified by evidence of historic channel migration such as abandoned channels, sediment deposits, oxbow lakes, wetlands and topographic depressions.

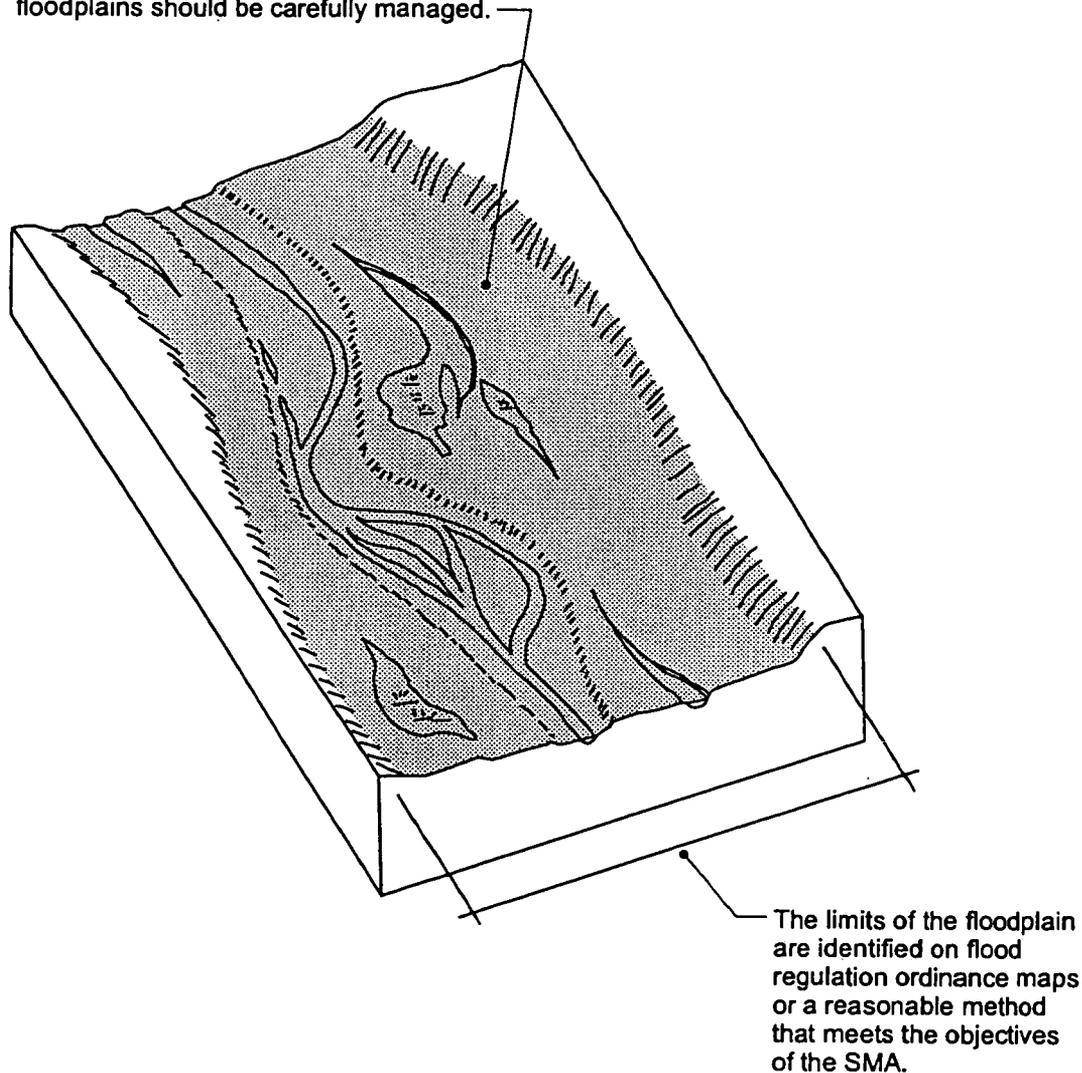
**Figure 8c. Important areas within riparian corridors: Channel Migration Zone**

"Channel migration zone" means the area within which the active channel is prone to movement usually evidenced by abandoned channels, recent sediment, topographic changes and vegetation character. The channel migration zone generally consists of the area that a stream occupies within the time it takes to reach their site potential tree height.

*(This figure is for illustration purposes only and does not supplement or add to the language in the chapter text.)*

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Since the floodplain is typically extensive in area and hydrologically linked to the river channel, and activities in the floodplain can significantly affect river corridor functions related to flooding, water quality, vegetation, habitat, and erosion. Uses and construction within floodplains should be carefully managed.



#### Figure 8d. Important areas within riparian corridors: Floodplain

"Floodplain" (synonymous with 100-year floodplain) means the land area susceptible to being inundated by stream derived waters with a 1 percent chance of being equaled or exceeded in any given year.

*(This figure is for illustration purposes only and does not supplement or add to the language in the chapter text.)*

Because of the importance of riparian corridors to the ecology and human activities, shoreline master programs shall include provisions to implement the following objectives:

- Maintain and enhance the full range of ecological functions necessary for the integrity of riparian shoreline ecosystems.
- Support the full recovery of endangered species and genetic diversity achievable through the Shoreline Management Act.

- Maintain and enhance the aesthetic qualities of the natural shoreline.

To achieve these objectives, local governments shall:

- Adopt master program provisions to achieve greater hydrological and ecological continuity with respect to river corridors' upstream-downstream connections, channel-flood plain connectivity, and surface water-ground water connections.
- Base master program provisions for riparian corridors on comprehensive corridor or watershed management plan-

ning that incorporates the work and information from state agencies and Indian tribes, coordinates with other jurisdictions within the watershed, and includes a program to monitor local conditions and adapt management practices for better effectiveness.

- Establish and implement a two-part riparian corridor management strategy that first identifies and protects ecologically intact shoreline environments and second, pursues rehabilitation in shorelines that have been degraded and/or are occupied with active uses.

(C) Standards. Specific standards for riparian corridor management are included in this section, WAC 173-26-230, and WAC 173-26-240. The chart in Figure 9 summarizes these provisions. The chart is for illustrative purposes only and does not constitute requirements in this guideline.

(3) Flood hazard reduction.

(a) Applicability. The following provisions apply to actions taken to reduce flood damage or hazard and to uses or activities that may increase flood hazards. Flood hazard reduction measures may consist of structural measures, such as dikes, levees, gabions, floodwalls, biotechnical measures, and channel realignment, and nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, and storm water management programs.

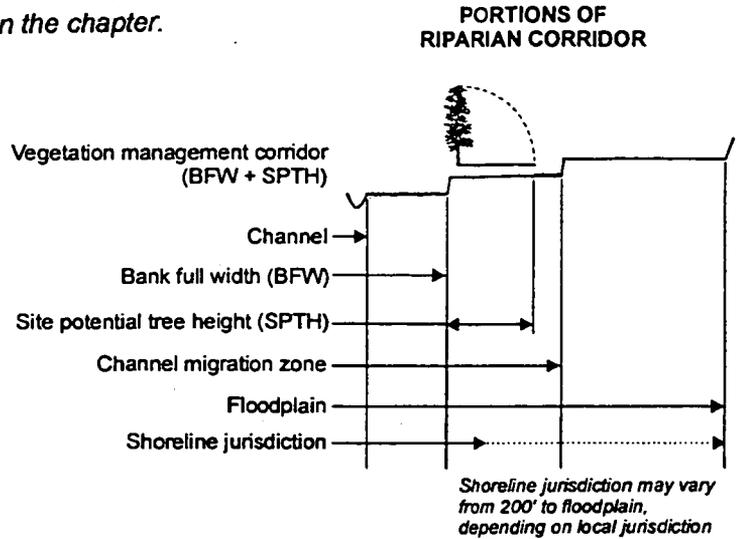
(b) Principles. Flooding of rivers, streams, and other shorelines is a natural process that is dependent upon factors and land uses occurring through the watershed. For this reason, flood hazard reduction measures are most effective when integrated into comprehensive strategies that recognize the natural hydrogeological and biological processes of water bodies.

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Figure 9 Summary of Guideline Provisions Related to Riparian Corridor Ecology

*\*Note: This figure is for illustrative purposes only and does not supplant or add to the text in the chapter.*

*Thickened lines indicate the corridor portions within shoreline jurisdiction where the provision is most important. Dashed lines indicate that the provision applies to part of the corridor portion.*

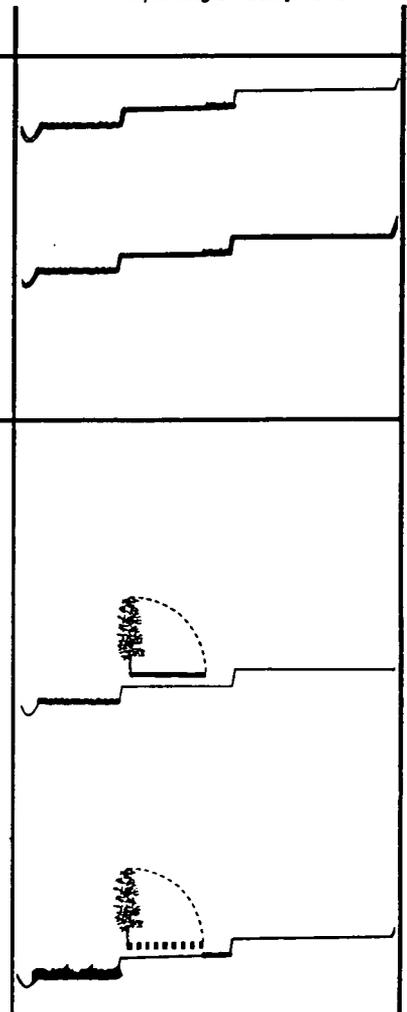


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## Flood Hazard Reduction

Prevent structural flood control measures within channel migration zone unless necessary to protect existing improvements and no other option is feasible. (Section 220(3)(c)(iii).)

Require geotechnical study demonstrating need for measures. Base flood hazard minimization measures on a comprehensive hazard management plan. Prevent development in 100 year floodplain that could increase the risk of flood hazard. (Section 220(3)(c)(i) and (ii).)



## Vegetation Management

For undeveloped shorelines, prevent vegetation removal within the vegetation management corridor (VMC) (one site potential tree height landward of bank full width). Prevent land subdivision into plats that would require vegetation removal in the VMC in order to develop. (Section 220(5)(d)(iii).)

If lands with agricultural or forestry practices convert, prevent vegetation removal within vegetation management corridor. (Section 220(5)(d)(iv) and (v).)

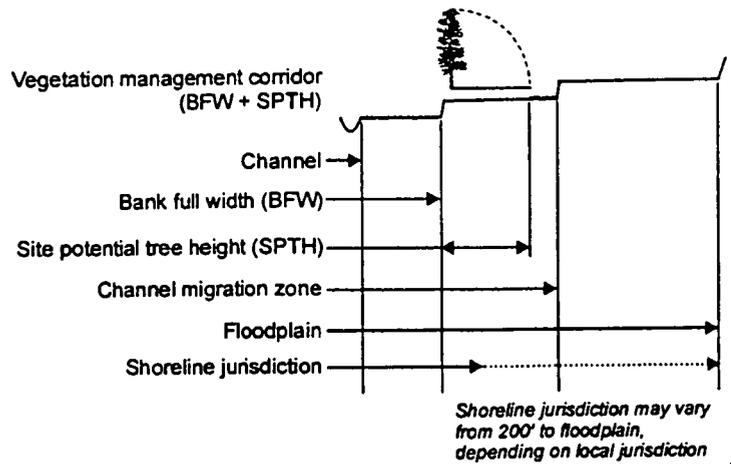
For lands planned for residential development, restrict development that will reduce vegetation-related functions and values within the VMC. (Section 220(5)(d)(vi).)

For shoreline properties with existing residential uses, prevent new development that would reduce vegetation-related functions and values within the VMC. (Section 220(5)(d)(vii).)

For shoreline properties within urban growth areas planned for commercial and industrial uses, require protection or rehabilitation that increases vegetation-related functions and values of all non-water-dependent development and impact mitigation of all water-dependent development. (Section 220(5)(d)(viii).)

Figure 9. (Continued)

**PORCTIONS OF RIPARIAN CORRIDOR**



Thickened lines indicate the corridor portions within shoreline jurisdiction where the provision is most important. Dashed lines indicate that the provision applies to part of the corridor portion.

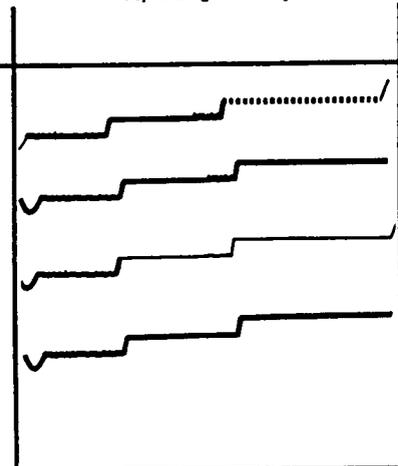
**Water Quality**

Prevent lowering of ecological functions related to water quality in shoreline jurisdiction. (Section 220(6)(c)(i).)

Implement a policy to improve water quality relevant to anadromous fishes by conforming to state and federal standards. (Section 220(6)(c)(iii).)

Manage discharges to increase suitability for fish fry. (Section 220(6)(c)(iv).)

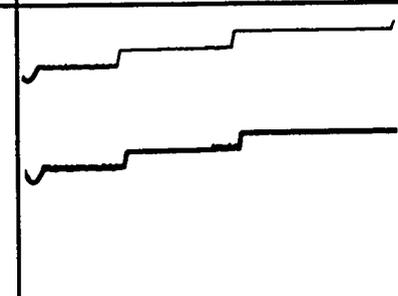
Require a shoreline variance for projects involving variances to local health code standards. (Section 220(6)(c)(v).)



**Uses**

Require that in-stream structures provide for ecological functions, including fish passage and geohydrological processes. (Section 240(3)(g).)

Prohibit mining activities that might damage priority habitat. Require rehabilitation of systems disturbed by mining in floodplains and conformance to any flood hazard reduction plan and geohydrological studies. (Section 240(3)(h).)



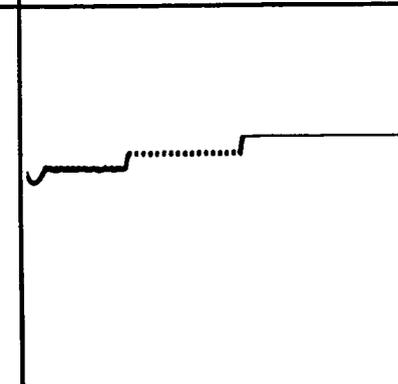
**Shoreline Stabilization**

Avoid the need for new stabilization by setting development away from the shoreline where feasible. Require that a need be demonstrated prior to new structural shoreline stabilization. (Section 230(3)(a)(ii)(A).)

Minimize the size of structural shoreline stabilization measures and use the softest approach possible. (Section 230(3)(a)(ii)(A).)

For shorelines that are ecologically intact or with resource-based uses, prohibit new development that requires shoreline stabilization. (Section 230(3)(a)(ii)(B) and (C).)

Require ecological enhancement as a condition of shoreline stabilization for all non-water-dependent development. (Section 230(3)(a)(ii)(D).)



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Structural flood control measures such as stream channelization and diking, even if effective in reducing inundation in a portion of the watershed, can intensify flood conditions downstream. Moreover, flood control measures can damage shoreline ecological functions crucial to the viability of fish and wildlife species, bank stability, and water quality. Therefore, flood hazard reduction measures shall be accomplished in a manner to minimize change to the ecological functions of the shoreline.

Master programs shall implement the following principles:

(i) Base shoreline master program flood hazard reduction provisions on applicable watershed management plans, comprehensive flood hazard management plans, local comprehensive plan flood damage minimization elements, and other comprehensive planning efforts, provided those measures are consistent with the Shoreline Management Act and this chapter. Consider other regulations and programs associated with flood hazard management, including (if applicable):

- Storm water management program;
- Comprehensive flood hazard management plan, as described in chapter 86.12 RCW, adopted within the last five years;
- Flood plain regulations, as provided for in chapter 86.16 RCW;
- Critical areas ordinance and comprehensive plan, as provided in chapter 36.70A RCW; and
- National Flood Insurance Program.

Where two of these regulations or programs conflict, the more stringent in terms of long-term management of the shoreline ecological functions shall take precedence.

(ii) Protect and enhance the shoreline functions. Restrict structural flood control measures, vegetation removal, and gravel removal within channel migration zones. Adhere to provisions in this chapter, especially subsection (2)(c)(iv) of this section, riparian corridors, subsection (5) of this section, vegetation management, and WAC 173-26-240, use provisions.

(iii) Where feasible, give preference to nonstructural flood hazard reduction measures over structural measures. For example, structure setbacks or use relocation are generally preferred over new dikes or seawalls.

(c) Standards. Master programs shall implement the following standards:

(i) Do not allow new development in 100-year flood plains that substantially increases flood hazard or that is inconsistent with a comprehensive flood hazard management plan (comprehensive flood control management plan), as described in chapter 86.12 RCW, that has been adopted within the previous five years.

(ii) Do not allow structural flood control measures unless it can be demonstrated by a scientific and engineering analysis that nonstructural measures are not feasible, impacts to the existing shoreline conditions can be successfully mitigated, and appropriate vegetation management actions are undertaken.

Structural flood control measures shall be consistent with an adopted comprehensive flood hazard management plan approved by the department of ecology that evaluates

cumulative impacts to the watershed system through this and similar development permitted by the shoreline master program.

Require shoreline permit applications for structural flood control projects to include the following information unless the proposed projects are consistent with standards set in a comprehensive flood hazard management plan:

- (A) River channel hydraulics and floodway characteristics up and downstream from the project;
- (B) Existing shoreline stabilization and flood protection works within the affected area;
- (C) Physical, geological, and soil characteristics of the affected area;
- (D) Biological resources and predicted impact to fish, vegetation, and animal habitat associated with shoreline ecological systems;
- (E) Predicted impact upon shore and hydraulic processes, adjacent properties, and shoreline and water uses; and
- (F) Analysis of alternative flood protection measures, both structural and nonstructural.

(iii) Require that all new structural flood control measures and all improvements to existing structures include measures to enhance ecological functions whenever feasible. Measures may include placement of woody debris, vegetation planting, storm water management measures, and other actions.

Place new flood hazard reduction measures landward of the natural floodway, channel migration zone and associated wetlands, except for actions that increase ecological functions, such as wetland restoration.

Exceptions: Flood damage minimization projects may occur in a channel migration zone only if the department of ecology determines that no other alternative to protect existing improvements is feasible. The need for structural improvements shall be documented through a geotechnical report.

Require that continuous public flood control measures, such as dikes and levees, dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable environmental harm, significant unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

(iv) Require that the removal of gravel for flood management purposes be consistent with an adopted flood hazard reduction plan and with this chapter and allowed only after a hydrogeologic study shows that extraction has a long-term benefit to flood hazard reduction and will not intensify downstream flooding.

(4) Public access.

(a) Applicability. Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from upland locations. Public access provisions below apply to all shorelines of the state unless stated otherwise.

(b) Principles. Local master programs shall:

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(i) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.

(ii) Protect the rights of navigation and water-dependent uses.

(iii) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state, including views of the water.

(iv) Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.

(c) Planning process to address public access. All local governments should plan for an integrated shoreline area public access system. When appropriate, this planning shall be integrated into other comprehensive plan elements. Local governments shall ensure that shoreline master program public access provisions support and are supported by other comprehensive plan elements, especially transportation and recreation. Local governments should identify specific public needs, access opportunities, and activities to provide public access, which can often be more effective and economical than applying uniform public access requirements to all development. Where a port district or other public entity has incorporated public access planning into its master plan through an open public process, that plan may serve as a portion of the local government's public access planning. The planning may also justify more flexible off-site or special area public access provisions in the shoreline master program. Public participation requirements in WAC 173-26-200 (3)(b)(i) apply to public access planning.

At a minimum, the public access planning should result in:

(i) Specific policies on which to base public access requirements for shoreline permits.

(ii) Policies, map illustrations, project descriptions, port master plans, and/or actions to be taken to develop public shoreline access to shorelines on public property.

(iii) Policies, map illustrations, project descriptions, and/or actions to be taken to provide a variety of shoreline access opportunities and circulation for pedestrians, including disabled persons, bicycles, and vehicles between shoreline access points, consistent with other comprehensive plan elements.

The plan shall identify regulations and other actions necessary to provide opportunities for public access, to meet the level of service standards in the local comprehensive plan, and to ensure the public's opportunity to use the water and to enjoy the physical and aesthetic qualities of the shoreline.

(d) Standards. Shoreline master programs shall implement the following policy standards:

(i) Based on the public access planning described in (c) of this subsection, establish policies and regulations that protect and enhance both physical and visual public access. The master program shall address public access on public lands. The master program shall seek to increase the amount and diversity of public access to the state's shorelines and adjacent areas consistent with the natural shoreline character,

property rights, including the public's rights under the Public Trust Doctrine, and public safety.

(ii) Require that shoreline development by public entities, including local governments, port districts, state agencies, and utility districts, include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. Where a public access plan as described in (c) of this subsection demonstrates that a more effective public access system can be achieved through an alternate means, such as focusing public access at the most desirable locations, local governments may institute master program provisions for public access based on that approach in lieu of uniform site-by-site public access requirements.

(iii) Provide standards for the dedication and improvements of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the subdivision of land into more than five parcels. In these cases, public access shall be required except:

(A) Where the local government provides more effective public access through a public access planning process described in (c) of this subsection; or

(B) Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security or impact to the shoreline environment.

In determining the undesirability or incompatibility of public access in a given situation, local governments shall consider alternate methods of providing public access, such as off-site improvements, viewing platforms, separation of activities through site planning and design, and restricting hours of public access.

(C) For individual single-family residences not part of a development planned for more than five parcels.

(iv) Adopt provisions, such as maximum height limits, setbacks, and view corridors, to minimize the impacts to existing views from public property or substantial numbers of residences. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from upland properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.

(v) Require that public access improvements with the potential to substantially degrade ecological functions be designed to minimize adverse impacts. Do not allow public access improvements that would unavoidably cause significant adverse impacts to shoreline ecological functions.

(5) Vegetation management.

(a) Applicability and definitions. Vegetation management includes activities to prevent or minimize the loss of and increase the extent and viability of vegetation along or near the shoreline that contribute to the ecological functions of shoreline areas. Vegetation management activities may include the prevention or restriction of plant clearing and grading, vegetation rehabilitation, and the control of invasive weeds and nonnative species.

The intent of vegetation management is to protect and enhance the ecological functions performed by vegetation along streams, rivers, lakes, wetlands, and marine shorelines. Vegetation management may also be undertaken to increase

the stability of river banks and coastal bluffs, to reduce the need for structural shoreline stabilization measures, to improve the visual and aesthetic qualities of the shoreline, or to enhance shoreline uses. Unless otherwise stated, vegetation management does not include those activities covered under the Washington State Forest Practices Act, except for conversion to other uses and those activities over which local governments have authority. As with all master program provisions, vegetation management provisions apply even to those shoreline uses and activities that are exempt from the requirement to obtain a permit. Vegetation management for aquatic plants is covered in subsection (2)(c)(iii) of this section.

(b) Principles. Master programs shall include provisions to implement the following objectives:

(i) Maintain and enhance vegetation needed to achieve the full range of ecological functions necessary for the integrity of shoreline ecosystems.

(ii) Support the full recovery of endangered species and genetic diversity achievable through the Shoreline Management Act.

(iii) Maintain and enhance the physical and aesthetic qualities of the natural shoreline.

(iv) Maintain and enhance vegetation to avoid adverse impacts to soil hydrology and to reduce the hazard of slope failures or accelerated erosion.

Because of the importance of native vegetation to the shoreline ecological functions, master programs shall use a variety of regulatory provisions based on comprehensive vegetation management, preservation, and rehabilitation strategies. Master programs shall ensure effective maintenance of vegetation in ecologically intact shoreline areas and increase the integrity of vegetation in ecologically altered shoreline areas. Master programs shall be directed toward achieving the following vegetation characteristics, as described in *Management Recommendations for Washington's Priority Habitats*, prepared by the Washington state department of fish and wildlife:

- Plant species diversity;
- Continuity of habitat and ecological processes;
- Multiple canopy layers (where such conditions naturally occur);
- The production of snags and downed woody debris (where forests naturally occur); and
- Diverse habitat and edge conditions.

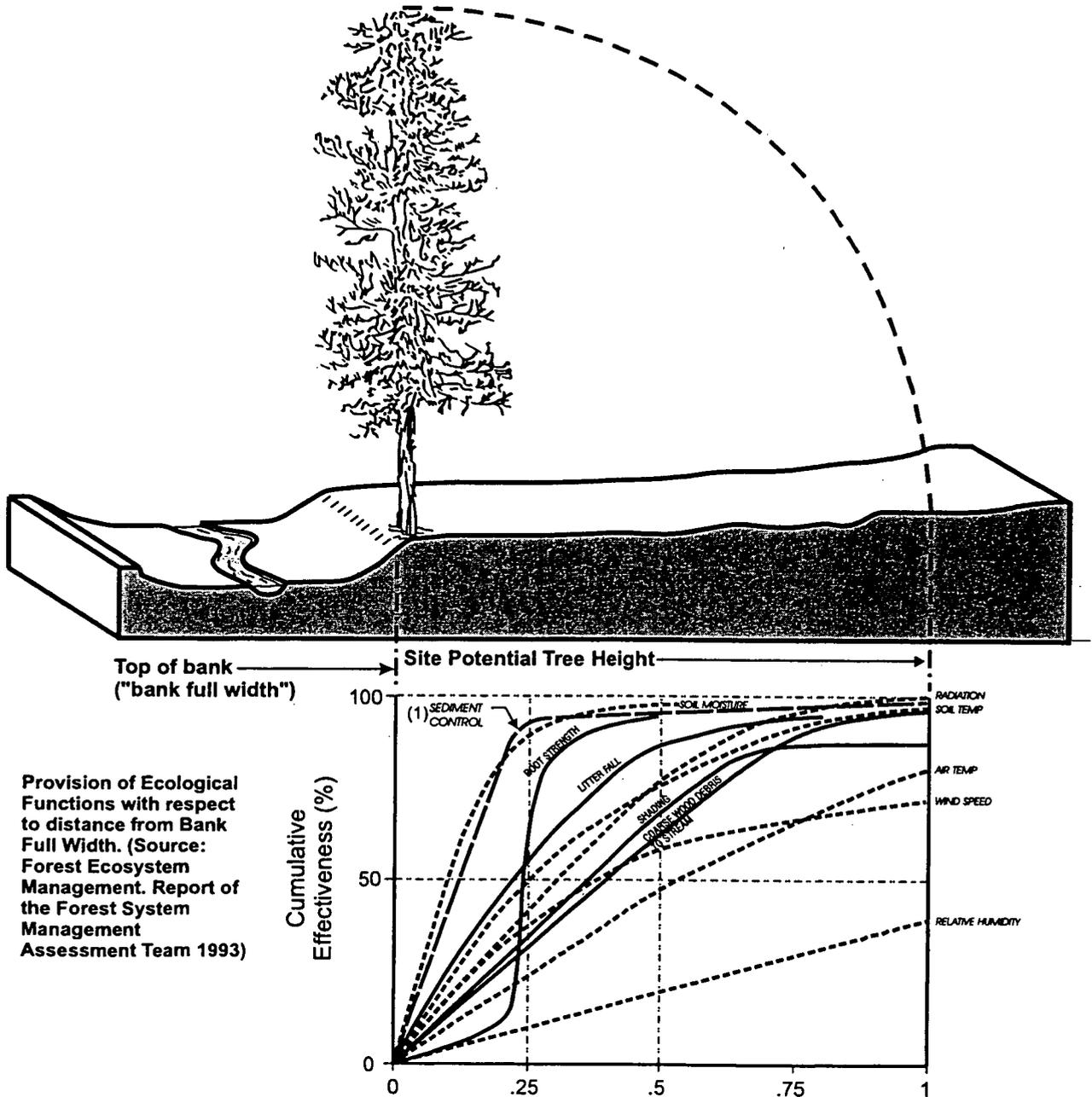
Local governments shall be prepared to demonstrate, using best available science, how master program provisions will contribute to a net increase in system-wide (for example, on a watershed basis) ecological functions performed by shoreline vegetation. The intent of this requirement is to most effectively and efficiently implement, on a comprehensive, jurisdiction-wide (or, preferably, watershed or regional) basis, the vegetation management objectives described in (b) of this subsection. A system of monitoring the viability and functions of vegetation along the shorelines should be established to ensure that the vegetation management objectives are met.

The department of ecology will only approve vegetation management provisions if it is determined that they will, over the long term, contribute to an increase in the integrity of

shoreline vegetation that supports ecological functions. In reviewing vegetation management provisions, the department of ecology will solicit comments from other state resource agencies, affected Indian tribes, and interested parties.

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Provision of Ecological Functions with respect to distance from Bank Full Width. (Source: Forest Ecosystem Management. Report of the Forest System Management Assessment Team 1993)

Figure 10. Level of Ecological Functions provided by width of vegetation corridor measured landward from "bank full width." (This figure is for illustration purposes only and does not supplement or add to the language in the chapter text.)

Vegetation management options in urbanized areas may be limited due to existing development and the need to accommodate preferred uses as defined in RCW 90.58.020. Nevertheless, local governments shall be prepared to demonstrate that the planning and resultant master program provisions take all feasible steps toward vegetation management

objectives. Such master program measures include, but are not limited to:

- Preserving vegetation on undeveloped shorelines as parks or preserves;
- Requiring on-site vegetation enhancement for all non-water-dependent development;

- Mitigating impacts from new water-dependent development; and
- Restricting new improvements to residential development unless shoreline vegetation is enhanced.

(c) Vegetation management corridor. Achieving the full range of ecological functions requires management of vegetation in corridors at least one site potential tree height in width. Therefore, master program vegetation management provisions shall implement vegetation maintenance and enhancement principals pursuant to (b) of this subsection within a designated "vegetation management corridor" of at least one site potential tree height width, as measured landward from the bank full width or top of bank nearest the shoreline that can support mature tree growth.

The vegetation management corridor concept applies to both fresh and saltwater shoreline areas and is distinct from the broader concept of a riparian corridor discussed in subsection (2)(c)(iv) of this section. The establishment of a vegetation management corridor does not necessarily preclude development. Refer to (d) of this subsection for development standards appropriate for different shoreline conditions. Nor is the vegetation management corridor necessarily synonymous with a buffer or no touch zone.

As Figure 10 illustrates, the ability of vegetated areas to provide critical ecological functions diminishes rapidly as the width of the vegetated area along riparian corridors is reduced.

Figure 10 illustrates that when shoreline vegetation is removed, the narrower the area of remaining vegetation, the greater the risk that the functions will not be performed. Therefore, in preparing provisions to protect existing vegetation, local governments shall consider the whole vegetation management corridor and protect sufficient vegetation to minimize risk to priority habitats.

In preparing master program provisions for the rehabilitation of altered shorelines, local governments should ensure that the vegetated areas are large enough to be of ecological benefit, even if they are not sufficiently wide enough to achieve all ecological functions.

Experience has indicated that vegetated areas less than fifty feet wide along shorelines are largely ineffective in achieving significant ecological functions because such areas are often encroached upon. Therefore, in preparing comprehensive vegetation management provisions that achieve the ecological functions provided by vegetation, no benefit should be ascribed to vegetated areas less than fifty feet in width, unless their value is otherwise demonstrated through best available science and measures are taken to prevent encroachment over time.

(d) Standards. Master programs shall ensure the following requirements are met within vegetation management corridors in shoreline jurisdiction, unless the department of ecology, pursuant to its authority under RCW 90.58.090, determines using best available science, that a different standard or regulatory approach provides more effective vegetation management.

(i) Do not allow vegetation removal that would likely result in significant soil erosion or in the need for structural shoreline stabilization measures as described in WAC 173-26-230 (3)(a).

(ii) For jurisdictions with an approved Endangered Species Act recovery plan addressing habitat within shoreline jurisdiction under the applicable federal and state agency authority, comply with that agreement.

(iii) For shorelines designated as "natural" shoreline environment and for undeveloped shoreline properties outside urban growth areas as defined by chapter 36.70A RCW that are relatively free of human structures, buildings, and pavements, do not allow new development or significant alteration of vegetation that would reduce the capability of vegetation to perform ecological functions. Do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal within the vegetation management corridor. That is, each new property parcel must be able to support its intended development on land outside the vegetation management corridor.

(iv) For shorelands designated for forestry purposes, including those covered by the Forest Practices Act, restrict activities sufficiently to ensure maintenance of ecological functions. Establish provisions that will contribute to vegetation enhancement where the shoreline has been ecologically degraded. If the land is converted to a more intense use, do not allow significant vegetation removal, grading or development within the vegetation management corridor except for low-intensity water dependent uses and public access that sustains ecological functions.

(v) For shorelands used for agricultural practices, restrict uses and activities that are not existing and ongoing agriculture sufficiently to ensure maintenance of ecological functions. Establish provisions that will contribute to vegetation enhancement where the shoreline has been ecologically degraded. If the land is converted to a more intense use, do not allow significant vegetation removal, clearing or development within the vegetation management corridor, except for low-intensity water-dependent uses and public access that sustains ecological functions.

(vi) For shoreline properties within areas planned for residential development, do not allow development that will significantly reduce the ecological functions performed by vegetation within the vegetation management corridor and restrict alteration of vegetation to the minimum necessary to accommodate permitted development. Where the dimensions of existing platted lots are not sufficient to accommodate development of a permitted use without encroaching on the vegetation management corridor, apply the mitigation sequence in WAC 173-26-020 to minimize adverse impacts to vegetation.

Shoreline master programs shall include standards for clearing and grading associated with residential development in accordance with technical guidance prepared by the department of ecology in coordination with other state agencies and affected Indian tribes.

(vii) For shoreline properties with existing residential uses located within a vegetation management corridor, do not allow new development, building additions, or significant vegetation removal that would significantly reduce ecological functions performed by vegetation. Reconstruction of or additions to buildings within an existing building footprint

may be allowed. New development where vegetation is enhanced, may be allowed.

(viii) For shoreline properties within developed areas or urban growth areas planned for commercial and industrial uses, require shoreline vegetation protection (or rehabilitation, where vegetation has been degraded or removed) as a permit condition for nonwater-dependent uses and mitigation of vegetation impacts for water-dependent uses. Development proponents for nonwater-dependent uses shall be required to demonstrate that vegetation management measures will contribute increasing ecological functions.

Allow water-dependent uses within the vegetation management corridor only if impacts to existing vegetation are mitigated according to the mitigation sequence in WAC 173-26-020.

(6) Water quality, storm water runoff, and nonpoint pollution.

(a) Applicability. The following section applies directly to all activities occurring in shoreline jurisdiction that affect the physical, chemical or biological characteristics of surface water and ground water within shoreline areas. Applicable characteristics include, but are not limited to, biological properties, dissolved or suspended materials, presence of toxic materials, nutrient loading, temperature, and hydrological properties, such as runoff quantity, storm response, rate of flow, velocity, and discharge configuration.

(b) Principles. Shoreline master programs shall, as stated in RCW 90.58.020, protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to the waters of the state and their aquatic life, through implementation of the following principles:

(i) Prevent impacts to water quality that significantly reduce shoreline ecological functions.

(ii) Ensure that water within and entering shorelands and shorelines of the state, including ground water, surface water and channeled or piped water, conforms to state and federal water quality standards and, where applicable, endangered species recovery programs.

(iii) Ensure mutual consistency between shoreline management provisions and other regulations that address water quality, including public health, storm water runoff, and water discharge standards. The regulations most protective of ecological functions shall apply.

(c) Standards. Shoreline master programs shall implement the following policy standards:

(i) Development in shoreline jurisdiction shall not significantly and adversely affect the ecological functions of the shoreline by altering water quality.

(ii) Development on previously degraded shoreline sites should result in water quality that supports a net gain, within the watershed overall, in ecological functions.

(iii) All shoreline master programs for jurisdictions with priority species or impaired water quality with respect to human health, shall include a policy that land use and storm water runoff policies and regulations shall improve, over time, the water quality characteristics necessary to maintain or, if necessary, achieve long-term sustainability of anadromous fishes, and protection of human health, as demonstrated by meeting or exceeding state and federal water quality stan-

dards and endangered species recovery program requirements.

(iv) Discharges and storm water runoff within or into shoreline jurisdictions, especially aquatic areas that support anadromous fishes, shall be managed so that the water flow characteristics do not adversely affect juvenile fish survival.

(v) Variances to local and state public health code standards within shoreline jurisdiction shall require a shoreline variance.

#### NEW SECTION

#### **WAC 173-26-230 Shoreline modification activities.**

(1) Applicability. The provisions in this section apply to all shoreline modification activities within shoreline jurisdiction.

(2) Principles. Master programs shall implement the following principles.

(a) Allow shoreline modification only where demonstrated to be necessary to support or protect a permitted shoreline use.

(b) Reduce the adverse effects of shoreline modifications and, as much as possible, limit shoreline modifications in number and extent.

(c) Only allow shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which it is proposed.

(d) Give preference to those types of shoreline modifications that have a lesser impact on ecological functions. For example, in normal circumstances, preference should be given to pile supported piers which allow normal water flow over landfill supported piers which alter the natural flow of water currents.

(e) Base master program provisions on best available science. Where applicable, base provisions on a comprehensive analysis of drift cells. Contact the department of ecology for available drift cell characterizations.

(f) Enhance ecological functions while accommodating existing legally permitted activities and the needs of water-oriented uses. As shoreline development and redevelopment occur, use all feasible measures to restore ecological shoreline functions.

(g) Mitigate significant adverse impacts according to mitigation sequence in WAC 173-26-020.

(3) Standards for specific shoreline modification activities.

(a) Shoreline stabilization.

(i) Applicability. Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or essential structures caused by, or associated with current, flood, wind, or boat wake action. These actions include structural and nonstructural methods.

Nonstructural methods include building setbacks, planning, and regulatory measures to avoid the need for structural stabilization.

"Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on softer materials, such as biotechnical vegetation measures or beach enhancement.

There is a range of measures varying from hard to soft that include:

- Seawalls;
- Bulkheads;
- Concrete groins;
- Gabions;
- Rock revetments;
- Gravel placement;
- Anchor trees;
- Beach enhancement;
- Biotechnical measures; and
- Vegetation enhancement.

Generally, the harder the measure, the greater the impact on wave action, geomorphology, and biological functions.

Structural shoreline stabilization often results in vegetation removal and damage to near-shore habitat. Therefore, master programs shoreline stabilization provisions shall also be consistent with WAC 173-26-220(6), vegetation management, and WAC 173-26-220(2), critical areas.

The following standards, where applicable to residential bulkheads, implement RCW 90.58.100(6), which states:

*Each master program shall contain standards governing the protection of single-family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection against loss or damage to single family residences and appurtenant structures due to shoreline erosion. The standards shall provide a preference for permit issuance for measures to protect single-family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment.*

(ii) Standards. Master programs shall adhere to the following policy standards:

(A) For all shoreline areas, require that all development and shoreline modification activities minimize adverse impacts to the ecological functions of the shoreline through the following means.

- Do not allow structural stabilization measures except to protect or support an allowed use.

- Do not allow new nonwater-dependent development, including residences, that requires structural shoreline stabilization measures unless geotechnical analysis demonstrates that the structural stabilization measures are necessary to protect the development from shoreline erosion and that nonstructural measures, such as placing the development further from the shoreline or on-site drainage improvements, would not be feasible.

- Do not allow new shoreline stabilization measures to be installed for an existing structure, including residential uses, unless there is conclusive evidence, documented by a geotechnical analysis or demonstrated through imminently dangerous conditions, that the structure is in danger from shoreline erosion. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. Require that the geotechnical analysis evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. Require mitigation of significant impacts to ecological functions.

- Do not allow the replacement of an existing shoreline stabilization structure with a similar structure unless there is a need to protect uses or structures demonstrated through a geotechnical report. Require that the replacement structure be designed, sized, and located to minimize harm to the natural shoreline environment and, where feasible, reduce harmful impacts to the shoreline.

- Where structural shoreline stabilization measures are demonstrated to be necessary, limit the size of stabilization measures to the minimum necessary and use measures designed to minimize harm to the natural shoreline environment.

- In the design of shoreline stabilization measures, use techniques to restore, as much as possible, the ecological functions of the shoreline. Require mitigation of adverse impacts to shoreline functions in accordance with the mitigation sequence defined in these guidelines.

- Do not allow shoreline stabilization for new development that would cause significant adverse impacts to adjacent properties and shoreline areas.

(B) For development on ecologically intact shoreline areas (generally corresponding to the "natural" environment designation):

- Do not allow new development that requires structural shoreline stabilization.

- Do not allow the subdivision of land into parcels that will require shoreline stabilization in order for development to occur.

(C) For uses on ecologically altered shorelines with predominantly resource-based activities, including forestry, agriculture and mining (shoreline areas generally corresponding to the "rural conservancy" environment designation), and for residential uses (generally corresponding to the "rural conservancy" or "shoreline residential" environment designations):

- Do not allow new or expanded nonwater-dependent development, including residences, that requires structural shoreline stabilization, unless there is conclusive evidence, documented through a geotechnical analysis, that there is a physical need for the measure in order to protect the proposed structure and that alternative approaches, such as setbacks, design modification, and other nonstructural methods, are infeasible. Allow new shoreline stabilization measures for water-dependent development only if there is a demonstrated need to protect the structure documented by a geotechnical report.

- Do not allow the subdivision of land into parcels that will require shoreline stabilization for development to occur.

(D) For uses on ecologically altered shoreline areas with industrial, commercial, and recreational activities (generally corresponding to the "high-intensity" and "urban conservancy" environment designations), do not allow new shoreline stabilization measures for new or expanded nonwater-dependent development unless there is conclusive evidence, documented through a geotechnical analysis, that there is a physical need for the measure and that alternate approaches, such as setbacks and design modifications, are not feasible. Require that new shoreline stabilization measures for nonwater-dependent development include ecological enhancement

so that there is a net gain in the ecological shoreline functions.

(E) New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis.

For all developments on the top of steep or unstable bluffs or steep slopes with a height greater than ten feet above the ordinary high-water mark and a slope greater than forty percent, require a geotechnical report documenting:

- Soil conditions;
- Erosion rates;
- Drainage patterns;
- Vegetation management options;
- Recommended setbacks to avoid hard structural stabilization measures (such as bulkheads) during the life of the project;
- Evaluation of the stability and safety of the structure;
- Stability of the slope or bluff; and
- Seismic hazard.

(F) Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, or security. (See public access WAC 173-26-220(4).) Where appropriate, incorporate ecological shoreline rehabilitation and public access improvements into the project.

(G) Mitigate new erosion control measures on feeder bluffs or other actions that affect beach sediment-producing areas to reduce adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt master program provisions for a Beach Management District or other institutional mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.

(b) Piers and docks. Piers and docks shall be allowed only for water-dependent uses and public access. Pier and dock construction shall be restricted to the minimum size necessary to meet the needs of the proposed use.

New pier or dock construction (including residential docks) shall be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses and that the function cannot be accommodated by an available nearby pier, dock, or mooring buoy. If a port district or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for pier or dock space, it may serve as the necessary justification for pier design, size, and construction. The intent of this provision is to allow ports and other entities the flexibility necessary to provide for existing and future water-dependent uses.

Piers and docks shall be designed to minimize the impact to ecological functions and environmental critical areas resources such as eelgrass beds and fish habitats and processes such as tidal currents and littoral drift.

(c) Landfill. Landfill is the placement of soil, sand, rock, or other material (excluding solid waste) to create new land, tideland or submerged lands waterward of the ordinary high-

water mark, or on uplands or wetlands in order to raise the elevation.

Landfills shall be located and designed to protect shoreline ecological functions and hydrological processes, including channel migration.

Landfills waterward of the ordinary high-water mark shall be allowed only when in support of a water-dependent use, public access, cleanup and disposal of contaminated sediments as part of an interagency environmental cleanup plan, mitigation action, environmental rehabilitation, or beach nourishment or enhancement project. Landfills waterward of the ordinary high-water mark for any use except ecological enhancement should require a conditional use permit.

(d) Breakwaters, jetties, groins, and weirs. Breakwaters, jetties, groins, and weirs located waterward of the ordinary high-water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization or other specific public purpose. Those structures shall be designed to not obstruct natural shore processes (such as littoral drift) except in the area where intervention is warranted. The design of such structures shall make provision for ecological processes and critical area protection.

(e) Beach and dunes management. Washington's dunes and their associated beaches lie along the Pacific Ocean coast between Point Grenville and Cape Disappointment, and as shorelines of state-wide significance shall be managed from a state-wide perspective. Dunes and their beaches shall be managed to conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal dunes; and to reduce the hazard to human life and property from natural or human-induced actions associated with these areas.

Shoreline master programs in coastal marine areas shall provide for diverse and appropriate use of beach and dune areas consistent with their ecological, recreational, aesthetic, and economic values, and consistent with the natural limitations of beaches, dunes, and dune vegetation for development. Coastal master programs shall institute development setbacks from the shoreline to prevent impacts to the natural, functional, ecological and aesthetic qualities of the dune.

Dune modification shall be allowed only as a conditional use. Dune modification shall be allowed only where the view is completely obstructed for lots or parcels which were created before passage of the Shoreline Management Act and where it can be demonstrated that the dunes did not obstruct views at that time; and where a regional plan for dune management, including grading, revegetation, and permanent monitoring, is carried out on a regional basis through a taxing authority such as a local improvement district, consistent with state and federal flood protection standards and requirements, and approved by the local government and the department.

Sand mining and dune modification shall not be allowed on erosional shorelines.

(f) Dredging and dredge material disposal. Dredging and dredge material disposal shall be done in a manner which avoids or minimizes negative environmental impacts.

New port facilities should be sited and designed to minimize the need for new and maintenance dredging. Dredging for the purpose of establishing, expanding, or relocating nav-

igation channels and basins should be allowed only when it is the least environmentally adverse alternative and when suitable mitigation is provided. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width unless necessary to improve navigation.

Dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill material shall not be allowed. Master programs should include provisions for uses of suitable dredge material that benefit shoreline resources. Where applicable, master programs should provide for the implementation of adopted regional interagency dredge material management plans.

Disposal of dredge material into channel migration zones of riparian corridors outside of harbor areas is not allowed except by conditional use permit.

## NEW SECTION

**WAC 173-26-240 Shoreline uses.** (1) Applicability. The provisions in this section apply to uses and activities within the shoreline area and to those where the requirement for compatibility with shoreline uses, ecological protection, and other objectives of the Shoreline Management Act apply.

(2) Principles. Shoreline master programs shall implement the following principles:

(a) Establish a system of use and environment designation provisions consistent with WAC 173-26-210 that gives preference to those uses that are consistent with the control of pollution and prevention of damage to the ecological functions, or are unique to or dependent upon uses of the state's shoreline areas.

(b) Ensure that all shoreline master program provisions concerning proposed development of property are established, as necessary, to protect the public's health, safety, and welfare, as well as the land and its vegetation and wildlife, and to protect property rights while implementing the policies of the Shoreline Management Act.

(c) Reduce use conflicts by including provisions to prohibit or apply special conditions to lower priority uses. In implementing this provision, priority shall be given first to water-dependent uses, then to water-related uses and water-enjoyment uses.

Examples:

(i) New residential or commercial development should not be allowed where it might conflict with water-dependent port activity. In this case, a master program might require the residential development to include setbacks and screening to mitigate the impacts of industrial operations.

(ii) Where there is a potential conflict between aquaculture and shipping traffic, master programs could contain regulations or special aquatic shoreline designations to reduce conflict.

(d) Establish regulations to mitigate existing and potential impacts, such as flooding, erosion, and water quality.

(e) Establish use provisions that preserve unique shoreline development opportunities. Shoreline master programs shall establish use provisions that take advantage of shore-

lines with unique attributes or resources. For example, master program provisions should:

(i) Reserve portions of accessible deep-water urban harbors and adjacent shorelands for water-dependent uses.

(ii) Encourage mixed-use development, including water-dependent uses, near town centers.

(iii) Preserve unique public sites, such as lighthouse facilities, for public enjoyment.

(f) Define the types of uses and activities that require shoreline conditional use permits. Master programs should identify the following types of uses, structures, and activities as requiring conditional use permits, if they are permitted at all.

(i) Uses and activities that may significantly impair or alter the public's use of the water areas of the state.

(ii) Uses and activities which may have a significant adverse impact on shoreline ecology or resources depending on location, design, and site conditions.

(iii) Uses that are not preferred under the Shoreline Management Act when located on shorelines of state-wide significance or on commercially navigable waters.

(iv) Landfill waterward of the ordinary high water mark except for ecological enhancement.

(v) Other uses and activities as identified by local governments.

(3) Standards. Establish master program regulations to address the potential impacts and opportunities of specific shoreline uses that may occur in the jurisdiction.

(a) Agriculture. New development in support of agricultural activities shall be designed to minimize impacts to shoreline environments, specifically, to reduce livestock intrusion into the water; bank erosion; degradation of water quality from fertilizers, pesticides, and manure into the water; and loss of shoreline vegetation.

Recognizing that agricultural uses are an important economic, physical, and cultural asset in many Washington state communities, improper agricultural practices can have a substantial and cumulative effect on water quality and the shoreline environment. Consequently, applicable master programs shall include standards for setbacks, water quality protection, environmental impacts and vegetation management corridors, for new agricultural activities in shoreline jurisdiction.

Applicable master programs shall address new agricultural activities that do not meet the definition of existing and ongoing agriculture. Existing and ongoing agriculture includes those activities conducted on lands defined in RCW 84.34.020(2) and those activities involved in the production of crops or livestock; for example the operation and maintenance of farm and stock ponds, drainage ditches, irrigation systems, and the normal maintenance and repair of existing structures, facilities, and lands currently under production or cultivation.

Requirements for setbacks and vegetation management corridors shall be based on best available science and management practices adopted by the applicable state agencies necessary to preserve the functions and qualities of the shoreline environment. In riparian corridors with priority species, the regulations shall be sufficient to ensure no net loss of habitat viability. If riparian habitat has been degraded through development or agriculture practices the master program

shall include provisions that result in improved habitat over time.

Areas in agricultural production or reserved for agricultural activities shall be classified as "natural" or "rural conservancy" environment designation, as described in WAC 173-26-210, unless there is a compelling reason to the contrary.

(b) Aquaculture. Aquaculture is a preferred water-dependent use and shall be encouraged within specific constraints to protect the water ecology. Potential locations for aquaculture practices are relatively restricted due to specific biophysical requirements, such as water quality, temperature, substrate, dissolved oxygen, and salinity. Priority should be given to aquaculture uses in areas having a high potential for such uses.

Aquaculture should not be permitted in areas where it would degrade the natural ecology of the shoreline or significantly conflict with navigation and other water-dependent uses. Aquacultural facilities shall be developed so as not to significantly impact the aesthetic qualities of the shoreline.

(c) Boating facilities. Boating facilities, such as moorage facilities, marinas, boat ramps, and docks, are preferred uses. Shoreline master programs in jurisdictions where boating is a common activity shall contain provisions to address potential impacts while providing the boating public recreational opportunities on waters of the state.

Where applicable, shoreline master programs shall, at a minimum, contain:

(i) Provisions restricting boating facilities to locations with suitable environmental conditions, shoreline configuration, access, and neighboring uses;

(ii) Regulations to require facilities to meet health, safety, and welfare requirements, such as sewage pump-outs, wash-off stations, and solid waste disposal;

(iii) Regulations to mitigate visual and ecological impacts;

(iv) Provisions for public access in new marinas, including transient moorage, particularly where water-enjoyment uses are associated with the marina;

(v) Regulations to limit the impacts from boaters living in their vessels (live-aboards) and to prevent the displacement of recreational boats;

(vi) Regulations reducing the impacts of parking; and

(vii) Regulations restricting or mitigating the impacts of covered moorage.

(d) Commercial development. Master programs shall give preference to water-dependent commercial uses on the shoreline. Master programs shall consider public access and ecological rehabilitation requirements for all water-oriented commercial uses. Shoreline ecological rehabilitation and public access shall be a condition of all water-related and water-enjoyment use development unless such improvements are demonstrated to be infeasible or inappropriate. Master programs shall exclude nonwater-oriented commercial uses from locating on the shoreline unless they provide public access and ecological enhancement and they meet at least one of the following criteria:

(i) The use is part of a mixed-use project that includes water-dependent uses.

(ii) Navigability is severely limited at the proposed site.

(iii) The commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives.

(iv) The commercial use is physically separated from the shoreline by another property or public right of way.

(e) Forest practices. Timber harvesting and forest practice conversions shall minimize impact to the shoreline environment and maintain the ecological quality of the watershed hydrologic system. Master programs shall establish provisions to ensure that all timber removal, including activities exempt under the Forest Practices Act and forest practice conversions, are consistent with the master program environment designation provisions and the provisions of this chapter.

Master programs shall include the provisions of RCW 90.58.150 regarding selective removal of timber harvest on shorelines of state-wide significance. Exceptions to this standard shall be by conditional use permit only.

Lands designated as "forest lands of long-term economic significance" shall be designated either "natural" or "rural conservancy" environment or equivalent designation.

Where forest practices fall within the applicability of the Forest Practices Act, local governments should consult with the department of natural resources, other applicable agencies, and local timber owners and operators to ensure a forest practices regulatory system that minimizes duplication and gaps. For riparian corridors with endangered or priority species, restrict activities within shoreline jurisdiction so that the ecological functions of the corridor are not reduced and use best available science to determine acceptable harvest practices.

Where it is determined that logging may substantially alter the water quality and hydrologic characteristics of water bodies containing endangered or priority species, the master program shall include a policy that forest practice activities not result in significant lowering of water quality characteristics within shoreline jurisdiction necessary to the life of anadromous fishes.

Shoreline master programs shall contain provisions to ensure that when forestlands are converted to another use, functions within the shoreline jurisdiction are not reduced and new development is prevented within the vegetation management corridor, except for low intensity water dependent uses and public access that sustains ecological functions.

(f) Industry. Water dependent industry is a preferred use. Regional and state-wide needs for water-dependent and water-related industrial facilities should be carefully considered in establishing master program environment designations, use provisions, and space allocations for industrial uses and supporting facilities.

Industrial development shall not be located in shoreline areas with severe biophysical limitations unless no other feasible option is available. Industrial development shall not be located or designed in a manner that causes significant adverse impacts to the ecological functions. Particular scrutiny shall be given to ecological functions necessary to support priority species.

New industrial development shall incorporate public access to the water except when such access causes significant interference with operations or hazards to life or prop-

erty, as provided in WAC 173-26-220(4). Industrial development and redevelopment shall, where feasible, incorporate environmental cleanup and rehabilitation of the shoreline area. Nonwater-oriented industrial development shall only be allowed on nonnavigable shorelines and shall include public access and ecological rehabilitation of the shoreline. In such cases, no new structural shoreline stabilization measures shall be permitted.

(g) In-stream structures. In-stream structures shall provide for the protection and preservation of ecological functions and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeologic processes and natural scenic vistas. The location and planning of in-stream structures shall give due consideration to the full range of public interests and environmental concerns, with special emphasis on priority habitats and species. Master program provisions shall be based on best available science.

(h) Mining. Mining and the removal of gravel or other material shall not be allowed in critical areas where such activities would degrade ecological function. The excavation of sand, gravel and other materials shall be done in strict conformance to the Washington State Surface Mining Reclamation Act, chapter 78.44 RCW. The removal of gravel from rivers shall occur only after a hydrogeologic study shows that sustainable extraction can take place without altering the natural processes of gravel transport and other ecological functions. Destruction of endangered or priority species habitat is prohibited. All necessary actions shall be taken to protect fish and wildlife resources. All disturbed areas shall be reclaimed upon the completion of operations.

Surface mining and reclamation activities conducted in the flood plain shall mitigate impacts to fish and wildlife habitats.

(i) Recreational development. Water-oriented recreation is a preferred use, and provision shall be made in master programs for the public to enjoy the waters of the state. Master program provisions should ensure that shoreline recreational facilities, now and in the future, can reasonably tolerate, during peak use periods, a balance of active and passive uses without significantly degrading ecological functions.

For all jurisdictions planning under the Growth Management Act, master program recreation policies shall be consistent with growth projections and level-of-service standards established by the applicable comprehensive plan. Private recreational development shall not be a substitute for publicly owned, publicly accessible recreational facilities on the shorelines. Recreational development should provide for a spectrum of recreational needs and opportunities. Where possible, shoreline recreational facilities should be linked to other recreational attractions by pedestrian and bicycle trails. Master program recreation provisions shall be consistent with public access and environmental protection provisions of this chapter.

Master program provisions shall give preference to water-dependent recreation as a first priority and water-enjoyment and water-related recreational uses as a second priority. Nonwater-oriented recreational uses should be discouraged on the shoreline and, where allowed, shall include public access and ecological rehabilitation.

The impacts of recreational developments, including water-dependent facilities such as marinas and swimming beaches, and nonwater-oriented uses, such as golf courses, shall be mitigated. Nonwater-dependent recreational uses shall be located away from the water unless their adverse impacts can be avoided.

(j) Residential development. Residential uses can cause significant damage to the shoreline area through cumulative impacts from shoreline bulkheading, storm water runoff, septic system failure, eelgrass bed damage, introduction of pollutants, and vegetation removal. Master programs shall include shoreline setbacks, density regulations, bulkhead restrictions, vegetation management requirements, and sanitary sewer system standards for residential uses, including single-family residences and accessory structures and uses, in accordance with the provisions of this chapter in order to protect ecological functions. New residential development, including accessory structures and uses, shall be sufficiently set back from steep slopes and eroding shorelines so that structural improvements, including bluff walls and other bluff stabilization structures, are not required to protect property. (See RCW 90.58.100(6).)

Shoreline master programs shall prevent the creation of new residential lots that will require shoreline stabilization or deviation from vegetation management and water quality standards.

New over-water residences, including floating homes and houseboats, are not a preferred use and shall be prohibited. Master programs shall prevent growth in the number of over-water residences. Live-aboard vessels should be limited and carefully managed so that they do not displace recreational vessels in marinas and should be restricted to those marinas with facilities to accommodate them.

New multiunit residential development, including duplexes, fourplexes, and the subdivision of land for more than five parcels, shall provide public access in conformance to the local government's public access plan and this chapter. Master program provisions shall ensure that the platting of land and creation of lots for residential purposes is consistent with the Shoreline Management Act and these guidelines.

(k) Transportation and parking. Establish and implement master program policies and regulations to provide safe, reasonable, and adequate circulation systems to shorelines.

Transportation plans and projects shall be consistent with the master program public access policies, public access plan, and environmental protection provisions.

Circulation system planning to and on shorelands shall include systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects shall support existing shoreline uses and those provided for by the master program.

Plan, locate, and design proposed transportation facilities where routes will have the least possible adverse effect on unique or fragile shoreline features and existing ecological functions or on existing or future water-dependent uses. Where other options are available and feasible, new roads or road expansions should not be built within two hundred feet of the shoreline or inside the vegetation management corridor.

Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support a preferred use. Shoreline master programs shall include policies and regulations to minimize the environmental and visual impacts of parking facilities.

(1) Utilities. These provisions apply to services and facilities that produce, convey, store, or process power, gas, sewage, communications, oil, waste, and the like. On-site utility features serving a primary use, such as a water line to a residence, are "accessory utilities" and are not addressed here.

All utility facilities shall be designed and located to minimize harm to shoreline functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

Utility production and processing facilities, or parts of those facilities, such as power plants and sewage treatment plants that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located to cause minimum harm to the shoreline, shall be located outside of the shoreline area where feasible. Utilities should be located in existing rights of way and corridors whenever possible.

Development of underwater pipelines and cables on tidelands should be discouraged except where adverse environmental impacts can be shown to be less than the impact of upland or deep-water alternatives. When permitted, those facilities should include adequate provisions to ensure against substantial or irrevocable damage to the environment.

#### NEW SECTION

**WAC 173-26-250 Shorelines of state-wide significance.** (1) Applicability. The following section applies to local governments preparing master programs that include shorelines of state-wide significance as defined in RCW 90.58.030

(2) Principles. In determining whether or not a local shoreline master program complies with the direction for "optimum implementation" in RCW 90.58.090(4), the department will use the following criteria:

(a) Optimum implementation of shoreline management objectives is generally achieved through a planning process that identifies significant state-wide resources or state-wide interests and integrates a comprehensive spectrum of policies and regulations.

(b) Because shoreline ecological resources are linked to other environments, implementation of ecological objectives requires effective management of whole ecosystems and the protection of shoreline and upland resources.

(c) Optimum implementation involves special emphasis on state-wide objectives and consultation with state agencies.

(d) The state's interests may vary depending upon the geographic region, type of shoreline and local conditions. Optimum implementation involves addressing the special issues and resources of the individual shorelines. Optimum implementation may involve insuring that other comprehen-

sive planning policies and regulations support Shoreline Management Act objectives.

It is the responsibility of local governments to demonstrate that optimum implementation is achieved. The department of ecology will provide guidance regarding the state-wide interests.

(3) Planning process for shorelines of state-wide significance. Local governments that are amending shoreline master program provisions for shorelines of state-wide significance shall accomplish the following tasks as part of preparing or amending their master programs:

(a) Consult with applicable state agencies, affected Indian tribes, and state-wide interests and consider their recommendations in the shoreline master program provisions. For example, if priority species habitat is addressed, the departments of fish and wildlife, ecology, and natural resources as well as affected Indian tribes should, at a minimum, be consulted.

(b) Identify resource issues of state-wide significance and formulate public strategies for management of identified resources.

(c) Establish shoreline environment designation policies, boundaries, and use provisions that give priority to uses that are based on state-wide interests for habitat protection, water-oriented recreation, and water-oriented uses. More specifically:

(i) Base public access, recreation, and utilization requirements on demand projections that take into account the activities of state agencies and the interests of the citizens of the state to visit public shorelines with special scenic qualities or cultural or recreational opportunities.

(ii) Preserve sufficient shorelands, uplands, and submerged land to accommodate current and projected demand for economic resources of state-wide importance, such as commercial shellfish beds and navigable harbors. Base projections on state-wide or regional analyses, comment from related industry associations, affected Indian tribes and/or state agencies, and requirements for essential public facilities.

(iii) Identify the extent and importance of ecological resources of state-wide importance and potential impacts to those resources, both inside and outside the local government's geographic jurisdiction.

(d) Establish development standards that:

(i) Provide for the right of the public to use, access, and enjoy public shoreline resources of state-wide importance.

(ii) Provide for the shoreline needs of water-oriented uses and other shoreline economic resources of state-wide importance.

(iii) Ensure the long-term viability and enhancement of ecological resources of state-wide importance such as anadromous fish, shellfish beds, and unique environments. Standards shall consider incremental and cumulative impacts of permitted actions on the uplands and shorelands and include provisions to improve the functions of shoreline ecosystems as a whole.

(e) Assure that other local comprehensive plan provisions are consistent with and support as a high priority the principles and priorities for shorelines of state-wide significance.

cance. Specifically, shoreline master programs should include policies that:

(i) Require all comprehensive plan policies and critical area regulations to support the protection and enhancement of ecological resources of state-wide importance, including priority species and habitats and unique environments.

(ii) Call for the linking of shoreline public access sites to a comprehensive system of connections to other recreation resources and that identify a strategy for preserving and enhancing public access and public use to public shoreline resources of state-wide importance.

(iii) Require all comprehensive plan policies and land use designations to be consistent and support shorelines of state-wide significance use policies, shoreline environment designations, and the needs of water-dependent uses.

(f) Base shoreline master program policies and regulations for intertidal and submerged lands associated with shorelines of state-wide significance on a planning process that:

(i) Incorporates the participation of state agencies, use groups, local citizens, affected Indian tribes, and interested parties.

(ii) Identifies resources of state-wide importance and delineates areas of special importance or priority for specific uses.

(iii) Recognizes the state's special interests in state owned aquatic lands.

#### NEW SECTION

**WAC 173-26-260 Ocean management.** (1) Purpose and intent. This section implements the Ocean Resources Management Act (RCW 43.143.005 through 43.143.030), enacted in 1989 by the Washington state legislature. The law requires the department of ecology to develop guidelines and policies for the management of ocean uses and to serve as the basis for evaluation and modification of local shoreline management master programs of coastal local governments in Jefferson, Clallam, Grays Harbor, and Pacific counties. The guidelines are intended to clarify state shoreline management policy regarding use of coastal resources, address evolving interest in ocean development, and prepare state and local agencies for new ocean developments and activities.

(2) Geographical application. The guidelines apply to uses conducted in Washington's coastal waters as defined in RCW 43.143.020 to include the Pacific Ocean from Cape Disappointment, at the mouth of the Columbia River, north to Cape Flattery, at the entrance to the Strait of Juan De Fuca, including the off-shore ocean area seaward of the line of mean high tide. Their broadest application would include an area seaward two hundred miles.

(3) Ocean uses defined. Ocean uses are activities or developments involving renewable and/or nonrenewable resources that occur on Washington's coastal waters and may include their associated off-shore, near-shore, inland marine, shoreland, and upland facilities and the supply, service, and distribution activities, such as crew ships, circulating to and between the activities and developments to the extent not addressed by the local master program and other regulations. Ocean uses involving nonrenewable resources include such

activities as extraction of oil, gas, and minerals, energy production, disposal of waste products, and salvage. Ocean uses which generally involve sustainable use of renewable resources include commercial, recreational, and tribal fishing, aquaculture, recreation, shellfish harvesting, and pleasure craft activity.

(4) Relationship to existing management programs. These guidelines are not intended to modify current resource allocation procedures or regulations administered by other agencies, such as the Washington department of fisheries management of commercial, recreational, and tribal fisheries. Every effort will be made to take into account tribal interests and programs in the guidelines and master program amendment processes. After inclusion in the state coastal zone management program, these guidelines and resultant master programs will be used for federal consistency purposes in evaluating federal permits and activities in Washington's coastal waters.

(5) Regional approach. The guidelines are intended to foster a regional perspective and consistent approach for the management of ocean uses. While local governments may have need to tailor their programs to accommodate local circumstances, local government programs should be coordinated with the programs of adjacent jurisdictions and consistent with and fully implement the provisions of this section.

In addition to the criteria in RCW 43.143.030, these guidelines apply to ocean uses until local master programs that implement this section are adopted by the department of ecology. The amended master program shall be the basis for review of an action that is either located exclusively in, or its environmental impacts confined to, one county. Where a proposal clearly involves more than one local jurisdiction, the guidelines shall be applied and remain in effect in addition to the provisions of the local master programs.

(6) General ocean uses guidelines. The following guidelines apply to all ocean uses:

(a) Local government and the department may approve permits for ocean uses, and only if the criteria of RCW 43.143.030(2) are met or exceeded:

(b) Ocean uses and activities that will not adversely impact renewable resources shall be given priority over those that will. Correspondingly, ocean uses that will have less adverse impacts on renewable resources shall be given priority over uses that will have greater adverse impacts.

(c) Ocean uses that will have less adverse social and economic impacts on coastal uses and communities should be given priority over uses and activities that will have more social and economic impacts.

(d) When the adverse impacts are generally equal, the ocean use that has less probable occurrence of a disaster should be given priority.

(e) The alternatives considered to meet a public need for a proposed use should be commensurate with the need for the proposed use. For example, if there is a demonstrated national need for a proposed use, then national alternatives should be considered.

(f) The State Environmental Policy Act and its associated administrative rules provide guidance in the application of the permit criteria and guidelines of this section. These regulations identify the range of impacts to be considered and

the sequence of actions to be used as an order of preference in evaluating steps to avoid and minimize adverse impacts.

(g) Impacts on commercial resources, such as the crab fishery, on noncommercial resources, such as environmentally critical and sensitive habitats, and on coastal uses, such as loss of equipment or loss of a fishing season, should be considered in determining compensation to mitigate adverse environmental, social, and economic impacts to coastal resources and uses.

(h) Allocation of compensation to mitigate adverse impacts to coastal resources or uses should be based on the magnitude and/or degree of impact on the resource, jurisdiction, and use.

(i) Rehabilitation plans and bonds prepared for ocean uses should address the effects of planned and unanticipated closures, completion of the activity, reasonably anticipated disasters, inflation, new technology, and new information about the environmental impacts to ensure that state-of-the-art technology and methods are used.

(j) Ocean uses and their associated coastal or upland facilities should be located, designed, and operated to prevent, avoid, and minimize adverse impacts on migration routes and habitat areas of species listed as endangered or threatened, environmentally critical and sensitive habitats, such as breeding, spawning, nursery, foraging areas, and wetlands, and areas of high productivity for marine biota, such as upwelling and estuaries.

(k) Ocean uses should be located to avoid adverse impacts on proposed or existing environmental and scientific preserves and sanctuaries, parks, and designated recreation areas.

(l) Ocean uses and their associated facilities should be located and designed to avoid and minimize adverse impacts on historic or culturally significant sites in compliance with chapter 27.34 RCW. Permits in general should contain special provisions that require permittees to comply with chapter 27.53 RCW if any archaeological sites or archeological objects, such as artifacts and shipwrecks, are discovered.

(m) Ocean uses and their distribution, service, and supply vessels and aircraft should be located, designed, and operated in a manner that minimizes adverse impacts on fishing grounds, aquatic lands, or other renewable resource ocean use areas during the established, traditional, and recognized times they are used or when the resource could be adversely impacted.

(n) Ocean use service, supply, and distribution vessels and aircraft should be routed to avoid environmentally critical and sensitive habitats, such as sea stacks and wetlands, preserves, sanctuaries, bird colonies, and migration routes, during critical times those areas or species could be affected.

(o) In locating and designing associated on-shore facilities, special attention should be given to the environment, the characteristics of the use, and the impact of a probable disaster in order to assure adjacent uses, habitats, and communities adequate protection from explosions, spills, and other disasters.

(p) Ocean uses and their associated facilities should be located and designed to minimize adverse impacts on existing water-dependent businesses and existing land transportation routes to the maximum extent feasible.

(q) On-shore facilities associated with ocean uses should be located where there is adequate sewer, water, power, and streets. Preference should be given to use of existing marine terminals and other previously developed sites.

(r) Attention should be given to the scheduling and method of constructing ocean use facilities and the location of temporary construction facilities to minimize impacts on tourism, recreation, commercial fishing, local communities, and the environment.

(s) Special attention should be given to the effect that ocean use facilities will have on recreational activities and experiences, such as public access, aesthetics, and views.

(t) Detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture should be considered in avoiding and minimizing adverse social and economic impacts.

(u) Special attention should be given to designs and methods that prevent, avoid, and minimize adverse impacts, such as noise, light, temperature changes, turbidity, water pollution, and contaminated sediments, on the marine, estuarine, or upland environment. Such attention should be given particularly during critical migration periods and life stages of marine species and critical oceanographic processes.

(v) Preproject environmental base line inventories and assessments and monitoring of ocean uses should be required when little is known about the effects on marine and estuarine ecosystems, renewable resource uses, and coastal communities or when the technology involved is likely to change.

(w) Oil and gas, mining, disposal, and energy-producing ocean uses should be designed, constructed, and operated in a manner that minimizes environmental impacts on the coastal waters environment, particularly the seabed communities, and minimizes impacts on recreation and existing renewable resource uses, such as fishing.

(x) To the extent feasible, the location of oil and gas and mining facilities should be chosen to avoid and minimize impacts on shipping lanes or routes traditionally used by commercial and recreational fishermen to reach fishing areas.

(y) Discontinuance or shutdown of oil and gas, mining, or energy-producing ocean uses should be done in a manner that minimizes impacts to renewable resource ocean uses, such as fishing, and restores the seabed to a condition similar to its original state to the maximum extent feasible.

(7) Permitted uses. The following uses shall be permitted uses:

(a) Commercial and recreational fishing and shellfishing.

(b) Commercial and recreational navigation.

(c) Maintenance and improvement of aids to navigation.

(d) Fish and wildlife habitat restoration and enhancement.

(8) Conditional uses. The following uses and activities shall be conditional uses, except where they are prohibited by the provisions of a local master program:

(a) Oil and gas uses and activities. Oil and gas uses and activities involve the extraction of oil and gas resources from beneath the ocean.

(i) Whenever feasible, oil and gas facilities should be located and designed to permit joint use in order to minimize

adverse impacts to coastal resources and uses and the environment.

(ii) Special attention should be given to the availability and adequacy of general disaster response capabilities in reviewing ocean locations for oil and gas facilities.

(iii) Because environmental damage is a very probable impact of oil and gas uses, the adequacy of plans, equipment, staffing, procedures, and demonstrated financial and performance capabilities for preventing, responding to, and mitigating the effects of accidents and disasters such as oil spills should be a major consideration in the review of permits for their location and operation. If a permit is issued, it should ensure that adequate prevention, response, and mitigation can be provided before the use is initiated and throughout the life of the use.

(iv) Special attention should be given to the response times for public safety services, such as police, fire, emergency medical, and hazardous materials spill response services, in providing and reviewing on-shore locations for oil and gas facilities.

(v) Oil and gas facilities, including pipelines, should be located, designed, constructed, and maintained in conformance with applicable requirements but should, at a minimum, ensure adequate protection from geological hazards, such as liquefaction, hazardous slopes, earthquakes, physical oceanographic processes, and natural disasters.

(vi) Upland disposal of oil and gas construction and operation materials and waste products such as cuttings and drilling muds should be allowed only in sites that meet applicable requirements.

(b) Ocean mining. Ocean mining includes such uses as the mining of metal, mineral, sand, and gravel resources from the ocean floor.

(i) Seafloor mining should be located and operated to avoid detrimental effects on ground fishing or other renewable resource uses.

(ii) Seafloor mining should be located and operated to avoid detrimental effects on beach erosion or accretion processes.

(iii) Special attention should be given to habitat recovery rates in the review of permits for seafloor mining.

(c) Energy production. Energy production uses involve the production of energy in a usable form directly in or on the ocean, rather than extracting a raw material that is transported elsewhere, to produce energy in a readily usable form. Examples of these ocean uses are facilities that use wave action or differences in water temperature to generate electricity.

(i) Energy-producing uses should be located, constructed, and operated in a manner that has no detrimental effects on beach accretion or erosion and wave processes.

(ii) An assessment should be made of the effect of energy-producing uses on upwelling and other oceanographic and ecosystem processes.

(iii) Associated energy distribution facilities and lines should be located in existing utility rights of way and corridors whenever feasible, rather than creating new corridors that would be detrimental to the aesthetic qualities of the shoreline area.

(d) Ocean disposal. Ocean disposal uses involve the deliberate deposition or release of material at sea, such as solid waste, industrial waste, radioactive waste, incineration, incinerator residue, dredged materials, vessels, aircraft, ordnance, platforms, or other man-made structures.

(i) Storage, loading, transporting, and disposal of materials shall be done in conformance with local, state, and federal requirements for the protection of the environment.

(ii) Ocean disposal shall be allowed only in sites that have been approved by the Washington department of ecology, the Washington department of natural resources, the United States Environmental Protection Agency, and the United States Army Corps of Engineers as appropriate.

(iii) Ocean disposal sites should be located and designed to prevent, avoid, and minimize adverse impacts on environmentally critical and sensitive habitats, coastal resources and uses, or opportunities for mineral resource development. Ocean disposal sites for which the primary purpose is habitat enhancement may be located in a wider variety of habitats, but the general intent of the guidelines should still be met.

(e) Ocean research. Ocean research activities involve scientific investigation for the purpose of furthering knowledge and understanding. Investigation activities involving necessary and functionally related precursor activities to an ocean use or development may be considered either exploration or part of the use or development. Since ocean research often involves activities and equipment, such as drilling and vessels, that also occur in exploration and ocean uses or developments, a case-by-case determination of the applicable regulations may be necessary.

(i) Coordination should be encouraged between ocean research and other ocean uses occurring in the same area to minimize potential conflicts.

(ii) Ocean research meeting the definition of "exploration activity" in WAC 173-15-020 shall comply with the requirements of chapter 173-15 WAC: Permits for oil or natural gas exploration activities conducted from state marine waters.

(iii) Ocean research should be located and operated in a manner that minimizes intrusion into or disturbance of the coastal waters environment, consistent with the purposes of the research and the intent of the general ocean use guidelines.

(iv) Ocean research should be completed or discontinued in a manner that restores the environment to its original condition to the maximum extent feasible, consistent with the purposes of the research.

(v) Public dissemination of ocean research findings should be encouraged.

(f) Ocean salvage. Ocean salvage uses share characteristics of other ocean uses and involve relatively small sites occurring intermittently. Historic shipwreck salvage, which combines aspects of recreation, exploration, research, and mining, is an example of such a use.

(i) Nonemergency marine salvage and historic shipwreck salvage activities should be conducted in a manner that minimizes adverse impacts to the coastal waters environment and renewable resource uses, such as fishing.

(ii) Nonemergency marine salvage and historic shipwreck salvage activities should not be conducted in areas of

cultural or historic significance unless they are part of a scientific effort sanctioned by appropriate governmental agencies.

### WSR 99-08-125

#### PROPOSED RULES

#### DEPARTMENT OF ECOLOGY

[Order 9823—Filed April 7, 1999, 10:37 a.m.]

Supplemental Notice to WSR 98-22-069.

Preproposal statement of inquiry was filed as WSR 98-18-103.

Title of Rule: Amend chapter 173-532 WAC, Water resources program, Walla Walla Basin.

Purpose: To prioritize change applications over new applications when change applications meet certain criteria.

Statutory Authority for Adoption: Chapters 43.21A, 43.27A, 90.03, 90.44, 90.54 RCW.

Statute Being Implemented: Chapters 90.44 and 90.54 RCW.

Summary: The amendment enables ecology to prioritize water right change applications ahead of those for new water rights if the proposal in the change application would either result in construction or expansion of a municipal water supply system, consistent with its approved water system plan and managed according to specific water conservation principles negotiated with and agreed to by the department, or if the project incorporates a watershed restoration component (to be evaluated and prioritized using criteria specified in the amendment).

Reasons Supporting Proposal: Applications for new water rights are generally being held pending resolution of hydraulic continuity issues and some change applications may achieve at least one of the results noted above.

Name of Agency Personnel Responsible for Drafting: Thom Lufkin, Lacey, (360) 407-6631; Implementation and Enforcement: Bill Neve, Walla Walla, (509) 527-4546.

Name of Proponent: Walla Walla County Regional Planning Department and Walla Walla County Board of Commissioners, public and governmental.

Rule is necessary because of state court decision, *Hillis vs. Ecology*, Washington State Supreme Court (No. 63399-1) filed March 6, 1997.

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment to chapter 173-532 WAC, Water resources program for the Walla Walla Basin, enables ecology to prioritize water right change applications ahead of applications for new water under certain conditions. The first possibility for such prioritization is if the proposal would result in construction or expansion of a municipal water supply system consistent with its approved water system plan, and which will be managed according to specific water conservation principles negotiated with and agreed to by the department.

The second possibility for prioritization would occur if the project proposed in the change application incorporates a watershed restoration component. If this component was part of a riparian project proposal, the restoration activity would

be evaluated and prioritized using the following criteria: (1) Listed ESA species are affected, together with life-stage and use; (2) priority limiting factors for the stream reach are addressed; (3) cost effectiveness; (4) size of area affected; (5) relationship to other projects; and (6) other (e.g., use of innovative techniques). If the proposal was for a nonriparian project, the watershed restoration component would be evaluated based on these criteria: (1) Erosion control/sediment reduction; (2) upland habitat improvement; and (3) wetland enhancement or development.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed language is essentially procedural in nature (see above for description). Businesses and individuals whose change applications qualify for prioritization would enjoy a reduction in waiting time and costs, while those businesses and individuals whose applications do not qualify will experience an increase in waiting time and costs. However, given the notation (in proposed WAC 173-532-085(1)) that little water is available for new appropriation in the basin, these increases may not be made significantly greater by the amendment to the rule. In any case, there is no basis for attributing these impacts to whether a project is proposed by small versus large businesses, either in absolute or relative terms. Rather, the impacts follow from the nature of the water rights applicants' proposals and the applicants' place in the line of applications.

RCW 34.05.328 applies to this rule adoption. These rules are significant under RCW 34.05.328 because they make significant amendments to a regulatory program. The agency will conduct the additional analysis under RCW 34.05.328 prior to adoption.

Hearing Location: Washington State University, Walla Walla County Extension Office Auditorium, 317 West Rose, Walla Walla, WA, on May 12, 1999, at 7:00 p.m. to 9:00 p.m.

Assistance for Persons with Disabilities: Contact Paula Smith by May 14, 1999, TDD (360) 407-6006, or voice (360) 407-6607.

Submit Written Comments to: Thom Lufkin, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, fax (360) 407-6631, by May 21, 1999.

Date of Intended Adoption: May 26, 1999.

April 6, 1999  
Daniel J. Silver  
Deputy Director

#### NEW SECTION

**WAC 173-532-085 Prioritizing change and transfer applications.** (1) The department recognizes that the many water resource planning documents and water supply studies which have been prepared for the Walla Walla River basin contain a significant amount of useful water management information. The department's general interpretation of these studies is that there is little water available within the basin for new appropriations. Consequently, the department has concluded that processing applications for changes or transfers of existing water rights is a more efficient and effective

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approach to managing water within the Walla Walla basin than processing applications for new appropriations.

(2) Therefore, an application for a change or transfer of an existing water right may be processed before applications for new water rights with senior filing dates proposing to use water from the same source or hydraulically connected sources of ground water, provided one or more of the following criteria are satisfied:

(a) The proposed transfer or change would result in the construction or expansion of a municipal water supply system consistent with its approved water system plan and that system will be managed according to specific water conservation principles negotiated with and agreed to by the department prior to approval of the proposed change or transfer.

(b) The proposed transfer or change would incorporate a watershed restoration component that would be specifically designed to protect or restore watershed health. Project proposals will be categorized and evaluated on the basis of either being riparian or nonriparian in nature. Consistent with the critical pathways methodology outlined in chapter 75.46 RCW, the department will use the criteria established by the Southeast regional salmon committee to evaluate and prioritize individual riparian project proposals within the basin. These criteria are: (i) Listed ESA species affected, together with life-stage and use;

(ii) Priority limiting factors for the stream reach;

(iii) Cost-effectiveness;

(iv) Size of area affected;

(v) Relationship to other projects; and

(vi) Other considerations (e.g., protection versus restoration, innovative techniques, etc.).

(c) Nonriparian project proposals will be evaluated and prioritized using natural resource conservation service environmental enhancement criteria for nonriparian areas. The criteria to be used are:

(i) Erosion control/sediment reduction;

(ii) Upland habitat improvement; and

(iii) Wetland enhancement or development.

Based on these ranking criteria, project submittals scoring fifty percent or higher of the total points available will be considered to have significant environmental benefit and the associated application(s) will be evaluated out of processing priority sequence and ahead of other applications. Priority will first be given to applications with qualifying riparian project proposals. Where several competing applications within a category have met the fifty percent threshold, priority will be given to the proposals with the highest score.

Approval of any change application evaluated out of sequence through this process will be provisioned such that no final superseding certificate will issue unless and until the watershed project is installed and/or implemented to the satisfaction of the department. Failure to complete the watershed project may lead to enforcement against use of the changed water right for lack of compliance with conditions of the change approval.

Should evaluation criteria for riparian project proposals be developed and adopted by the Walla Walla and Columbia County habitat restoration committees, this rule will be amended to require use of those criteria instead of those of the Southeast regional salmon committee.

(3) It shall be the responsibility of the applicant to present any project proposal to the department, together with all supporting documentation, in order for the proposal to be considered for review under subsection (2)(a) or (b) of this section.

(4) Although subsection (2) of this section allows transfer or change applications to be processed before new applications for water from the same source or hydraulically connected ground water source that were filed earlier than the applications for transfer or change, the department is required by law to assure that the earlier applicants' opportunity to receive a permit would not be impaired if the transfer or change application is approved.

(5) The criteria in subsection (2) of this section are meant to supplement WAC 173-152-050 (3)(a), (criteria for priority processing of competing applications). Nothing in this chapter shall serve to supersede the requirements set forth through chapter 173-152 WAC (water right administration).

#### WSR 99-08-128

#### PROPOSED RULES

#### DEPARTMENT OF LABOR AND INDUSTRIES

[Filed April 7, 1999, 11:47 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 98-22-105.

Title of Rule: Chapter 296-200A WAC, Contractor registration, chapters 296-150C, 296-150F, 296-150M, 296-150P and 296-150R WAC, Factory assembled structures, chapter 296-46 WAC, Electrical permit and licensing, chapter 296-86A WAC, Elevators, and chapter 296-401A WAC, Electrical certification.

Purpose: The department is proposing a 4.18% general increase in fees for factory assembled structures (FAS), contractor registration, elevators, and electrical licensing and certification. The 4.18% rate is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1999. The general fee increases are necessary to maintain the financial health and operational effectiveness of the program.

In addition to the general fee increases, new fees are proposed to cover the cost of FAS medical gas plan review and for annual operating permits for personnel lifts in grain elevators following statutory changes to those programs. Finally, amendments are proposed for the electrical rules to establish lower fees for certain services where appropriate and to clarify, consolidate, and add definitions to existing fees to improve readability and

The following state-initiated proposed amendments are made:

#### Factory-Assembled Structures (FAS)

WAC 296-150C-3000 Commercial coaches.

- Increase all commercial coach fees by 4.18%.

- Add medical gas plan review fees to cover the cost of FAS medical gas plan reviews required by WAC 51-46-1303, State Building Code.

WAC 296-150F-3000 Factory-built housing and commercial structures.

- Increase all factory-built housing and commercial structure fees by 4.18%.
- Add medical gas plan review fees to cover the cost of FAS medical gas plan review required by WAC 51-46-1303, State Building Code.

WAC 296-150M-3000 Manufactured home fees.

- Increase all manufactured home fees by 4.18%.

WAC 296-150P-3000 Recreation park trailer fees.

- Increase all recreational park trailer fees by 4.18%.

WAC 296-150R-3000 Recreational vehicle fees.

- Increase all recreational vehicle fees by 4.18%.

#### Contractor Certificate of Registration

WAC 296-200A-900 What fees does the department charge contractors for issuance, renewal and reinstatement of certificates of registration?

- Increase all fees in this section by 4.18%.

#### Electrical Standards and Certification for Journeyman Electricians

WAC 296-46-910 Inspection fees.

- Increase all fees in this section by 4.18%.
- Edit, clarify and add definitions to current rules to improve readability.
- Consolidate the fees for "temporary commercial services," "temporary stage or concert production," and "temporary residential services" since the inspections are the same.
- Establish a lower fee for inspection of "portable generator transfer equipment" to eliminate using the higher permanently installed generator fee.
- Establish a lower fee for inspection of a "single concession or ride, not part of a carnival" to eliminate using the higher carnival fee.
- Establish a section for "out-of-state inspections" to clarify which permit fees must be used and that travel expenses must be paid.

WAC 296-46-915 Electrical contractor license, administrator certificate and examination, and copy fees.

- Increase administrator first time and retest examination fees by 4.18%.

WAC 296-401A-700 Fees for certification of competency, examination and reciprocity.

- Increase fee for journeyman or specialty electrician test or retest by 4.18%.

#### Elevators

WAC 296-86A-020 When I apply for my construction, alteration or relocation permit, what permit fees will I have to pay?

WAC 296-86A-025 When I apply for my material lift installation, alteration or relocation permit, what permit fees will I have to pay?

WAC 296-86A-028 Are the construction and alteration permit fees that I pay refundable?

WAC 296-86A-030 What installation permit fees will I have to pay for personnel and material hoists?

WAC 296-86A-040 Do I need to submit my plans for new installations and alterations to the department for approval?

WAC 296-86A-060 What annual operating permit fees will I have to pay?

WAC 296-86A-070 Can I obtain a supplemental inspection from the department?

WAC 296-86A-073 Can I obtain technical services from the department's elevator section?

WAC 296-86A-074 Can I request an inspection outside of the department's normal work hours?

WAC 296-86A-075 Do I pay a fee when my conveyance is inspected?

WAC 296-86A-080 Is there a fee for inspecting regular elevators used as temporary personnel elevators?

- Increase all fees in these sections by 4.18%.

- Delete an obsolete fee for "hand powered manlift."

- Add annual operating permit fee for "grain elevator personnel lift" to reflect statutory changes requiring department inspections of grain elevator conveyances.

Statutory Authority for Adoption: RCW 43.22.480, 43.22.350, 43.22.434, 43.22.500, 18.27.070, 70.87.030, 19.28.060, 19.28.210, 19.28.550, 19.28.600.

Statute Being Implemented: Chapters 43.22, 18.27, 70.87, 19.28, 18.106 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Peter Schmidt, Tumwater, Washington, (360) 902-5571; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-6348.

Name of Proponent: Department of Labor and Industries, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined that they do not require a small business economic impact statement because the proposed rules will not place a more than minor impact on any business or contractor.

RCW 34.05.328 applies to this rule adoption. The proposed rule amendments are considered "significant legislative rules" because the fee increases will have a financial impact upon the public that they regulate.

Hearing Location: Cavanaugh's at Yakima Center, Upper Terrace, 607 East Yakima Avenue, Yakima, WA, on May 11, 1999, at 1:00 p.m.; and at the Department of Labor and Industries Building, Room S117, 7273 Linderson Way, Tumwater, WA, on May 14, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Elaine Fischer, (360) 902-6411, by May 3, 1999, TDD (360) 902-5797.

Submit Written Comments to: Dan Wolfenbarger, Chief Factory Assembled Structures Inspector, Department of Labor and Industries, P.O. Box 44440, Olympia, WA 98504-4440; or Kevin Morris, Chief Contractor Compliance Inspector, Department of Labor and Industries, P.O. Box 44470, Olympia, WA 98504-4470; or Janet Lewis, Chief Electrical Inspector, Department of Labor and Industries, P.O. Box 44460, Olympia, WA 98504-4460; or Richard Atkinson, Chief Electrical Inspector, Department of Labor and Industries, P.O. Box 44480, Olympia, WA 98504-4480; by May 14, 1999. Fax comments (must be ten pages or less) to (360) 902-5292.

tries, P.O. Box 44480, Olympia, WA 98504-4480; by May 14, 1999. Fax comments (must be ten pages or less) to (360) 902-5292.

Date of Intended Adoption: May 28, 1999.

April 5, 1999  
 Gary Moore  
 Director

**AMENDATORY SECTION** (Amending WSR 98-12-041, filed 5/29/98, effective 6/30/98)

**WAC 296-150C-3000 Commercial coach fees.**

<b>INITIAL FILING FEE</b>	<b>\$27.00</b>
<b>DESIGN PLAN FEES:</b>	
INITIAL FEE-MASTER DESIGN	\$184.50
INITIAL FEE-ONE YEAR DESIGN	\$75.75
RENEWAL FEE	\$32.50
RESUBMIT FEE	\$54.00
ADDENDUM	\$54.00
<b>ELECTRICAL PLAN REVIEW (When required by WAC 296-46-140, Plan review for educational, institutional or health care facilities and other buildings.)</b>	
Electrical plan submission fee	\$54.00
<b>Service/feeder Ampacity:</b>	
0 - 100	\$24.00
101 - 200	\$30.00
201 - 400	\$56.00
401 - 600	\$66.00
601 - 800	\$85.00
801 - 1000	\$104.00
Over 1000	\$113.00
Over 600 volts surcharge	\$18.00
<b>Thermostats:</b>	
First	\$11.00
Each additional	\$3.00
<b>Low voltage fire alarm and burglar alarm:</b>	
Each control panel and up to four circuits or zones	\$10.00
Each additional circuit or zone	\$2.00
Generators, refer to appropriate service/feeder ampacity fees	
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>	
Supplemental submissions of plans (resubmittals, addendum's, renewals, code updates, etc.) shall be charged per hour or fraction of an hour.*	\$64.00
<b>RECIPROCAL PLAN REVIEW:</b>	
INITIAL FEE - MASTER DESIGN	\$82.50
INITIAL FEE - ONE YEAR DESIGN	\$50.00
RENEWAL FEE	\$50.00
ADDENDUM	\$50.00
PLANS APPROVED BY PROFESSIONALS	\$37.75
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$10.00

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<b>DEPARTMENT INSPECTION FEES</b>	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$54.00
TRAVEL (Per hour*)	\$54.00
PER DIEM***	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (Per hour*)	\$54.00
TRAVEL (Per hour*)	\$54.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
FIRST SECTION	\$16.00
EACH ADDITIONAL SECTION	\$10.50
ALTERATION	\$27.00
REISSUED-LOST/DAMAGED	\$10.50
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$54.00
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year)	\$10.50
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in ½ hour increments	
** Per state guidelines	
*** Actual charges incurred	

<b>WAC 296-150C-3000 COMMERCIAL COACH FEES</b>	
<b>INITIAL FILING FEE</b>	<b>\$28.00</b>
<b>DESIGN PLAN FEES:</b>	
INITIAL FEE - MASTER DESIGN	\$192.00
INITIAL FEE - ONE YEAR DESIGN	\$78.75
RENEWAL FEE	\$33.75
RESUBMIT FEE	\$56.25
ADDENDUM (Approval expires on same date as original plan)	\$56.25
<b>ELECTRICAL PLAN REVIEW (When required by WAC 296-46-140, Plan review for educational, institutional or health care facilities and other buildings)</b>	
Electrical Plan submission fee	\$56.25
<b>Service/feeder Ampacity:</b>	
0 - 100	\$25.00
101 - 200	\$31.25
201 - 400	\$58.25
401 - 600	\$68.75
601 - 800	\$88.50
801 - 1000	\$108.25
Over 1000	\$117.50
Over 600 volts surcharge	\$18.75
<b>Thermostats:</b>	
First	\$11.25
Each additional	\$3.00
<b>Low voltage fire alarm and burglar alarm:</b>	
Each control panel and up to four circuits or zones	\$10.25
Each additional circuit or zone	\$2.00
Generators, refer to appropriate service/feeder ampacity fees	
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	\$66.50
<b>MEDICAL GAS PLAN REVIEW:</b>	
SUBMISSION FEE	\$54.00
FIRST STATION	\$54.00
EACH ADDITIONAL STATION	\$20.00
<b>RECIPROCAL PLAN REVIEW:</b>	
INITIAL FEE-MASTER DESIGN	\$85.75
INITIAL FEE-ONE YEAR DESIGN	\$52.00
RENEWAL FEE	\$52.00
ADDENDUM	\$52.00
<b>PLANS APPROVED BY PROFESSIONALS</b>	<b>\$39.25</b>
<b>APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS</b>	<b>\$10.75</b>

PROPOSED

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<b>WAC 296-150C-3000 COMMERCIAL COACH FEES</b>	
<b>DEPARTMENT INSPECTION FEES</b>	
INSPECTION/REINSPECTION (Per hour * plus travel time * and mileage **)	\$56.25
TRAVEL (Per hour)*	\$56.25
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (Per hour*)	\$56.25
TRAVEL (Per hour*)	\$56.25
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
FIRST SECTION	\$16.50
EACH ADDITIONAL SECTION	\$10.75
ALTERATION	\$28.00
REISSUED-LOST/DAMAGED	\$10.75
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour * plus travel time * and mileage **)	\$56.25
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year)	\$10.75
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in ½ hour increments	
** Per state guidelines	
*** Actual charges incurred	

AMENDATORY SECTION (Amending WSR 98-12-041, filed 5/29/98, effective 6/30/98)

WAC 296-150F-3000 Factory-built housing and commercial structure fees.

WAC 296-150F-3000 FACTORY-BUILT HOUSING AND COMMERCIAL STRUCTURE FEES	
INITIAL FILING FEE	\$77.75
<b>DESIGN PLAN FEES:</b>	
INITIAL FEE-MASTER DESIGN (CODE CYCLE)	\$184.50
INITIAL FEE-ONE YEAR DESIGN	\$108.25
RENEWAL FEE	\$37.75
RESUBMIT FEE	\$54.00
ADDENDUM	\$54.00
<b>ELECTRICAL PLAN REVIEW</b> (When required by WAC 296-46-140, Plan review for educational, institutional or health care facilities and other buildings.)	
Electrical plan submission fee	\$54.00
<b>Service/feeder Ampacity:</b>	
0 - 100	\$24.00
101 - 200	\$30.00
201 - 400	\$56.00
401 - 600	\$66.00
601 - 800	\$85.00
801 - 1000	\$104.00
Over 1000	\$113.00
Over 600 volts surcharge	\$18.00
<b>Thermostats:</b>	
First	\$11.00
Each additional	\$3.00
<b>Low voltage fire alarm and burglar alarm:</b>	
Each control panel and up to four circuits or zones	\$10.00
Each additional circuit or zone	\$2.00
Generators, refer to appropriate service/feeder ampacity fees	
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>	
Supplemental submissions of plans (resubmittals, addendum's, renewals, code updates, etc.) shall be charged per hour or fraction of an hour.*	\$64.00
<b>RECIPROCAL PLAN REVIEW:</b>	
INITIAL FEE - MASTER DESIGN	\$82.50
INITIAL FEE - ONE YEAR DESIGN	\$50.00
RENEWAL FEE	\$50.00
ADDENDUM	\$50.00
PLANS APPROVED BY PROFESSIONALS	\$37.75
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$10.50

PROPOSED

PROPOSED

<b>DEPARTMENT INSPECTION FEES:</b>		
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)		\$54.00
TRAVEL (PER HOUR)*		\$54.00
PER DIEM**		
HOTEL***		
MILEAGE**		
RENTAL CAR***		
PARKING***		
AIRFARE***		
<b>DEPARTMENT AUDIT FEES:</b>		
AUDIT (PER HOUR)*		\$54.00
TRAVEL (PER HOUR)*		\$54.00
PER DIEM**		
HOTEL***		
MILEAGE**		
RENTAL CAR***		
PARKING***		
AIRFARE***		
<b>INSIGNIA FEES:</b>		
FIRST SECTION		\$151.75
EACH ADDITIONAL SECTION		\$15.00
REISSUED-LOST/DAMAGED		\$37.75
<b>OTHER FEES:</b>		
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)		\$54.00
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)		\$22.50
PUBLICATION, PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year)		\$10.50
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments		
** Per state guidelines.		
*** Actual charges incurred.		

<b>WAC 296-150F-3000 FACTORY-BUILT HOUSING AND COMMERCIAL STRUCTURES</b>	
<b>INITIAL FILING FEE</b>	<b>\$39.25</b>
<b>DESIGN PLAN FEES:</b>	
INITIAL FEE - MASTER DESIGN (CODE CYCLE)	\$192.00
INITIAL FEE - ONE YEAR DESIGN	\$112.75
RENEWAL FEE	\$39.25
RESUBMIT FEE	\$56.25
ADDENDUM (Approval expires on same date as original plan.)	\$56.25
<b>ELECTRICAL PLAN REVIEW (When required by WAC 296-46-140, Plan review for educational, institutional or health care facilities and other buildings):</b>	
Electrical Plan submission fee	\$56.25
<b>Service/feeder Ampacity:</b>	
0 - 100	\$25.00
101 - 200	\$31.25
201 - 400	\$58.25
401 - 600	\$68.75
601 - 800	\$88.50
801 - 1000	\$108.25
Over 1000	\$117.50
Over 600 volts surcharge	\$18.75
<b>Thermostats:</b>	
First	\$11.25
Each additional	\$3.00
<b>Low voltage fire alarm and burglar alarm:</b>	
Each control panel and up to four circuits or zones	\$10.25
Each additional circuit or zone	\$2.00
Generators, refer to appropriate service/feeder ampacity fees	
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) will be charged per hour or fraction of an hour *	\$66.50
<b>MEDICAL GAS PLAN REVIEW:</b>	
SUBMISSION FEE	\$54.00
FIRST STATION	\$54.00
EACH ADDITIONAL STATION	\$20.00
<b>RECIPROCAL PLAN REVIEW:</b>	
INITIAL FEE-MASTER DESIGN	\$85.75
INITIAL FEE-ONE YEAR DESIGN	\$52.00
RENEWAL FEE	\$52.00
ADDENDUM	\$52.00
<b>PLANS APPROVED BY PROFESSIONALS</b>	<b>\$39.25</b>
<b>APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS</b>	<b>\$10.75</b>

**PROPOSED**

PROPOSED

<b>WAC 296-150F-3000 FACTORY-BUILT HOUSING AND COMMERCIAL STRUCTURE FEES</b>	
<b>DEPARTMENT INSPECTION FEES</b>	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$56.25
TRAVEL (Per hour*)	\$56.25
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (Per hour*)	\$56.25
TRAVEL (Per hour*)	\$56.25
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
FIRST SECTION	\$158.00
EACH ADDITIONAL SECTION	\$15.50
REISSUED-LOST/DAMAGED	\$39.25
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$56.25
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)	\$23.25
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year)	\$10.75
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in ½ hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

**AMENDATORY SECTION** (Amending WSR 98-12-041, filed 5/29/98, effective 6/30/98)

**WAC 296-150M-3000 Manufactured home fees.**

INITIAL FILING FEE	\$27.00
<b>DESIGN PLAN FEES:</b>	
STRUCTURAL ALTERATION-MASTER DESIGN (CODE CYCLE)	\$108.25
STRUCTURAL ALTERATION-ONE YEAR DESIGN	\$75.75
RENEWAL FEE	\$32.50
RESUBMITAL	\$54.00
ADDENDUM	\$54.00
<b>DEPARTMENT INSPECTION FEES:</b>	
INSPECTION (Per hour*)	\$54.00
OTHER REQUIRED INSPECTIONS (Per hour*)	\$54.00
ALL REINSPECTIONS (Per hour*)	\$54.00
<b>INSIGNIA FEES:</b>	
ALTERATION	\$27.00
REISSUED-LOST/DAMAGED	\$16.00
IPIA	
<b>DEPARTMENT AUDIT FEES</b>	
<b>REGULARLY SCHEDULED IPIA AUDIT:</b>	
First inspection on each section (one time only)	\$24.75
Second and succeeding inspections of unlabelled sections (Per hour* plus travel time* and mileage**)	\$54.00
<b>OTHER IPIA FEES:</b>	
Red tag removal during a regularly scheduled IPIA audit (Per hour* separate from other fees)	\$54.00
Red tag removal at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$54.00
Increased frequency surveillance (Per hour* plus travel time* and mileage**)	\$54.00
Attendance at manufacturers training classes (Per hour*, only)	\$54.00
Subpart "I" investigations (Per hour* plus travel time* and mileage**)	\$54.00
Alterations to a labelled unit (Per hour* plus travel time* and mileage**)	\$54.00
IPIA Issues/Responses (Per hour* plus travel time* and mileage**)	\$54.00
Monthly surveillance during a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$54.00
Monthly surveillance at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$54.00
Plant certifications, recertifications and addenda updates (Per hour* plus travel time* and mileage** per each inspector)	\$54.00
Response to HBT Audit during a regularly scheduled IPIA audit (Per hour*)	\$54.00
Response to HBT Audit at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$54.00
Alternative construction (AC) letter inspections at placement site (Per hour* plus travel time* and mileage**)	\$54.00
Replacement of HUD labels (Per hour* plus travel time* and mileage**)	\$54.00
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$54.00
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year)	\$10.50
<b>NOTE:</b> Local jurisdictions may have other fees that apply.	
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
* Per state guidelines.	
** Actual charges incurred.	

**PROPOSED**

<b>WAC 296-150M-3000 MANUFACTURED HOME FEES</b>	
<b>INITIAL FILING FEE</b>	<b>\$28.00</b>
<b>DESIGN PLAN FEES:</b>	
STRUCTURAL ALTERATION-MASTER DESIGN (CODE CYCLE)	\$112.75
STRUCTURAL ALTERATION - ONE YEAR DESIGN	\$78.75
RENEWAL FEE	\$33.75
RESUBMITAL FEE	\$56.25
ADDENDUM (Approval expires on same date as original plan.)	\$56.25
<b>DEPARTMENT INSPECTION FEES:</b>	
INSPECTION (Per hour*)	\$56.25
OTHER REQUIRED INSPECTIONS (Per hour*)	\$56.25
ALL REINSPECTIONS (Per hour*)	\$56.25
<b>INSIGNIA FEES:</b>	
ALTERATION	\$28.00
REISSUED - LOST/DAMAGED	\$16.50
<b>IPIA</b>	
<b>DEPARTMENT AUDIT FEES</b>	
<b>REGULARLY SCHEDULED IPIA AUDIT:</b>	
First inspection on each section (one time only)	\$25.75
Second and succeeding inspections of unlabelled sections (Per hour*)	\$56.25
<b>OTHER OPIA FEES:</b>	
Red tag removal during a regularly scheduled IPIA audit (Per hour* separate from other fees)	\$56.25
Red tag removal at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$56.25
Increased frequency surveillance (Per hour* plus travel time* and mileage**)	\$56.25
Attendance at manufacturers training classes (Per hour* only)	\$56.25
Subpart "I" investigations (Per hour* plus travel time* and mileage**)	\$56.25
Alterations to a labeled unit (Per hour* plus travel time* and mileage**)	\$56.25
IPIA issues/Responses (Per hour* Plus travel time* and mileage**)	\$56.25
Monthly surveillance during a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$56.25
Monthly surveillance at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$56.25
Plant certifications, recertifications and addenda updates (Per hour* plus travel time* and mileage per each inspector)	\$56.25
Response to HBT Audit during a regularly scheduled IPIA audit (Per hour*)	\$56.25
Response to HBT Audit at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$56.25
Alternative construction (AC) letter inspections at placement site (Per hour* plus travel time* and mileage**)	\$56.25
Replacement of HUD labels (Per hour* plus travel time* and mileage**)	\$56.25
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour plus travel time* and mileage**)	\$56.25
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year)	\$10.75
<b>NOTE: Local jurisdictions may have other fees that apply.</b>	
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in ½ hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

**PROPOSED**

AMENDATORY SECTION (Amending WSR 98-12-041, filed 5/29/98, effective 6/30/98)

WAC 296-150P-3000 Recreational park trailer fees.

WAC 296-150P-3000 RECREATIONAL PARK TRAILER FEES	
INITIAL FILING FEE	\$27.00
<b>DESIGN PLAN FEES:</b>	
NEW PLAN REVIEW FEE WITHOUT STRUCTURAL REQUIREMENTS	\$75.75
NEW PLAN REVIEW FEE WITH STRUCTURAL REQUIREMENTS	\$100.00
RESUBMIT FEE	\$54.00
ADDENDUM	\$54.00
<b>STATE PLAN/MANUAL FEES:</b>	
INITIAL APPROVAL	\$10.50
RESUBMITTAL	\$54.00
ADDENDUM	\$54.00
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (PER HOUR)*	\$54.00
TRAVEL (PER HOUR)*	\$54.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT INSPECTION FEES:</b>	
INSPECTION (PER HOUR)*	\$54.00
TRAVEL (PER HOUR)*	\$54.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
STATE CERTIFIED	\$10.25
ALTERATION*	\$27.00
REISSUED-LOST/DAMAGED	\$10.25
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**.)	\$54.00
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year.)	\$10.50
*Minimum charge of 1 hour ; time spent greater than 1 hour is charged in 1/2 hour increments.	
**Per state guidelines.	
*** Actual charges incurred.	

PROPOSED

<b>WAC 296-150P-3000 RECREATIONAL PARK TRAILER FEES</b>	
INITIAL FILING FEE	\$28.00
<b>DESIGN PLAN FEES:</b>	
NEW PLAN REVIEW FEE WITHOUT STRUCTURAL REQUIREMENTS	\$78.75
NEW PLAN REVIEW FEE WITH STRUCTURAL REQUIREMENTS	\$104.00
RESUBMITAL FEE	\$56.25
ADDENDUM (Approval expires on same date as original plan)	\$56.25
<b>STATE PLAN/MANUAL FEES:</b>	
INITIAL APPROVAL	\$10.75
RESUBMITTAL FEE	\$56.25
ADDENDUM	\$56.25
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (per hour) *	\$56.25
TRAVEL (per hour) *	\$56.25
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT INSPECTION FEES:</b>	
INSPECTION (per hour) *	\$56.25
TRAVEL (per hour) *	\$56.25
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
STATE CERTIFIED	\$10.50
ALTERATION	\$28.00
REISSUED-LOST/DAMAGED	\$10.50
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (per hour * plus travel time * and mileage **)	\$56.25
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year)	\$10.75
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in ½ hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

PROPOSED

AMENDATORY SECTION (Amending WSR 98-12-041, filed 5/29/98, effective 6/30/98)

WAC 296-150R-3000 Recreational vehicle fees.

PROPOSED

WAC 296-150R-3000 RECREATIONAL VEHICLE FEES	
<b>STATE PLAN</b>	
INITIAL FILING FEE	\$27.00
<b>DESIGN PLAN FEES:</b>	
NEW PLAN REVIEW FEE	\$75.75
RESUBMIT FEE	\$54.00
ADDENDUM	\$54.00
<b>STATE PLAN/MANUAL FEES:</b>	
INITIAL APPROVAL	\$10.50
RESUBMITTAL	\$54.00
ADDENDUM	\$54.00
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (PER HOUR)*	\$54.00
TRAVEL (PER HOUR)*	\$54.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT INSPECTION FEES:</b>	
INSPECTION (PER HOUR)*	\$54.00
TRAVEL (PER HOUR)*	\$54.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
STATE CERTIFIED	\$10.00
ALTERATION	\$27.00
REISSUED-LOST/DAMAGED	\$10.00
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**.)	\$54.00
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year.)	\$10.50
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines.	
*** Actual charges incurred.	

**PROPOSED**

<b>WAC 296-150R-3000 RECREATIONAL VEHICLE FEES</b>	
<b>SELF CERTIFICATION</b>	
INITIAL FILING FEE	\$27.00
DESIGN PLAN	
NEW PLAN REVIEW FEE (ONE TIME FEE)	\$75.75
RESUBMIT FEE	\$54.00
ADDENDUM	\$54.00
<b>SELF CERTIFICATION/MANUAL FEES</b>	
INITIAL APPROVAL	\$10.50
RESUBMITTAL	\$54.00
ADDENDUM	\$54.00
<b>DEPARTMENT AUDIT FEES</b>	
AUDIT (PER HOUR)*	\$54.00
TRAVEL (PER HOUR)*	\$54.00
PER DIEM**	
HOTEL***	
MILEAGE	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT INSPECTION FEES</b>	
INSPECTION (PER HOUR)*	\$54.00
TRAVEL (PER HOUR)*	\$54.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES</b>	
SELF CERTIFIED	\$10.00
ALTERATION	\$27.00
REISSUED-LOST/DAMAGED	\$10.00
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**.)	\$54.00
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year.)	\$10.50
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines.	
*** Actual charges incurred.	

PROPOSED

<b>WAC 296-150R-3000 RECREATIONAL VEHICLE FEES</b>	
<b>STATE PLAN</b>	
INITIAL FILING FEE	\$28.00
<b>DESIGN PLAN FEES:</b>	
NEW PLAN REVIEW FEE	\$78.75
RESUBMITAL FEE	\$56.25
ADDENDUM (Approval expires on same date as original plan.)	\$56.25
<b>STATE PLAN/MANUAL FEES:</b>	
INITIAL APPROVAL	\$10.75
RESUBMITTAL FEE	\$56.25
ADDENDUM	\$56.25
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (per hour)*	\$56.25
TRAVEL (per hour)*	\$56.25
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING	
AIRFARE***	
<b>DEPARTMENT INSPECTION FEES:</b>	
INSPECTION (per hour)*	\$56.25
TRAVEL (per hour)*	\$56.25
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
STATE CERTIFIED	\$10.25
ALTERATION	\$28.00
REISSUED-LOST/DAMAGED	\$10.25
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	\$56.25
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year)	\$10.75
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

PROPOSED

<b>WAC 296-150R-3000 RECREATIONAL VEHICLE FEES</b>	
<b>SELF CERTIFICATION</b>	
<b>INITIAL FILING FEE</b>	<b>\$28.00</b>
<b>DESIGN PLAN FEES:</b>	
NEW PLAN REVIEW FEE (one-time fee)	\$78.75
RESUBMITAL FEE	\$56.25
ADDENDUM (Approval expires on same date as original plan.)	\$56.25
<b>SELF CERTIFICATION/MANUAL FEES:</b>	
INITIAL APPROVAL	\$10.75
RESUBMITTAL FEE	\$56.25
ADDENDUM	\$56.25
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (per hour) *	\$56.25
TRAVEL (per hour) *	\$56.25
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING	
AIRFARE***	
<b>DEPARTMENT INSPECTION FEES:</b>	
INSPECTION (per hour) *	\$56.25
TRAVEL (per hour) *	\$56.25
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
SELF CERTIFIED	\$10.25
ALTERATION	\$28.00
REISSUED-LOST/DAMAGED	\$10.25
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (per hour * plus travel time * and mileage * **)	\$56.25
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year)	\$10.75
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in ½ hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

AMENDATORY SECTION (Amending WSR 98-12-041, filed 5/29/98, effective 6/30/98)

**WAC 296-200A-900** What fees does the department charge contractors for issuance, renewal and reinstatement of certificates of registration? (1) For the purposes of this chapter:

(a) A contractor's ~~((renews its))~~ registration is **renewed** before it expires.

(b) A contractor's ~~((reinstates its))~~ registration is **reinstated** after the registration:

(i) Has expired; or

(ii) Has been suspended because the contractor's insurance has expired; or

(iii) Has been suspended because the contractor's bond has been canceled or impaired.

(c) A contractor **reregisters** when ~~((it changes its))~~ **his or her** business structure **changes**.

(2) The department charges the following fees:

(a) ~~\$(43.25))~~ **45.00** for each issuance, renewal or reregistration of a certificate of registration.

(b) ~~\$(50.00))~~ **45.00** for the reinstatement of a certificate of registration.

(c) ~~\$(10.50))~~ **10.75** for providing a duplicate certificate of registration.

(d) ~~\$(20.75))~~ **21.50** for each requested certified letter prepared by the department.

(e) \$2.00 per copy for documents copied from a contractor's file. The maximum copy charge for copies from one contractor's file will be \$25.00.

**AMENDATORY SECTION** (Amending WSR 98-12-042, filed 5/29/98, effective 6/30/98)

**WAC 296-46-915 Electrical contractor license, administrator certificate and examination, and copy fees.**

(1)	General or specialty contractor license (per twenty-four month period)	\$ 216.25
(2)(a)	Administrator certificate examination application (nonrefundable)	\$ 27.00
(b)	Administrator first-time examination fee	\$ <del>((62.25))</del> 64.75
(c)	Administrator re-test examination fee	\$ <del>((72.75))</del> 75.75
(3)	Administrator original certificate (submitted with application)	\$ 64.50
(4)	Administrator certificate renewal (per twenty-four month period)	\$ 81.00
(5)	Late renewal of administrator certificate (per twenty-four month period)	\$ 162.25
(6)	Transfer of administrator designation	\$ 32.25
(7)	Certified copy of each document (maximum \$ 45.75 per file)	\$ 20.75 first document \$2 each additional document
(8)	Reinstatement of a general or specialty contractor's license after a suspension	\$ 43.50
(9)	Reinstatement of an administrator's certificate after a suspension	\$ 43.50
(10)	Refund processing fee	
	All requests for refunds will be assessed a processing fee	\$ 10.50

Note: Failure to appear for an examination results in forfeiture of the examination fee.

**AMENDATORY SECTION** (Amending WSR 98-12-042, filed 5/29/98, effective 6/30/98)

**WAC 296-401A-700 Fees for certificates of competency, examination and reciprocity.** *How much do I pay for a journeyman, specialty, or training certificate, competency examination, or reciprocity?*

When you apply to take a competency examination or to obtain a certificate of competency, you must pay the appropriate fee listed below.

Type of Certificate	Fee
(1) Journeyman or specialty electrician certificate renewal (per 36-month period)	\$ 64.50
(2) Late renewal of journeyman or specialty electrician certificate (per 36-month period)	\$ 130.00
(3) Journeyman or specialty electrician examination application (nonrefundable)	\$ 27.00
(4) Journeyman or specialty electrician original certificate	\$ 42.50
(5) Training certificate (expires one year after purchase)	\$ 20.75
(6) Training certificate renewal or update of hours	\$ 20.75

**Type of Certificate**

**Fee**

(7)	Unsupervised electrical training certificate	\$ 20.75
(8)	Journeyman or specialty electrician test or retest	\$ <del>((48.75))</del> 50.75
(9)	Reciprocal journeyman or specialty certificate	\$ 69.50
(10)	Reinstatement of journeyman or specialty certificate	\$ 20.75
(11)	Continuing education course submittal and approval, per course	\$ 41.50
(12)	Continuing education course renewal, per course	\$ 20.75
(13)	Refund processing fee	
	All requests for refunds will be assessed a processing fee	\$ 10.50

Note: Failure to appear for an examination results in forfeiture of the examination fee.

**AMENDATORY SECTION** (Amending WSR 98-22-063, filed 11/2/98, effective 12/3/98)

**WAC 296-46-910 Inspection fees.** To calculate the inspection fees, the amperage is based on the conductor ampacity or the overcurrent device rating. The inspection fees shall be calculated from sections (1) through (5) below. However, the total fee shall not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (5) MISCELLANEOUS (k) below.

(1)	RESIDENTIAL	
(a)	Single and two family residential (new construction)	
(i)	First 1300 sq. ft. or less	\$ <del>((64.50))</del> 67.00
	Each additional 500 sq. ft. or portion of	\$ <del>((20.75))</del> 21.50

Note: Square footage is the area included within the surrounding exterior walls of a building exclusive of any interior courts. (This includes any floor area in an attached garage, basement, or unfinished living space.)

"Inspected with the service" ~~((or))~~ means that a separate service inspection fee is included on the same electrical work permit and "inspected at the same time" means all wiring is to be ready for inspection during the initial inspection trip.

An "outbuilding" is a structure that serves a direct accessory function to the residence, such as a pump house or storage building. Outbuilding does not include buildings used for commercial type occupancies or additional dwelling occupancies.

(ii)	Each outbuilding or detached garage inspected <del>((with the service))</del> at the same time as a dwelling unit on the property	\$ <del>((27.00))</del> 28.00
(iii)	Each outbuilding or detached garage inspected separately	\$ <del>((42.50))</del> 44.25
(iv)	Each swimming pool - inspected with the service	\$ <del>((42.50))</del> 44.25
(v)	Each swimming pool - inspected separately	\$ <del>((64.50))</del> 67.00
(vi)	Each hot tub, spa, or sauna - inspected with the service	\$ <del>((27.00))</del> 28.00
(vii)	Each hot tub, spa, or sauna - inspected separately	\$ <del>((42.50))</del> 44.25
(viii)	Each septic pumping system - inspected with the service	\$ <del>((27.00))</del> 28.00
(ix)	Each septic pumping system - inspected separately	\$ <del>((42.50))</del> 44.25

PROPOSED

(b) Multi-family residential and miscellaneous ((multi-family)) residential structures, services and feeders (new construction)

Each service and/or feeder

Service Ampacity	Service	Feeder
0 to 200	\$ ((69.50)) <u>72.25</u>	\$ ((20.75)) <u>21.50</u>
201 to 400	((86.25)) <u>89.75</u>	((42.50)) <u>44.25</u>
401 to 600	((118.50)) <u>123.25</u>	((59.25)) <u>61.50</u>
601 to 800	((151.75)) <u>158.00</u>	((81.00)) <u>84.25</u>
801 and over	((216.25)) <u>225.25</u>	((162.25)) <u>169.00</u>

(c) Single family or multi-family altered services including circuits

(i) Each altered service and/or altered feeder

Service Ampacity	Service or Feeder
0 to 200	\$ ((59.25)) <u>61.50</u>
201 to 600	((86.25)) <u>89.75</u>
over 600	((130.00)) <u>135.25</u>

(ii) Maintenance or repair of meter or mast (no alterations to service or feeder) ..... \$ ((32.25)) 33.50

(d) Single or multi-family residential circuits only (no service inspection)

(i) 1 to 4 circuits (see note) ..... \$ ((42.50)) 44.25

Except: Water heater load control devices installed in residences as part of an energy conservation program ..... ((26.00)) 27.00  
 The \$ ((26.00)) 27.00 permit fee for water heater load control devices will expire on December 31, 2001.

(ii) Each additional circuit (see note) ..... 5

Note: Altered or added circuit fees are calculated per panelboard. Total cost of the alterations in an individual panel should not exceed the cost of a complete altered service or feeder of the same rating, as shown in subsection (1) RESIDENTIAL (c)(i) (table) above.

(e) Mobile homes, modular homes, mobile home parks, and RV parks

(i) Mobile home or modular home service or feeder only ..... \$ ((42.50)) 44.25

(ii) Mobile home service and feeder ..... ((69.50)) 72.25

(iii) Mobile home park sites and RV park sites

(A) First site service or site feeder ..... ((42.50)) 44.25

(B) Each additional site service; or additional site feeder inspected at the same time as the first service or feeder ..... ((27.00)) 28.00

Note: For master service installations, see subsection (2).

(2) COMMERCIAL/INDUSTRIAL

(a) New service or feeder and additional new feeders inspected at the same time (includes circuits)

Service/ Feeder Ampacity	Service/ Feeder	Additional Feeder inspected at the same time
0 to 100	\$ ((69.50)) <u>72.25</u>	\$ ((42.50)) <u>44.25</u>
101 to 200	((86.25)) <u>89.75</u>	((54.00)) <u>56.25</u>
201 to 400	((162.25)) <u>169.00</u>	((64.50)) <u>67.00</u>
401 to 600	((189.25)) <u>197.00</u>	((75.75)) <u>78.75</u>

Service/ Feeder Ampacity	Service/ Feeder	Additional Feeder inspected at the same time
601 to 800	((244.50)) <u>254.50</u>	((103.00)) <u>107.25</u>
801 to 1000	((298.50)) <u>310.75</u>	((124.75)) <u>129.75</u>
Over 1000	((325.50)) <u>339.00</u>	((173.75)) <u>181.00</u>

Note: For large COMMERCIAL/INDUSTRIAL projects that include multiple feeders, "inspected at the same time" can be interpreted to include additional inspection trips for a single project. The additional inspections must be for electrical work specified on the permit at the time of purchase. The permit fee for such projects shall be calculated from (2) (a) (i) (table) above. However, the total fee shall not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (5) MISCELLANEOUS (k) below.

(ii) Over 600 volts surcharge ..... \$ ((54.00)) 56.25  
 (b) Altered services or feeders (no circuits)

Service Ampacity	Service/ Feeder
0 to 200	\$ ((69.50)) <u>72.25</u>
201 to 600	((162.25)) <u>169.00</u>
601 to 1000	((244.50)) <u>254.50</u>
Over 1000	((271.50)) <u>282.75</u>

(ii) Over 600 volts surcharge ..... \$ ((54.00)) 56.25

(iii) Maintenance or repair of meter or mast (no alteration to the service or feeder) ..... ((59.25)) 61.50

(c) Circuits only

(i) First five circuits per branch circuit panel ..... \$ ((54.00)) 56.25

(ii) Each additional circuit per branch circuit panel ..... 5

Note: Altered/added circuit fees are calculated per panelboard. Total cost of the alterations in a panel (or panels) should not exceed the cost of a new feeder (or feeders) of the same rating, as shown in subsection (2) COMMERCIAL/INDUSTRIAL (a)(i) (table) above.

(3) TEMPORARY SERVICES

Note: Temporary electrical power and lighting installations are intended to be used during the period of construction, remodeling, maintenance, repair, or demolition of buildings, structures, equipment, or similar activities.

Temporary electrical power and lighting installations are allowed during emergencies and for tests, experiments, and developmental work. Temporary electrical power and lighting installations are allowed for a period not to exceed 90 days for Christmas decorative lighting and similar purposes. Temporary wiring shall be removed immediately upon completion of construction or purpose for which the wiring was installed.

((e)) Residential ..... \$ 37.25

(b) Commercial/Industrial)) Temporary services, temporary stage or concert productions

Ampacity	Service or Feeder	Additional Feeder
0 to 60	\$38.75	\$20.00
((0)) <u>61 to 100</u>	\$ ((42.50)) <u>44.25</u>	((20.75)) <u>21.50</u>
101 to 200	((54.00)) <u>56.25</u>	((27.00)) <u>28.00</u>
201 to 400	((64.50)) <u>67.00</u>	((32.25)) <u>33.50</u>
401 to 600	((86.25)) <u>89.75</u>	((42.50)) <u>44.25</u>

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Over 600	<del>((97.75))</del> <u>101.75</u>	<del>((48.75))</del> <u>50.75</u>
<del>((e)) Temporary stage or concert productions</del>		
<b>Ampacity</b>	<b>Service or Feeder</b>	<b>Additional Feeder</b>
9 to 100	\$42.50	\$20.75
101 to 200	54.00	27.00
201 to 400	64.50	32.25
401 to 600	86.25	42.50
Over 600	97.75	48.75

Note: Temporary stage or concert inspections requested outside of normal business hours will be subject to the portal to portal hourly fees in subsection (5) MISCELLANEOUS (m). The fee for such after hours inspections shall be the greater of the fee from (3) TEMPORARY SERVICES (c) (table) or the portal to portal fee.

- (4) IRRIGATION MACHINES, PUMPS AND EQUIPMENT
  - Irrigation machines
  - (a) Each tower when inspected at the same time as a service and feeder (per subsection (2) COMMERCIAL/INDUSTRIAL above) . . . . . \$ 5
  - (b) Towers - when not inspected at the same time as a service and feeders - one to six towers . . . . . ~~((64.50))~~ 67.00

Each additional tower . . . . . 5

- (5) MISCELLANEOUS - commercial/industrial and residential
  - (a) Low voltage thermostats
  - (i) First thermostat . . . . . \$ ~~((32.25))~~ 33.50
  - (ii) Each additional thermostat inspected at the same time as the first . . . . . ~~((40.25))~~ 10.50

~~((Note: Thermostat is defined as:~~

~~(A) A device that interrupts electrical current while performing its function of controlling building, zonal, or room environmental air temperature; or~~

~~(B) In the case of environmental air temperature control by the use of sensors which do not interrupt current but rather transmit data to a zonal or central processing unit, "thermostat" shall be considered to be the circuit extending from the central processing unit to the local controller. At times this local unit could control several zones or rooms individually or in concert.))~~

- (b) Low voltage fire alarm and burglar alarm. Includes nurse call, intercom, security systems, energy management control systems and similar low energy circuits and equipment
  - (i) First 2500 sq. ft. or less . . . . . \$ ~~((37.25))~~ 38.75
  - (ii) Each additional 2500 sq. ft. or portion thereof . . . . . ~~((40.25))~~ 10.50
- (c) Signs and outline lighting
  - (i) First sign (no service included) . . . . . \$ ~~((32.25))~~ 33.50
  - (ii) Each additional sign inspected at the same time on the same bldg. or structure ~~((45.50))~~ 16.00
- (d) Berth at a marina or dock . . . . . \$ ~~((42.50))~~ 44.25

Each additional berth inspected at the same time . . . . . ~~((27.00))~~ 28.00

- (e) Yard pole, pedestal, or other meter loops only . . . . . \$ ~~((42.50))~~ 44.25

Meters installed remote from service equipment: Inspected at same time as service, temporary service or other installations . . . . . ~~((40.25))~~ 10.50

- (f) Emergency inspections requested outside normal work hours. Regular fee plus surcharge of . . . . . \$ ~~((81.00))~~ 84.25

- (g) Generators(;;)
  - Portable generators: Permanently installed transfer equipment for portable generators . . . . . \$ 61.50
  - Permanently installed generators: Refer to appropriate residential or commercial new service or feeder section

Note: Generator feeders (for permanently installed generators) and normal system feeders to a single panelboard or disconnect (via an automatic or manual transfer switch) shall each be evaluated as an individual feeder.

	Fee	Inspections
1 to 3 plant electricians	<del>\$(1,553.25))</del> <u>1,618.00</u>	12
4 to 6 plant electricians	<del>((3,407.75))</del> <u>3,237.50</u>	24
7 to 12 plant electricians	<del>((4,661.25))</del> <u>4,856.00</u>	36
13 to 25 plant electricians	<del>((6,215.75))</del> <u>6,475.50</u>	52
more than 25 plant electricians	<del>((7,770.25))</del> <u>8,095.00</u>	52

- (i) Carnival inspections
  - (i) First field inspection each year
  - (A) Each ride and generator truck . . . . . \$ ~~((45.50))~~ 16.00
  - (B) Each remote distribution equipment, concession or gaming show . . . . . 5
  - (C) If the calculated fee for first field inspection of (A) and (B) above is less, the minimum inspection fee shall be: . . . . . ~~((81.00))~~ 84.25
  - (ii) Subsequent inspections
    - (A) First 10 rides, concessions, generators, remote distribution equipment or gaming show . . . . . \$ ~~((81.00))~~ 84.25
    - (B) Each additional ride, concession, generator, remote distribution equipment or gaming show . . . . . 5
    - (iii) First field inspection each year . . . . . \$ 67.00
    - Single concession or ride, not part of a carnival
    - Subsequent inspections . . . . . \$ ((42.50)) 44.25
    - Single concession or ride, not part of a carnival
  - (j) Trip fees
    - (i) Requests by property owners to inspect existing installations . . . . . \$ ~~((64.50))~~ 67.00
    - (ii) Submitter notifies the department that work is ready for inspection when it is not ready . . . . . ~~((32.25))~~ 33.50
    - (iii) Additional inspection required because submitter has provided the wrong address . . . . . ~~((32.25))~~ 33.50
    - (iv) More than one additional inspection required to inspect corrections; or for repeated neglect, carelessness, or improperly installed electrical work . . . . . ~~((32.25))~~ 33.50
    - (v) Each trip necessary to remove a noncompliance notice . . . . . ~~((32.25))~~ 33.50
    - (vi) Corrections have not been made in the prescribed time, unless an exception has been requested and granted. . . . . ~~((32.25))~~ 33.50
    - (vii) Installations that are covered or concealed before inspection . . . . . ~~((32.25))~~ 33.50
  - (k) Progress inspections
    - On partial or progress inspections, each one-half hour . . . . . \$ ~~((32.25))~~ 33.50

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Note: The fees calculated in main sections (1) through (5) shall apply to all electrical work. This section is intended to be applied to a permit where the permit holder has requested additional inspections beyond the ~~((normal))~~ number ~~((for the type of installation. Additional progress inspections shall be charged))~~ supported by the permit fee calculated at the rate in (k) above.

- (l) Plan review fee
- (i) Fee is thirty-five percent of the electrical work permit fee as determined by WAC 296-46-495, plus a plan review submission fee of ..... \$ ~~((54.00))~~ 56.25
- (ii) Supplemental submissions of plans per hour or fraction of an hour ..... \$ ~~((64.50))~~ 67.00
- (iii) Plan review shipping and handling fee ..... \$ ~~((45.50))~~ 16.00
- (m) Out-of-state inspections
- (i) Permit fees will be charged according to the fees listed in this section.
- (ii) Travel expenses:  
All travel expenses and per diem for out-of-state inspections are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in (n) of this subsection.
- (n) Other inspections  
Inspections not covered by above inspection fees shall be charged portal to portal per hour ..... \$ ~~((64.50))~~ 67.00
- ~~((+))~~ Refund processing fee
- (o) All requests for permit fee refunds will be assessed a processing fee. .... \$ ~~((40.50))~~ 10.75
- ~~((+))~~ Variance request processing fee
- (p) This fee is nonrefundable once the transaction has been made ..... \$ ~~((64.50))~~ 67.00

**AMENDATORY SECTION** (Amending WSR 98-12-043, filed 5/29/98, effective 6/30/98)

**WAC 296-86A-020 When I apply for my construction, alteration or relocation permit, what permit fees will I have to pay?** The following permit fees apply to all conveyances **except for material lifts:**

TOTAL COST	FEE
<b>\$250.00 TO AND INCLUDING \$1,000</b> .....	<del>((29.50))</del> <u>30.50</u>
<b>\$1,001 TO AND INCLUDING \$15,000</b>	
For the first \$1,001 .....	<del>((41.50))</del> <u>43.00</u>
For each additional \$1,000 or fraction thereof .....	<del>((8.25))</del> <u>8.50</u>
<b>\$15,001 TO AND INCLUDING \$100,000</b>	
For first \$15,001 .....	<del>((158.75))</del> <u>165.25</u>
For each additional \$1,000 or fraction thereof .....	5.50
<b>OVER \$100,001</b>	

TOTAL COST	FEE
For first \$100,001 .....	<del>((666.75))</del> <u>694.50</u>
For each additional \$1,000 or fraction thereof .....	4.50

**AMENDATORY SECTION** (Amending WSR 98-12-043, filed 5/29/98, effective 6/30/98)

**WAC 296-86A-025 When I apply for my material lift installation, alteration or relocation permit, what permit fees will I have to pay?** The following permit fees apply to the installation, alteration and relocation of material lifts:

TOTAL COST	FEE
<b>\$250.00 TO AND INCLUDING \$1,000</b> .....	<del>((27.00))</del> <u>28.00</u>
<b>\$1,001 TO AND INCLUDING \$15,000</b>	
For the first \$1,001 .....	<del>((37.75))</del> <u>39.25</u>
For each additional \$1,000 or fraction thereof .....	<del>((7.50))</del> <u>7.75</u>
<b>\$15,001 TO AND INCLUDING \$100,000</b>	
For first \$15,001 .....	<del>((144.25))</del> <u>150.25</u>
For each additional \$1,000 or fraction thereof .....	5.00
<b>OVER \$100,001</b>	
For first \$100,001 .....	<del>((606.25))</del> <u>631.50</u>
For each additional \$1,000 or fraction thereof .....	4.00

**AMENDATORY SECTION** (Amending WSR 98-12-043, filed 5/29/98, effective 6/30/98)

**WAC 296-86A-028 Are the construction and alteration permit fees that I pay refundable?** Your construction and alteration permit fees are refundable **unless your permits have expired. If your permits have expired, no refunds for these permits will be issued to you.** All requests for refunds must be addressed to the elevator section in writing and must identify the specific permits for which refunds are being requested. In those cases where you are entitled to a refund, the department will charge you a twenty-~~((five))~~ six-dollar processing fee for each refund you request.

**AMENDATORY SECTION** (Amending WSR 98-12-043, filed 5/29/98, effective 6/30/98)

**WAC 296-86A-030 What installation permit fees will I have to pay for personnel and material hoists?** For each personnel hoist or material hoist you install, you will have to pay an installation fee of ~~((ninety-seven))~~ one hundred one dollars and seventy-five cents.

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**AMENDATORY SECTION** (Amending 98-12-043, filed 5/29/98, effective 6/30/98)

**WAC 296-86A-040 Do I need to submit my plans for new installations and alterations to the department for approval?** You must submit all new installation plans and plans for major alterations to the department for approval. Your plans must be submitted, in duplicate, to the elevator section **prior to** the start of construction. To be approved, they must comply with the latest edition of the American Society of Mechanical Engineers (ASME) A17.1, National Electrical Code (NEC) and applicable Washington Administrative Codes (WAC) adopted by the department. In addition, your plans must include all information pertinent to determining whether each installation/alteration complies with all applicable codes. Once approved, a copy of your plan must be kept on your job site until all acceptance tests have been witnessed by the department. **Any alterations to your approved plan must be submitted to the department for approval before a final inspection will be conducted.** The nonrefundable fees for reviewing your plans are:

For each installation/major alteration ..... \$~~((21.50))~~  
22.25

If more than two sets of plans are submitted,  
 the fee for reviewing each additional set ..... ~~((21.50))~~  
22.25

**AMENDATORY SECTION** (Amending WSR 98-12-043, filed 5/29/98, effective 6/30/98)

**WAC 296-86A-060 What annual operating permit fees will I have to pay?** No annual operating permit will be issued to you until you have paid an appropriate fee to the department. The following is a schedule of those fees.

TYPE OF CONVEYANCE	ANNUAL OPERATING PERMIT FEE
Each hydraulic elevator .....	\$ <del>((75.75))</del> <u>78.75</u>
Each roped-hydraulic elevator .....	<del>((97.75))</del> <u>101.75</u>
<b>plus</b> <del>((7.50))</del> <u>7.75</u> for each hoistway opening in excess of two .....	<del>((7.50))</del> <u>7.75</u>
Each cable elevator .....	<del>((97.75))</del> <u>101.75</u>
<b>plus</b> <del>((7.50))</del> <u>7.75</u> for each hoistway opening in excess of two .....	<del>((7.50))</del> <u>7.75</u>
Each cable elevator traveling more than 25 feet without an opening- <del>((10.50))</del> <u>10.75</u> for each 25 foot traveled without openings .....	<del>((10.50))</del> <u>10.75</u>
Each limited-use/limited-application elevator .....	<del>((75.75))</del> <u>78.75</u>

TYPE OF CONVEYANCE	ANNUAL OPERATING PERMIT FEE
Each sidewalk freight elevator .....	<del>((75.75))</del> <u>78.75</u>
Each hand-powered freight elevator .....	<del>((48.75))</del> <u>50.75</u>
<del>((Each hand-powered manlift .....</del>	<del>48.75))</del>
Each incline elevator in other than a private residence .....	<del>((97.75))</del> <u>101.75</u>
Each belt manlift .....	<del>((75.75))</del> <u>78.75</u>
Each boat launching elevator .....	<del>((75.75))</del> <u>78.75</u>
Each auto parking elevator .....	<del>((75.75))</del> <u>78.75</u>
Each escalator .....	<del>((75.75))</del> <u>78.75</u>
Each moving walk .....	<del>((75.75))</del> <u>78.75</u>
Each dumbwaiter in other than a private residence .....	<del>((48.75))</del> <u>50.75</u>
Each people mover .....	<del>((65.00))</del> <u>67.50</u>
Each stair lift in other than a private residence .....	<del>((48.75))</del> <u>50.75</u>
Each wheel chair lift in other than a private residence .....	<del>((48.75))</del> <u>50.75</u>
Each special purpose elevator .....	<del>((75.75))</del> <u>78.75</u>
Each personnel hoist .....	<del>((75.75))</del> <u>78.75</u>
<u>Each grain elevator personnel lift.....</u>	<u>78.75</u>
Each material hoist .....	<del>((75.75))</del> <u>78.75</u>
Each casket lift .....	<del>((75.75))</del> <u>78.75</u>
Each material lift .....	<del>((65.00))</del> <u>67.50</u>
Each inclined stairway chair lift in private residence .....	<del>((16.00))</del> <u>16.50</u>
Each inclined wheel chair lift in a private residence .....	<del>((21.50))</del> <u>22.25</u>
Each vertical wheel chair lift in a private residence .....	<del>((27.00))</del> <u>28.00</u>

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TYPE OF CONVEYANCE	ANNUAL OPERATING PERMIT FEE
Each inclined elevator at a private residence .....	(( <del>75.75</del> ) <u>78.75</u> )
Each dumbwaiter in a private residence .....	(( <del>21.50</del> ) <u>22.25</u> )
Each private residence elevator .....	(( <del>48.75</del> ) <u>50.75</u> )
Each private residence elevator installed in other than a private residence .....	(( <del>75.75</del> ) <u>78.75</u> )

**AMENDATORY SECTION** (Amending WSR 98-12-043, filed 5/29/98, effective 6/30/98)

**WAC 296-86A-070 Can I obtain a supplemental inspection from the department?** Any person, firm, corporation or governmental agency can obtain a supplemental inspection from the department by paying a fee of two hundred ((~~eighty~~)) ninety-one dollars and fifty cents per day plus the standard per diem and mileage allowance granted to department inspectors.

**AMENDATORY SECTION** (Amending WSR 98-12-043, filed 5/29/98, effective 6/30/98)

**WAC 296-86A-073 Can I obtain technical services from the department's elevator section?** You can obtain elevator field technical services from the department by paying a fee of fifty-((~~four~~)) six dollars and twenty-five cents per hour plus the standard per diem and mileage allowance granted to department inspectors. These field technical services may include code evaluation, code consultation, plan examination, code interpretation and clarification of technical data relating to the application of the department's conveyance rules. **Field technical services do not include inspections.**

**AMENDATORY SECTION** (Amending WSR 98-12-043, filed 5/29/98, effective 6/30/98)

**WAC 296-86A-074 Can I request an inspection outside of the department's normal work hours?** You may request an inspection outside of normal work hours, which are 7:00 a.m. to 5:00 p.m., if an inspector is available and the inspection is authorized by the department. However, the fee for such an inspection is ((~~sixty-eight~~)) seventy dollars and seventy-five cents per hour plus the standard per diem and mileage allowance granted to department inspectors. This fee is in addition to any other fees required for your project.

**AMENDATORY SECTION** (Amending WSR 98-12-043, filed 5/29/98, effective 6/30/98)

**WAC 296-86A-075 Do I pay a fee when my conveyance is inspected?** Not necessarily, some inspections do not

require a fee. For example, the initial annual inspection of a conveyance does not require one. Neither does the **initial inspection** of any conveyance constructed, altered or relocated. The following table explains which inspections do require a fee:

INSPECTION	FEE
If a conveyance does not pass an initial inspection and a <b>second inspection</b> (reinspection) is required, the fee for each conveyance inspected* .....	\$(( <del>75.75</del> ) <u>78.75</u> )
If a <b>third inspection</b> (reinspection) is required, the fee for each conveyance inspected* .....	(( <del>97.75</del> ) <u>101.75</u> )

**\*These "reinspection" fees are in addition to the fees charged under WAC 296-86A-020, 296-86A-025 and 296-86A-030 and must be paid before an annual operating permit will be issued.** The department may waive reinspection fees when it is not possible to conduct the inspection and the inability to inspect is not the fault of the party requesting and/or paying for the inspection. The department may also waive reinspection fees for reasons of justice and equity which prevent their payment.

**AMENDATORY SECTION** (Amending WSR 98-12-043, filed 5/29/98, effective 6/30/98)

**WAC 296-86A-080 Is there a fee for inspecting regular elevators used as temporary personnel elevators?** Yes, the fee for **inspecting and testing** regular elevators used as temporary personnel elevators is sixty-((~~five~~)) seven dollars and fifty cents. This fee is in addition to any other fees required in this chapter.

This sixty-((~~five~~)) seven dollar and fifty cent fee purchases a thirty-day temporary use permit which may be renewed at the discretion of the department. When this temporary use permit is purchased, a notice declaring that the equipment has not been finally approved must be conspicuously posted on the elevator.

**WSR 99-08-129**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed April 7, 1999, 11:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-05-078.

Title of Rule: Amendments to chapter 296-150C WAC, Commercial coaches, chapter 296-150F WAC, Factory-built housing and commercial structures, chapter 296-150M WAC, Manufactured homes, chapter 296-150P WAC, Recreational park trailers, and chapter 296-150R WAC, Recreational vehicles.

Purpose: Pursuant to the Governor's Executive Order 97-02, the department is continuing its review of the factory-assembled structure (FAS) rules. State-initiated amendments are proposed to five FAS rule chapters. These amendments further the department's regulatory improvement goal of enacting and enforcing rules that are "necessary, fair, understandable, and consistent." The amendments will incorporate some policies and procedures into rule, update current rules, clarify the language and intent of some rule sections, and make housekeeping changes where appropriate. The proposed amendments do not place any additional costs or requirements on business.

**WAC 296-150C-0140 Do you allow the use of alternate materials, alternate design, and method of construction?** New section is added to convert department policy into rule.

**WAC 296-150C-320 What must I provide with my request for commercial coach design-plan approval by the department?** Amended section clarifies the requirements for the "wet stamp" set of design plans.

**WAC 296-150C-0805 Are there any special requirements for portable school classrooms?** New section clarifies that Department of Health regulations may be more stringent, specifically regarding the requirement that instruction areas must have a minimum ceiling height of eight feet.

**WAC 296-150C-0810 Construction definitions.** Amends this section to add definitions for "chassis" and "frame" for clarification purposes.

**WAC 296-150C-0960 What requirements apply to commercial coach roof trusses?** Adds a reference to WAC 296-150C-0930, structural load tests, for clarification purposes.

**WAC 296-150C-1080 What design and construction requirements apply to a commercial coach chassis?** Deletes language pertaining to "running gear assemblies." State patrol regulations cover running gear assemblies.

**WAC 296-150C-1345 May the electrical disconnect required for mechanical equipment be inside of or mounted on the equipment?** New section is added to convert department policy into rule.

**WAC 296-150C-1545 Does the department require a water system expansion tank be installed?** New section is added to convert department procedure into rule.

**WAC 296-150C-1580 What manufacturing codes apply when converting structures to vendor units?**

Amends section to incorporate department procedure into rule.

**WAC 296-150F-0050 Can you prohibit the installation of factory-built housing and commercial structures?** New section is added to clarify the requirements of RCW 43.22.465.

**WAC 296-150F-0140 Do you allow the use of alternate materials, alternate design and method of construction?** New section is added to convert department policy into rule.

**WAC 296-150F-0320 What must I provide with my request for design-plan approval by the department?** Amended section clarifies the requirements for the "wet stamp" set of design plans.

**WAC 296-150F-0605 May the required toilet facilities be located in an adjacent building?** New section is proposed to convert a department procedure into rule regarding the location of toilet facilities in an adjacent building.

**WAC 296-150F-0610 Do you require the exit doors to be one-half the diagonal distance apart if each area served has its own exit door?** New section is proposed to convert a department policy into rule concerning exit door requirements.

**WAC 296-150F-0615 May the electrical disconnect required for mechanical equipment be inside or mounted on the equipment?** New section is added to convert a department policy into rule.

**WAC 296-150F-0620 Does the department require a water system expansion tank be installed?** New section is added to convert a department procedure into rule.

**WAC 296-150F-0625 Are there any special requirements for portable school classrooms?** New section clarifies that Department of Health regulations may be more stringent, specifically regarding the requirement that instruction areas must have a minimum ceiling height of eight feet.

**WAC 296-150M-0020 What definitions apply to this chapter?** Amend section to add definitions for "equivalent air conditioning/heat pump components," and to clarify definition of "homeowner."

**WAC 296-150M-0120 Where can I obtain technical assistance regarding manufactured (mobile) homes?** Adds a new section to clarify when the department will provide field technical assistance.

**WAC 296-150M-0140 Do you allow the use of alternate materials, alternate design and method of construction?** New section is added to convert a department policy into rule regarding when alternate materials, design, or method may be used.

**WAC 296-150M-0306 What codes are used when altering a manufactured (mobile) home?** Amends section to specify that the department will accept "equivalent" air conditioning/heat pump components. (This amendment was recommended by FAS stakeholders.)

**WAC 296-150M-0309 How do I apply for alteration approval and obtain an alteration insignia?** New section is added to reinsert provisions that were inadvertently left out when the chapter was rewritten in 1996.

PROPOSED

**WAC 296-150M-0600 Who establishes standards for installation of manufactured homes?** Amended for clarification purposes.

**WAC 296-150M-0610 What instructions are used for a manufactured home installation?** Amended for clarification purposes.

**WAC 296-150M-0614 How may I obtain a copy of the American National Standards Institute (ANSI) A225.1-Manufactured Homes and Installation?** New section adds address for ANSI information.

**WAC 296-150M-0615 What are the requirements for temporary placement of manufactured (mobile) homes?** Proposed new section clarifies a requirement for temporary placement of manufactured homes.

**WAC 296-150M-0640 Does a person who installs a manufactured home need an installation permit?** Amends section to clarify installation permit requirements.

**WAC 296-150M-0655 How does the local enforcement agency gain access to the manufacturer's installation instructions?** New section is added for clarification of access to installation instructions.

**WAC 296-150M-0400 How do I apply for alteration approval and obtain an alteration insignia?** Repeals section to eliminate unnecessary duplication.

**WAC 296-150P-0020 What definitions apply to this chapter?** Amends section to update the ANSI and NEC references.

**WAC 296-150P-0050 Can you prohibit the sale or lease of my recreational park trailer?** New section is proposed to clarify requirements of the RCW.

**WAC 296-150P-0140 Do you allow the use of alternate materials, alternate design and method of construction?** Amends section to convert department policy into rule regarding when alternate materials, design and method may be used.

**WAC 296-150R-0020 What definitions apply to this chapter?** Amends section to update the ANSI and NEC references.

**WAC 296-150R-0050 Can you prohibit the sale or lease of my recreational vehicle?** Proposed new section clarifies the requirements of the RCW.

**WAC 296-150R-0140 Do you allow the use of alternate materials, alternate design and method of construction?** Amends section to convert department policy into rule regarding when materials, design and method may be used.

Statutory Authority for Adoption: RCW 43.22.340, 43.22.480.

Statute Being Implemented: Chapter 43.22 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Dan Wolfenbarger, Tumwater, Washington, (360) 902-5225; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-6348.

Name of Proponent: Department of Labor and Industries, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department does not consider the economic impact of the proposed rule amendments to be a more than minor economic impact on business. Therefore, the preparation of a comprehensive small business economic impact statement is not required.

RCW 34.05.328 applies to this rule adoption. RCW 34.05.328 applies to this rule adoption because the proposed amendments to chapters 296-150C, 296-150F, 296-150M, 296-150P, and 296-150R WAC, amend significant regulatory programs.

Hearing Location: Cavanaugh's at Yakima Center, Upper Terrace, 607 East Yakima Avenue, Yakima, WA, on May 11, 1999, at 1:00 p.m.; and at the Department of Labor and Industries Building, Room S117, 7273 Linderson Way, Tumwater, WA, on May 14, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Elaine Fischer, (360) 902-6411, by May 3, 1999, TDD (360) 902-5797.

Submit Written Comments to: Dan Wolfenbarger, Chief Factory Assembled Structures Inspector, Department of Labor and Industries, P.O. Box 44440, Olympia, WA 98504-4440, by May 14, 1999. Fax comments (must be ten pages or less) to (360) 902-5292. If you have special needs accommodations, please contact Elaine Fischer at (360) 902-6411, or TDD at (360) 902-5797.

Date of Intended Adoption: May 28, 1999.

April 5, 1999

Gary Moore

Director

#### NEW SECTION

**WAC 296-150C-0140 Do you allow the use of alternate materials, alternate design and method of construction?** An applicant may apply for the use of alternate materials, alternate design and methods of construction different from the requirements of this chapter by filing a written request with the department.

(1) Responsibilities of applicant. The applicant must submit in writing the following information and sign and date the request.

(a) The applicant's name, address and phone number;

(b) The specific requirement or requirements from which the alternate material, alternate design or method of construction is requested;

(c) Adequate justification that the requirements of this chapter cannot be met without using alternate materials, alternate design or method of construction;

(d) How the use of alternate materials, alternate design or method of construction will achieve the same result as the requirement and any specific alternative measures to be taken to show the alternate provides the same level of protection to life, safety and health as the requirements.

The department has a form that you may use for your request. Contact the department at the address shown in the definition section.

(2) Responsibilities of the department. The department will provide a written response to the applicant within thirty days of receipt of the written request. The written response will state the acceptance or denial of the request, including the reasons for the department's decision. At a minimum the department will base its decision based on:

- (a) The applicant's request as described in subsection (1) of this section;
  - (b) Research into the request;
  - (c) Expert advice.
- (3) Applicant's response to denials. The applicant may appeal the department's decision by following the procedure in WAC 296-150C-0100.

**AMENDATORY SECTION** (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

**WAC 296-150C-0320 What must I provide with my request for commercial coach design-plan approval by the department?** All requests for design-plan approval must include:

- (1) A completed design-plan approval request form;
- (2) Two sets of design plans plus elevation drawings, specifications, engineering analysis, and test results and procedures necessary for a complete evaluation of the design; (See WAC 296-150C-0340 and 296-150C-0350.)
- (3) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under his or her direct supervision shall be signed, dated and stamped with their seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed by them and they shall prepare a report concerning the plans reviewed. This report shall:
  - (a) Identify which drawings have been reviewed by drawing number and date;
  - (b) Include a statement that the plans are in compliance with current Washington state regulations; and
  - (c) The report shall be stamped and signed by the reviewer.

Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp;
- (4) Receipt of a one-time initial design plan filing fee and the initial design plan fee (see WAC 296-150C-3000);
- (5) A "key drawing" to show the arrangement of modules if the plan covers three or more modules;
- (6) The occupancy class of the commercial coach according to the occupancy classifications in The Uniform Building Code;

(7) All plans required by WAC 296-46-140 (Plan review for educational, institutional or health care facilities and other buildings) must be reviewed by the department. The department's fee for this plan review is listed in the fee table in WAC 296-150C-3000, Commercial coach fees.

#### NEW SECTION

**WAC 296-150C-0805 Are there any special requirements for portable school classrooms?** In addition to the requirements in this chapter, the department of health has rules regulating primary and secondary schools in chapter 246-366 WAC. One of those requirements in WAC 246-366-050(2) is that "Instructional areas shall have a minimum average ceiling height of 8 feet."

**AMENDATORY SECTION** (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150C-0810 Construction definitions.** The following definitions and the definitions in each of the state codes adopted in WAC 296-150C-0800 apply to commercial coach construction.

"**Anchoring system**" is the means used to secure a commercial coach to ground anchors or to other approved fastening devices. It may include straps, cables, turnbuckles, bolts, fasteners, or other components.

"**Ceiling height**" is the clear vertical distance from the finished floor to the finished ceiling.

"**Chassis**" means that portion of the transportation system comprised of the following: Drawbar coupling mechanism and frame.

**EXCEPTION:** The running gear assembly shall not be considered as part of the chassis.

"**Dead load**" is the vertical load resulting from the weight of all permanent structural and nonstructural parts of a commercial coach including walls, floors, roof, partitions, and fixed service equipment.

"**Diagonal tie**" is a tie intended primarily to resist horizontal or shear forces and secondarily may resist vertical, uplift, and overturning forces.

"**Dormitory**" is a room designed to be occupied by more than two persons.

"**Exit**" is a continuous and unobstructed means of egress to a public way.

"**Frame**" means the fabricated rigid substructure, which provides support to the affixed commercial coach structure both during transport and onsite. It is considered a part of the commercial coach.

"**Glazed opening**" is a glazed skylight or an exterior window or glazing of a door of a commercial coach.

"**Gross floor area**" is the net floor area within the enclosing walls of a room where the ceiling is at least five feet high.

"**Habitable room**" is a room or enclosed floor space arranged for living, eating, food preparation, or dormitory sleeping purposes. It does not include bathrooms, toilet compartments, foyers, hallways, or other accessory floor spaces. Any reference to "habitable dwelling" in this chapter means a temporary structure not used as a single family dwelling.

PROPOSED

"**Interior finish**" is the surface material of walls, fixed or movable partitions, ceilings and other exposed interior surfaces affixed to the commercial coach structure, including paint and wallpaper. Decorations or furnishings attached to the commercial coach structure are considered part of the interior finish.

"**Live load**" is the weight superimposed by the use and occupancy of the commercial coach, including wind load and snow load, but not including dead load.

"**Perimeter blocking**" is support placed under exterior walls.

"**Shear wall**" is a wall designed and constructed to transfer lateral loads.

"**Tiedown**" is a device designed to anchor a commercial coach to ground anchors.

"**Use**" or "**occupancy classification**" is the designed purpose of a commercial coach according to The Uniform Building Code.

"**Wind load**" is the lateral or vertical pressure or uplift created by wind blowing in any direction.

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

**WAC 296-150C-0960 What requirements apply to commercial coach roof trusses?** (1) The construction of roof trusses must be approved by a professional engineer. Roof trusses may be produced by one of the following methods:

(a) Use of graded materials when an approved testing agency certifies truss construction and load requirements are met; the testing agency must prepare an approved quality control program which allows them to test the trusses with appropriate testing procedures.

(b) Use of nongraded materials, if each truss is tested in an approved testing jig at the manufacturer's site with a load equivalent to full design load (1.75 times the full design load sustained for twelve hours). See WAC 296-150C-0930.

(2)(a) Representative trusses must be tested from the production line, when we request. The approved testing agency or engineer must submit the testing report to us.

(b) All test reports are to be stamped, signed, and dated by the approved testing agency or engineer who performs the test.

(c) These tests must not occur more than two times a year per design unless there are problems with the roof trusses.

(d) The manufacturer is required to maintain an acceptable quality level not exceeding 1% using acceptable sampling procedures.

Note: The acceptable quality level is defined as the maximum allowable percentage of defective units.

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

**WAC 296-150C-1080 What design and construction requirements apply to a commercial coach chassis?** Each commercial coach chassis must be designed and constructed to be capable of:

(1) Effectively sustaining the design loads consisting of the dead load plus five PSF load on the floor and the superimposed dynamic load resulting from highway movement, in no case shall the dynamic load be required to exceed twice the dead load; and

(2) Accepting the shock and vibration from the roadway and towing vehicle through the use of adequate running gear assemblies. ~~((Running gear assemblies consist of axles, springs, spring hangers, hubs, bearings, tires, rims and their related hardware. Running gear assemblies must be capable of sustaining the loads in subsection (1) of this section.))~~

(3) In the set up mode, the commercial coach must be designed to accommodate a fifty PSF floor load.

#### NEW SECTION

**WAC 296-150C-1345 May the electrical disconnect required for mechanical equipment be inside of or mounted on the equipment?** The electrical disconnect shall not be inside of or mounted on the equipment.

#### NEW SECTION

**WAC 296-150C-1545 Does the department require a water system expansion tank be installed?** The department will only require that a tee be installed in an accessible location for the future addition of an expansion tank where one may be installed if required.

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

**WAC 296-150C-1580 What manufacturing codes apply when converting structures to vendor units?** (1) The conversion of a structure to a vendor unit must comply with the following codes:

(a) The Uniform Mechanical Code, with the amendments made by the Washington State Building Code Council, chapter 51-42 WAC;

(b) The National Electrical Code as referenced in chapter 19.28 RCW and chapter 296-46 WAC, Installing Electric Wires and Equipment;

(c) The Uniform Plumbing Code 1997 edition with the amendments under chapter 19.27 RCW; and

(d) The Washington State Building Code Council, chapter 51-40 WAC, Uniform Building Code, Chapter 11, Accessibility as applies to the exterior of ~~((the))~~ all units relating to customer service facilities in section 1105.4.7. Units less than 8'-6" in width and 24 feet or less in length need not comply with the accessibility requirements except for the exterior requirements.

(2) All construction methods and installations must use accepted engineering practices, provide minimum health and safety to the occupants of commercial coaches and the public, and demonstrate journeyman quality of work of the various trades.

(3) Requirements for any size, weight, or quality of material modified by the terms "minimum," "not less than," "at least," and similar expressions are minimum standards. The person converting a structure to a vendor unit may

exceed these rules provided the deviation does not result in inferior installation or defeat the purpose and intent of this chapter.

#### NEW SECTION

##### **WAC 296-150F-0050 Can you prohibit the installation of factory-built housing and commercial structures?**

(1) We may prohibit the installation of factory-built housing and commercial structures if they do not conform to the requirements of this chapter. (See RCW 43.22.465.)

(2) If an inspection reveals that a factory-built home or commercial structure violates this chapter, we may obtain a temporary injunction enjoining the installation of any non-conforming structure. The injunction may be made permanent at the discretion of the court.

#### NEW SECTION

**WAC 296-150F-0140 Do you allow the use of alternate materials, alternate design and method of construction?** An applicant may apply for the use of alternate materials, alternate design and methods of construction different from the requirements of this chapter by filing a written request with the department.

(1) Responsibilities of applicant. The applicant must submit in writing the following information and sign and date the request.

- (a) The applicant's name, address and phone number;
- (b) The specific requirement or requirements from which the alternate material, alternate design or method of construction is requested;
- (c) Adequate justification that the requirements of this chapter cannot be met without using alternate materials, alternate design or method of construction;

(d) How the use of alternate materials, alternate design or method of construction will achieve the same result as the requirement and any specific alternative measures to be taken to show the alternate provides the same level of protection to life, safety and health as the requirements.

The department has a form that you may use for your request. Contact the department at the address shown in the definition section.

(2) Responsibilities of the department. The department will provide a written response to the applicant within thirty days of receipt of the written request. The written response will state the acceptance or denial of the request, including the reasons for the department's decision. At a minimum the department will base its decision based on:

- (a) The applicant's request as described in subsection (1) of this section;
- (b) Research into the request;
- (c) Expert advice.

(3) Applicant's response to denials. The applicant may appeal the departments decision by following the procedure in WAC 296-150F-0100.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150F-0320 What must I provide with my request for design-plan approval by the department?** All requests for design-plan approval must include:

- (1) A completed design-plan approval request form;
- (2) One complete set of design plans, specifications, engineering analysis, test procedures and results plus one additional set for each manufacturing location where the design plan will be used (see WAC 296-150F-0340 and 296-150F-0350);
- (3) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under his or her direct supervision shall be signed, dated and stamped with their seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed by them and they shall prepare a report concerning the plans reviewed. This report shall:

(a) Identify which drawings have been reviewed by drawing number and date;

(b) Include a statement that the plans are in compliance with current Washington state regulations; and

(c) The report shall be stamped and signed by the reviewer.

Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp;

(4) A one-time initial filing fee and the design-plan fee (see WAC 296-150F-3000); and

(5) A "key drawing" to show the arrangement of modules if the plan covers three or more modules.

#### NEW SECTION

**WAC 296-150F-0605 May the required toilet facilities be located in an adjacent building?** Under the following conditions, the department will allow the required toilet facilities to be located in adjacent building(s):

(1) The manufacturer shall note in the plan submittal that the requirements of UBC Chapter 29, Section 2902 and Table 29-A, as amended by the state building code must be verified by the building official; and

(2) A Notification to Local Enforcement Agency (NLEA) must accompany each unit so that the requirements of UBC Chapter 29, Section 2902 and Table 29-A as amended by the state building code can be verified by the building official.

PROPOSED

NEW SECTION

**WAC 296-150F-0610** Do you require the exit doors to be one-half the diagonal distance apart if each area served has its own exit door? If the area served has an occupant load requiring only one exit and a building contains more than one area where each area is served by individual exits, and a personnel door is added between adjoining rooms, a personnel door in the partition wall will not be construed to create a larger area served. The exits will not be required to be one-half of the diagonal apart.

NEW SECTION

**WAC 296-150F-0615** May the electrical disconnect required for mechanical equipment be inside of or mounted on the equipment? The electrical disconnect shall not be inside of or mounted on the equipment.

NEW SECTION

**WAC 296-150F-0620** Does the department require a water system expansion tank be installed? The department will only require that a tee be installed in an accessible location for the future addition of an expansion tank where one may be installed if required.

NEW SECTION

**WAC 296-150F-0625** Are there any special requirements for portable school classrooms? In addition to the requirements in the state building code, the department of health has rules regulating primary and secondary schools in chapter 246-366 WAC. One of those requirements is that "Instructional areas shall have a minimum average ceiling height of 8 feet."

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

**WAC 296-150M-0020** What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction, planning considerations, fire safety, or the plumbing, mechanical, and electrical systems of a manufactured home. The installation of whole-house water treatment equipment that requires cutting into the existing plumbing is considered an alteration and requires a permit, an inspection and an alteration insignia.

The following are not considered alterations:

- Repairs to equipment with approved parts; or
- Modification of a fuel-burning appliance according to the listing agency's specifications; or
- Adjustment and maintenance of equipment.

"Alteration insignia" is an insignia issued by the department of labor and industries to verify that an alteration to a manufactured home meets the requirements of federal law 24 CFR 3280 and this chapter.

"Anchoring system" is the means used to secure a mobile home to ground anchors or to other approved fasten-

ing devices. It may include straps, cables, turnbuckles, bolts, fasteners, and other components.

"ANSI" is the American National Standards Institute Inc., and the institute's rules applicable to manufactured homes, ANSI A225.1 Manufactured Homes Installation, 1994 edition, except section 3.5.2 - Ground Cover and section 4.1.3.3 - Clearance.

"Authority having jurisdiction" means that either the department of labor and industries or the local jurisdiction is responsible for establishing specific manufactured home standards. The authority for specific manufactured home standards is divided as follows:

- The department of labor and industries establishes standards for manufactured home installation and alterations and performs alteration inspections;
- The local jurisdiction establishes standards for manufactured homes governing the building site and performs installation inspections.

"Building site" is a tract, parcel, or subdivision of land on which a manufactured home is installed.

"DAPIA" is a Design Approval Primary Inspection Agency as approved by the United States Department of Housing and Urban Development.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44440, Olympia, WA 98504-4440.

"Design plan" is a design submitted to the department for approval of a manufactured home structural alteration.

"Equipment" is all material, appliances, devices, fixtures, fittings, or accessories used in the alteration or installation of a manufactured home.

"Equivalent air conditioning/heat pump components" is equipment that performs the same function and is compatible with the equipment of another manufacturer, sometimes referred to as mix and match.

"Footing" is the portion of a support system that transmits loads from the manufactured home to the ground.

"Foundation skirting" or "skirting" is the material that surrounds and encloses the space under the manufactured home.

"Homeowner" is an individual who owns and will occupy a manufactured home for the purposes of ((this chapter)) using it as their place of residence. Dealers, distributors and developers are not regarded as homeowners.

"HUD" is the United States Department of Housing and Urban Development with headquarters located in Washington, D.C.

"Installation" is the activity needed to prepare a building site and to set a manufactured home within that site. Site means a tract, parcel, or subdivision of land including a mobile home park.

"IPIA" is a manufactured home production Inspection Primary Inspection Agency approved by the United States Department of Housing and Urban Development. The department of labor and industries is the IPIA for Washington state.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations

governing the building site and installation of a manufactured home.

"**Manufactured home**" is a single-family dwelling built according to the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act, which is a national, preemptive building code.

A manufactured home also:

- Includes plumbing, heating, air conditioning, and electrical systems;
- Is built on a permanent chassis; and
- Can be transported in one or more sections with each section at least eight feet wide and forty feet long when transported; or when installed on the site is three hundred twenty square feet or greater (see RCW 46.04.302).

**Note:** Total square feet is based on exterior dimensions measured after installation using the longest horizontal projections. Dimensions may not include bay windows but may include projections containing interior space such as cabinets and expandable rooms.

**Exception:** A structure that meets the requirements of a manufactured home as set out in 24 CFR 3282.7(u), except the size requirements is considered a manufactured home, if the manufacturer files with the secretary of HUD a certificate noted in CFR 3282.13.

"**Mobile home**" is a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD Code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the HUD Manufactured Home Construction and Safety Standards Act. For the purposes of this chapter references to manufactured homes include mobile homes.

"**Park site**" is the installation location of a manufactured home within a residential area for manufactured homes.

"**Structural alteration-custom design**" is a design that can only be used once.

"**Structural alteration-master design**" is a design plan that can be used more than once. The master plan expires when there is a code change applicable to the design.

"**System**" is part of a manufactured home designed to serve a particular function such as structural, plumbing, mechanical, or electrical functions.

#### NEW SECTION

**WAC 296-150M-0120 Where can I obtain technical assistance regarding manufactured (mobile) homes? We provide field technical service on manufactured (mobile) homes for an hourly fee. Field technical service may include an evaluation, consultation, plan examination, interpretation, and clarification of technical data relating to the application of our rules. It does not include inspections.**

#### NEW SECTION

**WAC 296-150M-0140 Do you allow the use of alternate materials, alternate design and method of construction? An applicant may apply for the use of alternate materials, alternate design and methods of construction different**

from the requirements of this chapter by filing a written request with the department.

(1) Responsibilities of applicant. The applicant must submit in writing the following information and sign and date the request.

- (a) The applicant's name, address and phone number;
- (b) The specific requirement or requirements from which the alternate material, alternate design or method of construction is requested;
- (c) Adequate justification that the requirements of this chapter cannot be met without using alternate materials, alternate design or method of construction;
- (d) How the use of alternate materials, alternate design or method of construction will achieve the same result as the requirement and any specific alternative measures to be taken to show the alternate provides the same level of protection to life, safety and health as the requirements.

The department has a form that you may use for your request. Contact the department at the address shown in the definition section.

(2) Responsibilities of the department. The department will provide a written response to the applicant within thirty days of receipt of the written request. The written response will state the acceptance or denial of the request, including the reasons for the department's decision. At a minimum the department will base its decision based on:

- (a) The applicant's request as described in subsection (1) of this section;
  - (b) Research into the request;
  - (c) Expert advice.
- (3) Applicant's response to denials. The applicant may appeal the department's decision by following the procedure in WAC 296-150M-0100.

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

**WAC 296-150M-0306 What codes are used when altering a manufactured (mobile) home? Alterations to a manufactured (mobile) home must be in compliance with the Manufactured Home Construction and Safety Standards, Part 24, CFR 3280, as adopted by the Secretary for the Department of Housing and Urban Development (HUD) and the amendments to that federal standard adopted in this WAC chapter.**

(1) The department will accept ~~((mix and match))~~ equivalent air conditioning/heat pump components that have been tested and listed for use with a particular furnace by a nationally recognized testing laboratory.

(2) The department will accept pellet stoves for installation that have been listed by a department approved testing laboratory. For a current list of approved laboratories, contact any department field office or the department at the address shown in WAC 296-150M-0020.

#### NEW SECTION

**WAC 296-150M-0309 How do I apply for alteration approval and obtain an alteration insignia? (1) To apply for alteration approval and the alteration insignia, you must:**

(a) Complete an alteration permit form and an application for alteration insignia. We will provide the forms upon request.

(b) Submit the completed forms to us, with the first hour of inspection fee and alteration insignia fee. Alterations requiring more than one inspection shall have the first hour inspection fee paid to the department prior to any inspection. (See WAC 296-150M-3000.)

(2) Request inspection of your alteration at least five days before the date you want the inspection.

(3) Once we approve your alteration, we will attach the alteration insignia to your manufactured home.

Note: Specifications, engineering data, and test results should be available for our inspector. If applicable, your approved design plan must also be available during the inspection.

**AMENDATORY SECTION** (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

**WAC 296-150M-0600 Who establishes standards for installation of manufactured homes?** (1) The director of labor and industries is responsible for establishing uniform installation standards where possible and practical for persons or entities engaged in performing the installation of manufactured homes within the state.

(2) Local jurisdictions may adopt additional installation requirements only for those installation situations not covered by federal standards. For example, local jurisdictions may impose noise control construction ordinances, prescribe the frost depth and soil bearing capacity at the installation site, and adopt requirements to protect manufactured homes in hazardous areas, ~~((i.e., in flood and earthquake areas))~~ (see WAC 296-150M-0620).

Also, local jurisdictions may impose their requirements for snow and wind loads as long as all structures within their jurisdiction are required to comply with the same standard and provided those installing the manufactured home are given options in satisfying that standard. Such an option might include, but not be limited to, allowing an installer to erect an additional structure, which meets local standards, and protects the manufactured home. For example, an installer could erect a free standing ramada over a manufactured home to protect it from local snow loads.

Local jurisdictions **may not**:

(a) Dictate foundation design and construction which is built according to either the manufacturer's installation instructions or a design created by an engineer or architect licensed in Washington state.

(b) Impose regulations on smoke detectors because they are regulated by federal standards.

**AMENDATORY SECTION** (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

**WAC 296-150M-0610 What instructions are used for a manufactured home installation?** ~~((The following instructions must be used for an initial or relocated manufactured home installation (note: The specific instructions in this chapter take precedence over manufacturer's instructions and ANSI standards:))~~ To the extent that the installation of a

manufactured home is not covered by a manufacturer's, engineer's or architect's instructions, the manufactured home shall comply with the installation requirements of this section.

(1) Installation of a new manufactured home.

(a) The initial manufactured home installation must be conducted according to the manufacturer's instructions.

(b) If the manufacturer's instructions do not address an aspect of the installation, you may request:

(i) Specific instructions from the manufacturer; or

(ii) Specific instructions from a professional engineer or architect licensed in Washington state.

For example:

(A) A manufactured home is installed over a basement and the manufacturer's instructions do not address this application;

(B) A manufactured home is installed on a site where the specific soil bearing capacity is not addressed in the manufacturer's instructions.

(c) All manufactured homes installed in Washington state must be permanently anchored except for those installed on dealer lots. On dealer lots, temporary sets are permitted without anchoring being installed. A manufactured home must be anchored according to the manufacturer's installation instructions or according to the design of a professional engineer or architect licensed in Washington state. Local jurisdictions **may not** prescribe anchoring methods.

(d) A manufactured home must have a skirting around its entire perimeter. It must be installed per the manufacturer's installation instructions or if the manufacturer is not specific, to the standards in this section. It must be vented and allow access to the under floor area per the manufacturer's installation instructions or per the standards below if the manufacturer's instructions are not available.

If the manufacturer's skirting and access instructions are not specific, skirting, ventilation and access shall be installed as follows:

(i) Skirting:

- Skirting must be made of materials suitable for ground contact.
- Metal fasteners must be made of galvanized, stainless steel or other corrosion resistant material.
- Ferrous metal members in contact with the earth, except those made of galvanized or stainless steel, must be coated with an asphaltic emulsion.
- Skirting must not trap water between the skirting and siding or trim.
- All skirting must be recessed behind the siding or trim.

(ii) Ventilation:

For homes sited in a flood plain, contact the local jurisdiction regarding proper skirting ventilation. Except for those manufactured homes sited in a flood plain, all skirting must be vented as follows:

- Vent openings must be covered with corrosion-resistant wire mesh to prevent the entrance of rodents. The size of the mesh opening cannot exceed 1/4 inch.
- Vent openings must have a net area of not less than one square foot for each one hundred fifty square feet of under floor area.

- Vent openings must be located as close to corners and high as practical and they must provide cross ventilation on at least two opposite sides.

## (iii) Access:

- Access to the under floor area of a manufactured home must have a finished opening at least eighteen inches by twenty-four inches in size.
- The access opening must be located so that all areas under a manufactured home are available for inspection.
- The access opening must be covered and that cover must be made of metal, pressure treated wood or vinyl.

(e) A manufactured home site must be prepared per the manufacturer's installation manual or per ANSI A225.1, 1994 edition, section 3.

(f) Heat duct crossovers must be installed per the manufacturer's installation instruction manual or per ANSI A225.1 or the following instructions if the manufacturer's instructions are not available:

Heat duct crossovers must be supported at least one inch above the ground by strapping or blocking. They must be installed to avoid standing water. Also, they must be installed to prevent compression, sharp bends and to minimize stress at the connections.

(g) Dryer vents must exhaust to the exterior side of the wall or skirting. Dryer ducts outside the manufactured home shall comply with the dryer manufacturer's specifications or shall be made of metal with smooth interior surfaces.

(h) Hot water tank pressure relief lines must exhaust to the exterior side of the exterior wall or skirting and must exhaust downward. The end of the pipe must be at least six inches but not more than two feet above the ground.

(i) Water piping must be protected against freezing as per the manufacturer's installation instructions or by use of a heat tape listed for use with manufactured homes and installed per the heat tape manufacturer's installation instructions.

(j) The testing of water lines, waste lines, gas lines and electrical systems must be as per the manufacturer's installation instructions. If the manufacturer's installation instructions require testing of any of these systems, the local jurisdiction is responsible for verifying that the tests have been performed and passed. Electrical connections and testing are the responsibility of the electrical section of labor and industries except where a city has assumed the electrical inspection responsibilities for their jurisdiction. In that case, the city's electrical inspectors are responsible for the electrical connections and testing.

(k) During the installation process, a ground cover must be installed under all manufactured homes. The ground cover must be a minimum of six-mil *black* polyethylene sheeting or its equivalent (exception to ANSI A225.1 (3.5.2)). The ground cover may be omitted if the under floor area of the home has a concrete slab floor with a minimum thickness of three and one-half inches.

(l) Clearances underneath manufactured homes must be maintained at a minimum of eighteen inches beneath at least seventy-five percent of the lowest member of the main frame (I-beam or channel beam) and the ground or footing. No

more than twenty-five percent of the lowest member of the main frame of the home shall be less than eighteen inches above the ground or footing. **In no case** shall clearance be less than twelve inches **anywhere** under the home (exception to ANSI A225.1 (4.1.3.3)).

(m) Heat pump and air conditioning condensation lines must be extended to the exterior of the manufactured home.

(2) Installation of a relocated manufactured (mobile) home.

(a) A relocated manufactured home installation should be conducted according to the manufacturer's installation instructions.

(b) If the manufacturer's instructions are unavailable, you may use either:

(i) The American National Standard Institute (ANSI) standard ANSI A225.1-Manufactured Homes Installation, 1994 edition instructions; or

(ii) The instructions of a professional engineer or architect licensed in Washington state.

(c) If either (b)(i) or (ii) is used, all of the requirements of WAC 296-150M-0610 (1)(c) through (m) must also be followed.

NEW SECTION

**WAC 296-150M-0614 How may I obtain a copy of the American National Standards Institute (ANSI) A225.1-Manufactured Homes Installation? Copies of the standard are available from:**

Publications/Communications  
National Conference of States on Building Codes  
and Standards, Inc.  
505 Huntmar Park Drive, Suite 210  
Herndon, Virginia 22070

NEW SECTION

**WAC 296-150M-0615 What are the requirements for temporary placement of manufactured (mobile) homes? Manufactured (mobile) homes placed on temporary display or in storage by a manufacturer, dealer or distributor in excess of thirty days shall be:**

(1) Supported under each main frame beam by supports located within two feet of each end and within four feet of the front and rear axle and other supports so that no span shall exceed sixteen feet; and

(2) Made weathertight at any marriage line joint at the roof and wall lines.

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

**WAC 296-150M-0640 Does a person who installs a manufactured home need an installation permit? (1) ~~(Any person who installs a manufactured home must obtain an installation permit from the local enforcement agency prior to installation.~~**

~~(2) Any permit fees set by the local enforcement agency must be paid in full and included with the permit application.~~

PROPOSED

~~(3) A dealer, owner or agent must not deliver a manufactured home to its site without verifying that an installation permit has been obtained.)~~ A dealer, owner or agent must not deliver a manufactured home to its site without verifying that an installation permit has been obtained; and

(2) Any permit fees set by the local enforcement agency must be paid in full and included with the permit application.

#### NEW SECTION

**WAC 296-150M-0655 How does the local enforcement agency gain access to the manufacturer's installation instructions?** A manufacturer's installation manual shall be provided for the inspecting jurisdiction whenever any portions of the manufacturer's installation instructions have been used for any portion of the installation.

(1) The installation instructions shall be located between the I-beam and the bottom board within five feet of the main electrical feeder when the skirting has not been installed.

(2) When the skirting has been installed, the installation instructions shall be located between the I-beam and the bottom board within five feet of the access opening.

(3) Instructions shall be returned to such location when the inspection is completed.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-150M-0400      How do I apply for alteration approval and obtain an alteration insignia?

AMENDATORY SECTION (Amending WSR 97-16-043, filed 7/31/97, effective 12/1/97)

**WAC 296-150P-0020 What definitions apply to this chapter?** "Alteration" is the replacement, addition, modification, or removal of any equipment or material that affects the fire and life safety provisions, structural system, plumbing systems, fuel systems and equipment or electrical systems of a recreational park trailer.

The following changes are not considered alterations for purposes of this chapter:

- Repairs with approved parts;
- Modification of a fuel-burning appliance according to the terms of its listing; and
- Adjustment and maintenance of equipment.

"Alteration insignia" is an insignia which indicates a recreational park trailer alteration was approved by the department.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to recreational park trailers. For the purposes of this chapter, references to ANSI mean ANSI A119.5 Recreational Park Trailers, ((1997)) 1998 edition.

"Approved" is approved by the department of labor and industries.

"Audit" by the department is the department inspection of a manufacturer's quality control procedures, comprehensive plans, and recreational park trailers.

"Comprehensive design plan" consists of the design plans and copies of drawings such as:

- Floor plans relating to fire and life safety, structural, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances and air conditioning systems, if applicable to the plan of each recreational park trailer.

- Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.

- Electrical drawings. (See WAC 296-150P-0330.)

"Consumer" is a person or organization who buys or leases recreational park trailers.

"Dealer" is a person or organization whose business is offering recreational park trailers for sale or lease.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44430, Olympia, WA 98504-4430.

"Equipment" is all material, appliances, fixtures, and accessories used in the manufacture or alteration of recreational park trailers.

"Manual" is a reference containing instructions, procedures, responsibilities and other information used to implement and maintain the quality control program of a recreational park trailer manufacturer.

"National Electrical Code" ((1996 edition is the electrical code required for ANSI A119.5 compliance.)) See Appendix 'C' of ANSI A119.2 for reference to the appropriate edition to use for compliance.

"Recreational park trailer" is a trailer-type unit that is primarily designed to provide temporary living quarters for recreational, camping or seasonal use, that meets the following criteria:

- Built on a single chassis, mounted on wheels;
- Having a gross trailer area not exceeding 400 square feet (37.15 square meters) in the set-up mode; and
- Certified by the manufacturer as complying with ANSI A119.5.

"Quality control" is the plan and method for ensuring that the manufacture, fabrication, assembly, installation, storing, handling, and use of materials complies with this chapter and ANSI.

"State-plan insignia" is an insignia which is obtained under the state design-plan approval process.

"System" is a part of a recreational park trailer that is designed to serve a particular function such as plumbing, electrical, heating, mechanical or structural system.

#### NEW SECTION

**WAC 296-150P-0050 Can you prohibit the sale or lease of my recreational park trailer?** (1) We may prohibit the sale or lease of your recreational park trailer because it is unlawful for any person to sell, lease, or offer for sale a rec-

recreational park trailer within this state if it violates any of the requirements of this chapter (see RCW 43.22.345).

(2) If an inspection reveals that a recreational park trailer violates this chapter, we may post a notice prohibiting the sale or lease of a recreational park trailer.

#### NEW SECTION

**WAC 296-150P-0140 Do you allow the use of alternate materials, alternate design and method of construction?** An applicant may apply for the use of alternate materials, alternate design and methods of construction different from the requirements of this chapter by filing a written request with the department.

(1) Responsibilities of applicant. The applicant must submit in writing the following information and sign and date the request.

(a) The applicant's name, address and phone number;

(b) The specific requirement or requirements from which the alternate material, alternate design or method of construction is requested;

(c) Adequate justification that the requirements of this chapter cannot be met without using alternate materials, alternate design or method of construction;

(d) How the use of alternate materials, alternate design or method of construction will achieve the same result as the requirement and any specific alternative measures to be taken to show the alternate provides the same level of protection to life, safety and health as the requirements.

The department has a form that you may use for your request. Contact the department at the address shown in the definition section.

(2) Responsibilities of the department. The department will provide a written response to the applicant within thirty days of receipt of the written request. The written response will state the acceptance or denial of the request, including the reasons for the department's decision. At a minimum the department will base its decision based on:

(a) The applicant's request as described in subsection (1) of this section;

(b) Research into the request;

(c) Expert advice.

(3) Applicant's response to denials. The applicant may appeal the department's decision by following the procedure in WAC 296-150P-0100.

**AMENDATORY SECTION** (Amending WSR 97-16-043, filed 7/31/97, effective 12/1/97)

**WAC 296-150R-0020 What definitions apply to this chapter?** "Alteration" is the replacement, addition, modification, or removal of any equipment or material that affects the fire and life safety provisions, plumbing systems, fuel systems and equipment or electrical systems of a recreational vehicle.

The following changes are not considered alterations for purposes of this chapter:

- Repairs with approved parts;
- Modification of a fuel burning appliance according to the terms of its listing; and

- Adjustment and maintenance of equipment.

"Alteration insignia" is an insignia which indicates a vehicle alteration was approved by the department.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to recreational vehicles. For the purposes of this chapter, references to ANSI mean ANSI A119.2 Recreational Vehicles, 1996 edition. Effective September 1, 1999, the 1999 edition shall become effective.

"Approved" is approved by the department of labor and industries.

"Audit" by the department can be either a comprehensive audit or a performance audit. A comprehensive audit is the department inspection of a manufacturer's quality control procedures, comprehensive plans, and vehicles. A performance audit is the department's review of the manufacturer's audit performed by the industry association or other independent auditor.

"Comprehensive design plan" consists of the design plans and copies of drawings such as:

- Floor plans relating to fire and life safety, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances and air conditioning systems, if applicable to the plan of each vehicle.

- Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.

- Electrical drawings. (See WAC 296-150R-0330 and 296-150R-0820.)

"Consumer" is a person or organization who buys or leases recreational vehicles.

"Dealer" is a person or organization whose business is offering recreational vehicles for sale or lease.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44430, Olympia, WA 98504-4430.

"Equipment" is all material, appliances, fixtures, and accessories used in the manufacture or alteration of recreational vehicles or park trailers.

"Manual" is a reference containing instructions, procedures, responsibilities and other information used to implement and maintain the quality control program of a recreational vehicle manufacturer.

"National Electrical Code" (~~(1996 edition is the electrical code required for ANSI A119.2 compliance.)~~) See Chapter 5 of ANSI A119.2 for reference to the appropriate edition to use for compliance.

"Quality control" is the plan and method for ensuring that the manufacture, fabrication, assembly, installation, storing, handling, and use of materials complies with this chapter and ANSI.

"Recreational vehicle" is a vehicular type unit primarily designed as temporary living quarters for recreational camping, travel, or seasonal use that either has its own motive power or is mounted on, or towed by, another vehicle. Recreational vehicles include: Camping trailers, fifth-wheel trailers, motor homes, travel trailers, and truck campers.

PROPOSED

"**Self-certification insignia**" is an insignia which is obtained under the self-certification approval process.

"**State-plan insignia**" is an insignia which is obtained under the state design-plan approval process.

"**System**" is a part of a recreational vehicle that is designed to serve a particular function such as plumbing, electrical, heating, or mechanical system.

"**Vehicle**" for the purposes of this chapter, is a recreational vehicle.

#### NEW SECTION

**WAC 296-150R-0050 Can you prohibit the sale or lease of my recreational vehicle?** (1) We may prohibit the sale or lease of your recreational vehicle because it is unlawful for any person to sell, lease, or offer for sale a recreational vehicle within this state if it violates any of the requirements of this chapter (see RCW 43.22.345).

(2) If an inspection reveals that a recreational vehicle violates this chapter, we may post a notice prohibiting the sale or lease of the recreational vehicle.

#### NEW SECTION

**WAC 296-150R-0140 Do you allow the use of alternate materials, alternate design and method of construction.** An applicant may apply for the use of alternate materials, alternate design and methods of construction different from the requirements of this chapter by filing a written request with the department.

(1) Responsibilities of applicant. The applicant must submit in writing the following information and sign and date the request.

(a) The applicant's name, address and phone number;

(b) The specific requirement or requirements from which the alternate material, alternate design or method of construction is requested;

(c) Adequate justification that the requirements of this chapter cannot be met without using alternate materials, alternate design or method of construction;

(d) How the use of alternate materials, alternate design or method of construction will achieve the same result as the requirement and any specific alternative measures to be taken to show the alternate provides the same level of protection to life, safety and health as the requirements.

The department has a form that you may use for your request. Contact the department at the address shown in the definition section.

(2) Responsibilities of the department. The department will provide a written response to the applicant within thirty days of receipt of the written request. The written response will state the acceptance or denial of the request, including the reasons for the department's decision. At a minimum the department will base its decision based on:

(a) The applicant's request as described in subsection (1) of this section;

(b) Research into the request;

(c) Expert advice.

(3) Applicant's response to denials. The applicant may appeal the department's decision by following the procedure in WAC 296-150R-0100.

**WSR 99-08-130  
PROPOSED RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed April 7, 1999, 11:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-01-178.

Title of Rule: Chapter 296-150T WAC, Factory-built temporary worker housing structures.

Purpose: To adopt and enforce rules for the alteration, construction, and approval of factory-built temporary worker housing in order to ensure public safety and appropriate housing standards.

Statutory Authority for Adoption: RCW 43.22.480.

Statute Being Implemented: Chapter 43.22 RCW.

Summary: The rules cover construction requirements, design plan approval, inspections, insignia requirements, building codes, used structures, manufacturing codes, and fees for factory-built temporary worker housing.

Reasons Supporting Proposal: This chapter implements changes to chapter 43.22 RCW and RCW 43.70.337, which require that the department adopt and enforce rules in conformity with the standards and specifications contained in the temporary worker housing code and pertaining to alteration, construction, and approval of a manufactured structure to be used for temporary worker housing.

Name of Agency Personnel Responsible for Drafting: Dan Wolfenbarger, Tumwater, Washington, (360) 902-5225; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-6348.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: A new chapter is proposed to implement the statutory requirements of 2SSB 6168, Housing for temporary workers, 1998 legislative session. The bill directed the Department of Health to adopt by rules a "temporary worker building code" and the Department of Labor and Industries to adopt rules implementing the "temporary worker building code" to include structures built in a factory.

The proposed regulations are intended to provide standards for safe and secure housing for temporary workers by ensuring that all factory-built housing or factory-built commercial structures are safe and structurally sound in conformance with the temporary worker building code adopted by Department of Health.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required when the rules are

explicitly and specifically dictated by statute, in accordance with RCW 19.85.025(2). Since these rules were mandated by SB 6168 in the 1998 legislative session, the department is therefore exempt from this requirement.

RCW 34.05.328 does not apply to this rule adoption. The proposal to adopt chapter 296-150T WAC, Factory-built temporary worker housing structures, is driven by statutory changes to RCW 43.22.480 which require the department to adopt and enforce rules that conform to the temporary worker building code adopted by the Department of Health. Therefore, the proposed new chapter is exempt from the significant legislative rule-making criteria (RCW 34.05.328 (5)(b)(iii)).

Hearing Location: Cavanaugh's at Yakima Center, Upper Terrace, 607 East Yakima Avenue, Yakima, WA, on May 11, 1999, at 1:00 p.m.; and at the Department of Labor and Industries Building, Room S117, 7273 Linderson Way, Tumwater, WA, on May 14, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Elaine Fischer (360) 902-6411, by May 3, 1999, TDD (360) 902-5797.

Submit Written Comments to: Dan Wolfenbarger, Chief Factory Assembled Structures Inspector, Department of Labor and Industries, P.O. Box 44440, Olympia, WA 98504-4440, by May 14, 1999. Fax comments (must be ten pages or less) to (360) 902-5292.

Date of Intended Adoption: May 28, 1999.

April 5, 1999  
Gary Moore  
Director

## Chapter 296-150T WAC

### FACTORY-BUILT TEMPORARY WORKER HOUSING STRUCTURES

#### NEW SECTION

##### **WAC 296-150T-0010 Authority, purpose, and scope.**

(1) This chapter is authorized by RCW 43.22.420, 43.22.434 and 43.22.450 through 43.22.490, covering the construction and approval of factory-built temporary worker housing.

(2) This chapter applies to the approval:

(a) Of factory-built temporary worker housing structures; and

(b) After occupancy of a factory-built temporary worker housing structure, all inspections are done by the department of health.

#### NEW SECTION

**WAC 296-150T-0020 What definitions apply to this chapter? "Approved"** is approved by the department of labor and industries. **"Damaged in transit"** is damage that effects the integrity of the structural design or damage to any other system referenced in the codes required by the temporary worker housing construction standard.

**"Department"** is the department of labor and industries. The department may also be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor

and Industries, Specialty Compliance, PO Box 44440, Olympia, WA 98504-4440.

**"Department of health"** is the state agency responsible for adopting by rule a "temporary worker housing construction standard." You may contact them for copies of the "temporary worker housing construction standards" at: Department of Health, PO Box 47852, Olympia, WA 98504-7852.

**"Design option"** is a design that a manufacturer may use as an option to its design plan.

**"Design plan"** is a plan for the construction of factory-built temporary worker housing that includes floor plans, elevation drawings, specifications, engineering data, or test results necessary for a complete evaluation of the design. The design plan expires one year after approval or when a new temporary worker housing construction standard becomes effective or the electrical code as adopted by chapter 296-46 WAC adopts a new code. Electrical code changes if minor may be made by submitting an addendum.

**"Equipment"** is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, installation, or alteration of factory-built temporary worker housing structures.

**"Factory assembled structure (FAS) advisory board"** is a board authorized to advise the director of the department regarding the issues and adoption of rules relating to factory-built temporary worker housing structures. (See RCW 43.22.420.)

**"Factory-built temporary worker housing"** is housing designed and constructed to the requirements in chapter 246-359 WAC, "temporary worker housing construction standard" as promulgated by the department of health for human occupancy. The structure which is entirely or substantially prefabricated or assembled at a place other than a building site. (See RCW 43.22.450(3).)

**"Insignia"** is a label that we attach to a structure to verify that a factory-built temporary worker housing structure meets the requirements of this chapter.

**"Install"** is to erect or set in place a structure at a building site. It may also be the construction or assembly of a component as part of a factory-built temporary worker housing.

**"Listed"** is a piece of equipment, a component, or an installation that appears in a list published by a testing or listing agency and is suitable for use in a specified manner.

**"Listing agency"** is an organization whose business is approving equipment, components, or installations for publication.

**"Local enforcement agency"** is the department of health with power to enforce regulations governing the installation of factory-built temporary worker housing.

**"Manufacturing"** is making, fabricating, forming, or assembling a factory-built temporary worker housing structure.

**"Repair"** is the replacement, addition, modification, or removal of any construction, equipment, system, or installation to correct damage in transit or during on-site installation before occupancy.

**"Unit"** is a factory-built temporary worker structure.

NEW SECTION**WAC 296-150T-0030 How is this chapter enforced?**

(1) To enforce this chapter, we or another governmental inspection agency will inspect each factory-built temporary worker housing structure that is sited in Washington. Inspections will be conducted during normal work hours or at other reasonable times. (See WAC 296-150T-0070.)

(2) We will inspect each unit as required by the temporary worker housing construction standard and the electrical code. (See WAC 296-150T-0500.)

NEW SECTION

**WAC 296-150T-0040 Will you keep my manufacturing information confidential?** We will only release manufacturing information such as design plans, specifications, and test results according to the requirements of the Public Records Act (see RCW 42.17.310 (1)(h)) unless we are ordered to do so by a court or otherwise required by law.

NEW SECTION

**WAC 296-150T-0050 Can you prohibit the installation of factory-built temporary worker housing structures?** (1) We may prohibit the installation of factory-built temporary worker housing structures if they do not conform to the requirements of this chapter. (See RCW 43.22.465.)

(2) If an inspection reveals that a factory-built temporary worker housing structure violates this chapter, we may obtain a temporary injunction enjoining the installation of any non-conforming structure. The injunction may be made permanent at the discretion of the court.

NEW SECTION

**WAC 296-150T-0070 Do you have reciprocal agreements with other states to inspect factory-built temporary worker housing structures?** (1) We may enter into reciprocal agreements with states who have construction standards that are equal to or greater than our standards for factory-built structures.

(2) When we have a reciprocal agreement with another state:

(a) The reciprocal state inspects factory-built temporary worker housing structures manufactured in that state before shipment into Washington to ensure compliance with our laws. After inspection, the reciprocal state applies our insignia.

(b) The department inspects factory-built structures manufactured in Washington before shipment into the reciprocal state to ensure compliance with their laws. After inspection, we apply the insignia of the reciprocal state.

(3) Reciprocal agreements shall remain on file.

NEW SECTION

**WAC 296-150T-0080 Do you allow a local enforcement agency to inspect factory-built temporary worker housing at the manufacturing location?** (1) A local enforcement agency (city or county), under contract with us,

can inspect factory-built temporary worker housing. In some cases their contract may be limited to specific portions of an inspection at specified manufacturing locations.

(2) After approving a unit, the local enforcement agency will attach the insignia, which indicates the unit has passed inspection.

NEW SECTION

**WAC 296-150T-0100 What happens if I disagree with your decision regarding my compliance with this chapter?** (1) If we determine you are in violation of this chapter, you will receive a notice of noncompliance.

(2) If you disagree with our decision, you can send us a written request for a hearing, stating why you disagree.

(3) After we receive your hearing request, we will:

(a) Schedule a hearing within thirty days after we receive your request.

(b) Notify you of the time, date, and place for the hearing. If you fail to appear, your case will be dismissed.

(c) Hear your case.

(d) Send you written notice of our decision.

If you disagree with our decision, you may appeal it under the Administrative Procedure Act (chapter 34.05 RCW).

NEW SECTION

**WAC 296-150T-0110 Do you have an advisory board to address factory-built temporary worker housing structure issues?** The factory assembled structures (FAS) board advises us on issues relating to structural, plumbing, mechanical, electrical, installation, inspections, and rules for factory-assembled structures. (See RCW 43.22.420.)

NEW SECTION

**WAC 296-150T-0120 Where can I obtain technical assistance regarding factory-built temporary worker housing structures?** We provide field technical service to factory-built temporary worker housing manufacturers for an hourly fee. Field technical service may include an evaluation, consultation, plan examination, interpretation, and clarification of technical data relating to the application of our rules. It does not include inspections.

NEW SECTION**WAC 296-150T-0130 How do I register a complaint?**

A person who believes that a structure or component does not meet the requirements of this chapter may register a complaint with the department. The complaint must be in writing and must specifically describe the alleged violations of this chapter. Upon receipt of the complaint, the department will forward a copy to the appropriate manufacturer and/or dealer and they shall have thirty days to respond to it. If the department determines that an inspection is necessary, the manufacturer/dealer shall pay the department for the cost of the inspection. The cost of the inspection is based upon the fee schedule in WAC 296-150T-3000 and includes the hourly

inspection fee, travel costs and other expenses incurred as a result of the inspection.

#### NEW SECTION

**WAC 296-150T-0140 Do you allow the use of alternate materials, alternate design and method of construction?** An applicant may apply for the use of alternate materials, alternate design and methods of construction different from the requirements of this chapter by filing a written request with the department.

(1) Responsibilities of applicant. The applicant must submit in writing the following information and sign and date the request.

(a) The applicant's name, address and phone number;

(b) The specific requirement or requirements from which the alternate material, alternate design or method of construction is requested;

(c) Adequate justification that the requirements of this chapter cannot be met without using alternate materials, alternate design or method of construction;

(d) How the use of alternate materials, alternate design or method of construction will achieve the same result as the requirement and any specific alternative measures to be taken to show the alternate provides the same level of protection to life, safety and health as the requirements.

The department has a form that you may use for your request. Contact the department at the address shown in the definition section.

(2) Responsibilities of the department. The department will provide a written response to the applicant within thirty days of receipt of the written request. The written response will state the acceptance or denial of the request, including the reasons for the department's decision. At a minimum the department will base its decision based on:

(a) The applicant's request as described in subsection (1) of this section;

(b) Research into the request;

(c) Expert advice.

(3) Applicant's response to denials. The applicant may appeal the department's decision by following the procedure in WAC 296-150T-0100.

### INSIGNIA

#### NEW SECTION

**WAC 296-150T-0200 Who must purchase factory-built temporary worker housing insignia?** (1) You must obtain insignia from us for each factory-built temporary worker housing unit sited in Washington state.

(2) You must have an approved design plan and have passed inspection before an insignia can be attached to your factory-built temporary worker housing structure by us or our authorized agent.

(3) If a unit is damaged in transit after leaving the manufacturing location or during an on-site installation, and a repair is necessary, you must purchase an insignia from us. The insignia indicates that the unit was repaired.

#### NEW SECTION

**WAC 296-150T-0210 What are the insignia requirements?** (1) If you are applying for insignia for factory-built temporary worker housing structures you must have your design plan approved and your units inspected and approved by us.

(2) We will attach the insignia after:

(a) We receive the required forms and fees from you (see WAC 296-150T-3000); and

(b) Your unit or component has passed final inspection. (See WAC 296-150T-0500.)

#### NEW SECTION

**WAC 296-150T-0220 How do I obtain insignia information and the required forms?** Upon request, we will provide you with a packet of information that includes the required forms.

#### NEW SECTION

**WAC 296-150T-0230 What are the insignia application requirements?** (1) If you are requesting insignia for units that you intend to manufacture under a *new design plan*, your completed application must include:

(a) A completed design plan approval request form;

(b) One complete set of design plans, specifications, engineering analysis if required, test procedures and results if required, plus one additional set for each manufacturing location where the design plan will be used;

(c) If required, at least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. We will retain the set with the original wet stamp; and

(d) A one-time initial filing fee, the design plan fee (if we approve your design plan) and the fee for each insignia. (See WAC 296-150T-3000.)

(2) If you are requesting insignia under an *approved design plan*, your completed application must include:

(a) A completed application for insignia form; and

(b) The fee for each insignia requested. (See WAC 296-150T-3000.)

#### NEW SECTION

**WAC 296-150T-0250 How do I replace lost or damaged insignia?** (1) If an insignia is lost or damaged after it is attached to your factory-built temporary worker housing structure you may obtain a replacement insignia.

(2) You should contact us and provide the following information:

(a) Your name, address, and telephone number;

(b) The name of the manufacturer;

(c) The serial number;

(d) The manufacturer number (T#), if available;

(e) The insignia number, if available; and

(f) The required fee. (See WAC 296-150T-3000.)

(3) If we can determine that your unit previously had an insignia, we will attach an insignia to your unit once we receive your insignia fee. (See WAC 296-150T-3000.)

PROPOSED

## DESIGN PLAN

### NEW SECTION

**WAC 296-150T-0300 When is design plan approval required?** Design plans for factory-built temporary worker housing structures prior to installation at the building site in Washington must be approved when:

- (1) You build a new unit;
- (2) You modify an approved design plan through an addendum; or
- (3) You add options to an approved design plan through an addendum.

## DESIGN-PLAN APPROVAL

### NEW SECTION

**WAC 296-150T-0320 What must I provide with my request for design-plan approval by the department?** All requests for design-plan approval must include:

- (1) A completed design-plan approval request form;
- (2) One complete set of design plans, specifications, engineering analysis when required, test procedures and results plus one additional set for each manufacturing location where the design plan will be used (see WAC 296-150T-0340 and 296-150T-0350);
- (3) If required, at least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under his or her direct supervision shall be signed, dated and stamped with their seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed by them and they shall prepare a report concerning the plans reviewed. This report shall:
  - (a) Identify which drawings have been reviewed by drawing number and date;
  - (b) Include a statement that the plans are in compliance with current Washington state regulations; and
  - (c) The report shall be stamped and signed by the reviewer.

Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp;

- (4) A one-time initial filing fee and the design-plan fee (see WAC 296-150T-3000); and
- (5) A "key drawing" to show the arrangement of modules if the plan covers three or more modules.

### NEW SECTION

**WAC 296-150T-0340 What must an engineering analysis for design plans include?** (1) The engineering anal-

ysis if required must show that the structural design meets the requirements of this chapter.

(2) An engineering analysis if required must be conducted according to accepted engineering practices and must be signed by a professional engineer or architect licensed in Washington state.

### NEW SECTION

**WAC 296-150T-0350 What must the test procedures and results for design plans include?** (1) Tests to a design for a factory-built temporary worker housing structure must be witnessed by a professional engineer or architect licensed in Washington state.

(2) Test reports must contain the following items:

- (a) A description of the methods or standards that applied to the test;
  - (b) Drawings and a description of the item tested;
  - (c) A description of the test set-up;
  - (d) The procedure used to verify the correct load;
  - (e) The procedure used to measure each condition;
  - (f) Test data, including applicable graphs and observations of the characteristics and behavior of the item tested; and
  - (g) Analysis, comments, and conclusion.
- (3) The written test procedures, results and conclusions must reference the applicable design plan.

### NEW SECTION

**WAC 296-150T-0380 What happens if you approve my design plan?** (1) Your design plan will be approved if it meets the requirements of this chapter.

(2) We will send you an approved copy of the design plan with the design-plan approval number.

(3) You must keep copies of the approved design plan at each location where a factory-built temporary worker housing structure is built.

(4) If your design plan is not approved, you will be notified in writing of plan deficiencies. You may send a corrected design plan to us. (See WAC 296-150T-3000.)

### NEW SECTION

**WAC 296-150T-0390 If my design plan is not approved, how much time do I have to submit a corrected design plan?** (1) You have ninety days to correct and resubmit your original design plan and send us the resubmittal fee after we notify you of plan deficiencies. After ninety days, your initial design plan is returned to you.

(2) If you submit your corrected design plan after ninety days, you must send the initial design plan fee instead of the resubmittal fee. (See WAC 296-150T-3000.)

### NEW SECTION

**WAC 296-150T-0400 What happens after my design plan is approved?** Once your design plan is approved, we will inspect each related factory-built temporary worker housing structure.

NEW SECTION

**WAC 296-150T-0410 When does my design plan expire?** Your factory-built temporary worker housing design plan expires either one year after approval or when there is a code change. You must submit new design plans for approval when there is a change to the temporary worker housing construction standard. You may use your design plan to order insignia as long as they comply with the applicable codes.

(3) All National Electrical Code amendments may be incorporated by an addendum to your design plan.

**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.

### INSPECTIONS PRIOR TO ISSUANCE OF AN INSIGNIA

NEW SECTION

**WAC 296-150T-0500 When is an inspection required?** (1) Before we issue an insignia, each factory-built temporary worker housing structure must be inspected at the manufacturing location as many times as are required by the temporary worker housing construction standard. (See WAC 296-150T-0600.) Inspections may include:

(a) A "cover" inspection during construction of the unit before the electrical, plumbing, mechanical, and structural systems are covered;

(b) Insulation inspection, if installed;

(c) A final inspection after the factory-built temporary worker housing structure is complete;

**Note:** Each factory-built temporary worker housing structure must have a serial number to enable us to track inspections.

(2) If we discover a violation during inspection, we will issue a notice of noncompliance. You can correct the violation during the inspection. If you cannot correct the violation during inspection, you must leave the item uncovered until we approve your correction.

(3) After a unit is manufactured but before occupancy, we must inspect a factory-built temporary worker housing structure if it is damaged in transit to the building site or during on-site installation. This is considered a repair inspection. (See WAC 296-150T-0540.)

(4) Approved design plans must be available for all inspections.

(5) Once your unit is inspected and approved we will attach the insignia.

**Note:** We only inspect factory-built temporary worker housing structures before occupancy. After occupancy, the department of health agency is the inspection agency.

NEW SECTION

**WAC 296-150T-0510 How do I request an inspection?** (1) You must contact us, and we will let you know where your request for inspection should be submitted. Our address is noted in the definition of department.

(2) We must receive in-state inspection requests at least seven calendar days prior to the date that you want the inspection.

(3) We must receive out-of-state inspection requests at least fourteen calendar days prior to the date that you want the inspection.

NEW SECTION

**WAC 296-150T-0520 What happens if my factory-built temporary worker housing structure passes inspection?** (1) If your factory-built temporary worker housing structure passes inspection and you have met the other requirements of this chapter, we will attach the insignia.

(2) After our final inspection, we will send a notice to the local enforcement agency (NLEA) indicating whether further inspection is necessary. (See WAC 296-150T-0550.)

NEW SECTION

**WAC 296-150T-0530 Am I charged if I request an inspection but I am not prepared?** (1) If you ask us to inspect a factory-built temporary worker housing structure within Washington state but you are not prepared when we arrive, you must pay the minimum inspection fee and travel. (See WAC 296-150T-3000.)

(2) If you ask us to inspect a factory-built home, commercial structure, or component outside Washington state but you are not prepared when we arrive, you must pay the minimum inspection fee, travel, and per diem expenses. (See WAC 296-150T-3000.)

NEW SECTION

**WAC 296-150T-0540 Who inspects factory-built temporary worker housing structures for installation at the temporary worker housing site?** (1) The department of health must approve the installation.

(2) The department of health may also request a set of design plans and specifications for the unit from you.

(3) After the unit is manufactured but before occupancy, we must inspect a factory-built temporary worker housing structure if it is damaged in transit to the temporary worker housing site or during on-site installation. This is considered a repair inspection.

**Note:** The department of health may not open the concealed construction of a factory-built temporary worker housing structure to inspect if our insignia is attached.

NEW SECTION

**WAC 296-150T-0550 Do you notify the department of health after your final inspection of factory-built structures at a manufacturing location?** After we perform a final inspection of a factory-built temporary worker housing structure we will send a notice to the department of health that:

(1) Specifies what connections, standards, and incomplete items the department of health must check when the unit is installed; and/or

PROPOSED

(2) Estimates the expected time of arrival of the factory-built temporary worker housing structure to the site.

### USED FACTORY-BUILT STRUCTURES WITHOUT AN INSIGNIA

#### NEW SECTION

**WAC 296-150T-0580 Must I obtain an insignia for used factory-built structures?** All used factory-built housing and commercial structures that are to be for temporary worker housing must have an insignia of approval from us prior to being installed as temporary worker housing.

#### NEW SECTION

**WAC 296-150T-0590 How do I obtain insignia for used factory-built structures?** We consider used factory-built housing and commercial structures as new structures for purposes of use as temporary worker housing and an insignia approval as temporary worker housing must be obtained. To obtain insignia, you must:

- (1) Have the design plan approved by us (see WAC 296-150T-0300 through 296-150T-0480);
- (2) Purchase insignia (see WAC 296-150T-0200 through 296-150T-0230); and
- (3) Pass a unit inspection (see WAC 296-150T-0500 through 296-150T-0550).

Note: You will be required to open up as much of the construction of the unit as is necessary for inspection to show compliance with your approved design plan.

### CODES FOR FACTORY-BUILT TEMPORARY WORKER HOUSING

#### NEW SECTION

**WAC 296-150T-0600 What manufacturing codes apply to factory-built temporary worker housing?** (1) All design, construction, installations, and alterations of factory-built temporary worker housing structures must conform with the following codes and the requirements of this chapter:

- (a) The temporary worker housing construction code, chapter 246-359 WAC;
- (b) The National Electrical Code as referenced in chapter 296-46 WAC.

(2) All construction methods and installations must comply with chapter 246-359 WAC and use accepted engineering practices when used, provide minimum health and safety to the occupants of factory-built temporary worker housing structures and the public, and demonstrate journey person quality of work of the various trades.

(3) Requirements for any size, weight, or quality of material modified by the terms "minimum," "not less than," "at least," and similar expressions are minimum standards. The manufacturer may exceed these standards, provided the deviation does not result in inferior installation or defeat the purpose and intent of the standard.

Note: The codes, RCW's, and WAC's referenced in this rule are available for reference at the Washington State Library, the Washington State Law Library, and may be available at your local library.

### MANUFACTURER'S NOTICE TO THE DEPARTMENT

#### NEW SECTION

**WAC 296-150T-0700 Must manufacturers of factory-built temporary worker housing structures notify you if they manufacture at more than one location?** (1) If you are manufacturing factory-built temporary worker housing structures at more than one location, approved design plans must be available at each manufacturing location.

(2) You are required to send us the following information for each manufacturing location:

- (a) Company name;
  - (b) Mailing and physical address; and
  - (c) Phone and FAX number if available.
- (3) You must update this information as it changes.

#### NEW SECTION

**WAC 296-150T-0710 Must manufacturers of factory-built temporary worker housing structures notify you of a change in business name or address?** (1) If you are moving, notify us in writing prior to a change of business name or address.

(2) Your notice must include the change of name and address.

#### NEW SECTION

**WAC 296-150T-0720 Must manufacturers of factory-built temporary worker housing structures notify you of a change in business ownership?** (1) When a manufacturer changes ownership, the new owner must notify us in writing immediately.

(2) A new owner may continue to manufacture the units according to a prior approved design plan if the prior owner releases the design plan.

### FACTORY-BUILT TEMPORARY WORKER HOUSING FEES

NEW SECTION

**WAC 296-150T-3000 Factory-built temporary worker housing fees.**

<b>WAC 296-150T-3000 TEMPORARY WORKER HOUSING FEES</b>	
<b>INITIAL FILING FEE</b>	<b>\$39.25</b>
<b>DESIGN PLAN FEES:</b>	
INITIAL ONE YEAR DESIGN	\$112.75
RENEWAL FEE	\$39.25
RESUBMIT FEE	\$56.25
ADDENDUM (Approval expires on same date as original plan)	\$56.25
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour *	\$66.50
<b>APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS</b>	<b>\$10.75</b>
<b>DEPARTMENT INSPECTION FEES</b>	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$56.25
TRAVEL (Per hour)*	\$56.25
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (Per hour*)	\$56.25
TRAVEL (Per hour*)	\$56.25
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
FIRST SECTION	\$158.00
EACH ADDITIONAL SECTION	\$15.50
REISSUED-LOST/DAMAGED	\$39.25
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$56.25
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)	\$23.25
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free per year)	\$10.75
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in ½ hour increments	
** Per state guidelines	
*** Actual charges incurred	

**PROPOSED**

**WSR 99-08-132**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

(Board of Registration for  
 Professional Engineers and Land Surveyors)  
 [Filed April 7, 1999, 11:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-02-070.

Title of Rule: WAC 196-26-020 Engineer and land surveyor fees and charges.

Purpose: To amend WAC 196-26-020 to reflect: A reduction in fee to take the professional land surveyor exam from \$100 to \$40; deleting the western states structural examination; adding the NCEES Structural I and II exams and the professional land surveyor exam and the costs of those exams; an increase in the charges for grading the professional engineer, structural engineer I and II, fundamentals of engineering, and the professional land surveyor examinations; rewording and rearranging the text of the rule to improve clarity and readability.

Other Identifying Information: There were no fee increases by the Department of Licensing in this rule amendment. One fee was reduced. The increased charges shown on the schedule reflect the increase in examination charges by the board's examination vendor, the National Council of Examiners for Engineering and Land Surveying.

Statutory Authority for Adoption: RCW 43.24.086, 18.43.050, [18.43.]060, [18.43.]080, [18.43.]100, [18.43.]130, [18.43.]160.

Statute Being Implemented: Chapter 18.43 RCW and RCW 43.24.086.

Summary: WAC 196-26-020 is being amended to reflect a decrease in fees for the land surveyor examination, to implement the increases in the exam charges by NCEES, to add the three new national exams (structural I, structural II and land surveyor) approved by the board of registration, and to improve clarity and readability of the rule.

Reasons Supporting Proposal: The board must implement increases in examination charges as they occur from NCEES. Long range increases are reflected in this rule amendment. Adding the national structure and land surveyor exams are part of a long range plan for examinations being implemented by the board. Improved wording clarity is required under EO 97-02.

Name of Agency Personnel Responsible for Drafting: Rick Notestine, 405 Black Lake Boulevard, Olympia, WA, 586-7298; Implementation and Enforcement: George Twiss, 405 Black Lake Boulevard, Olympia, WA, 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule establishes the fees and charges that must be paid to make application for, take examinations and become licensed as professional land surveyors and professional engineers. The effect is that it will cost more to take

those examinations where it is shown that there is an increase in the charge for that exam.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes to this rule do not affect small business. The fees and charges are typically paid by the applicant wishing to become licensed as an engineer or land surveyor.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Department of Licensing, BPD Conference Room No. 1, Business and Professions Division, 405 Black Lake Boulevard, Olympia, WA 98502, on May 13, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Kim Chipman by May 10, 1999, TDD (360) 586-2788, or (360) 753-6966.

Submit Written Comments to: Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: May 13, 1999.

April 7, 1999

George A. Twiss

Executive Director

AMENDATORY SECTION (Amending WSR 98-12-046, filed 5/29/98, effective 7/1/98)

**WAC 196-26-020 Engineer and land surveyor fees and charges.** The following fees and charges shall be assessed by the business and professions division of the department of licensing: Examination and/or vendor charges shall be collected from examination candidates for examinations ordered from the national vendor on their behalf. The charges ~~((recovered))~~ collected by the department shall be refunded to the vendor for the costs of purchasing and grading exams. Charges for exam rescores of national examinations is based upon the number of items rescored and the charge assessed by the examination vendor. The examination vendor for national examinations is the National Council of Examiners for Engineering and Surveying (NCEES).

Title of Fee and/or Charge	Amount (\$)
<del>((Engineers:))</del> <u>PROFESSIONAL ENGINEERS:</u>	
Professional engineer application, examination, and wall certificate (\$75 exam charge; \$40 agency fee. <b>Expires April 1, 2000</b> )	<del>(((\$))115.00</del>
<u>Professional engineer application, examination, and wall certificate (\$100 exam charge; \$40 agency fee. <b>Effective April 1, 2000</b>)</u>	140.00
Professional engineer examination retake (\$75 exam charge; \$30 agency fee. <b>Expires April 1, 2000</b> )	105.00

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Title of Fee and/or Charge	Amount (\$)	Title of Fee and/or Charge	Amount (\$)
<u>Professional engineer examination retake (\$100 exam charge; \$30 agency fee. <b>Effective April 1, 2000</b>)</u>	130.00	Structural engineer (( <del>addendum</del> )) III-WA (( <del>retake</del> )) examination retake (\$0.00 exam charge; \$50 agency fee)	50.00
<u>Professional engineer rescore, per national exam question rescored, payable to the examination vendor.</u>	50.00	Structural engineer III-WA exam rescore	50.00
<u>Professional engineer exam rescore per locally prepared examination</u>	50.00	Comity licensure for professional engineer	100.00
<u>Structural engineer application, examination, and certificate (Western states)</u>	175.00	(( <del>Replacement certificate</del> )	25.00)
<u>Structural engineer application and examination (NCEES Structural I) (\$75 exam charge; \$30 agency fee. <b>Expires April 1, 2000</b>)</u>	105.00	(( <del>Exam (locally prepared) rescore</del> )	50.00)
<u>Structural engineer application and examination (NCEES Structural I) (\$100 exam charge; \$30 agency fee. <b>Effective April 1, 2000</b>)</u>	130.00	(( <del>Renewal (per year)</del> )	50.00)
<u>Structural engineer application, examination and wall certificate (NCEES Structural II) (\$(<del>150</del>) 300 exam charge; \$55 agency fee. <b>Expires April 1, 2000</b>)</u>	(( <del>205.00</del> ) 355.00	(( <del>Late renewal penalty</del> )	50.00)
<u>Structural engineer application, examination and wall certificate (NCEES Structural II) (\$400 exam charge; \$55 agency fee. <b>Effective April 1, 2000</b>)</u>	455.00	(( <del>Duplicate license</del> )	15.00)
<u>Structural engineer examination retake: ((<del>1</del>))NCEES Structural I((<del>1</del>)) exam retake (\$75 exam charge; \$30 agency fee. <b>Expires April 1, 2000</b>)</u>	105.00	Professional engineer (( <del>F</del> )) temporary permit	100.00
<u>NCEES Structural I exam retake (\$100 exam charge; \$30 agency fee. <b>Effective April 1, 2000</b>)</u>	130.00	(( <del>Engineer in Training</del> )) ENGINEER IN TRAINING	
<u>(((<del>1</del>))NCEES Structural II(((<del>1</del>))) exam retake (\$(<del>150</del>) 300 exam charge; \$30 agency fee. <b>Expires April 1, 2000</b>)</u>	180.00 330.00	Application, NCEES examination, and wall certificate (\$30 exam charge; \$20 agency fee. <b>Expires April 1, 2000</b> )	50.00
<u>NCEES Structural II exam retake (\$400 exam charge; \$30 agency fee. <b>Effective April 1, 2000</b>)</u>	430.00	Application, NCEES examination, and wall certificate (\$50 exam charge; \$20 agency fee. <b>Effective April 1, 2000</b> )	70.00
<u>NCEES structural examination rescore, per examination question rescored, payable to the examination vendor</u>	50.00	Examination retake (\$30 exam charge; \$20 agency fee. <b>Expires April 1, 2000</b> )	50.00
<u>Structural engineer ((<del>addendum</del>)) III-WA examination ((<del>taken after Structural I &amp; II examinations</del>)) (\$0.00 exam charge; \$50 agency fee)</u>	50.00	Examination retake (\$50 exam charge; \$20 agency fee. <b>Effective April 1, 2000</b> )	70.00
		(( <del>Replacement certificate</del> )	25.00)
		(( <del>Land Surveyor</del> )) PROFESSIONAL LAND SURVEYOR:	
		Application, examination, and wall certificate ( <b>Expires October 1, 1999</b> )	100.00
		Application, NCEES examination, and wall certificate (\$100 exam charge; \$40 agency fee. <b>Effective October 1, 1999; Expires April 1, 2000</b> )	140.00
		Application, NCEES examination, and wall certificate (\$110 exam charge; \$40 agency fee. <b>Effective April 1, 2000</b> )	150.00
		(( <del>PPLS</del> )) Professional land surveyor exam(( <del>ination</del> )) retake ( <b>Expires October 1, 1999</b> )	60.00
		Professional land surveyor NCEES exam retake (\$100 exam charge; \$30 agency fee. <b>Effective October 1, 1999</b> )	130.00

PROPOSED

Title of Fee and/or Charge	Amount (\$)
<u>Professional land surveyor NCEES exam retake (\$110 exam charge; \$30 agency fee. <b>Effective April 1, 2000</b>)</u>	140.00
Comity licensure for professional land surveyor (application, exam and wall certificate)	100.00
Comity licensure exam retake	60.00
<del>((PPLS)) Professional land surveyor exam rescore</del>	50.00
<u>Professional land surveyor exam rescore; <b>Effective with the April, 2000 exam administration, this examination will be all multiple-choice questions and will not be rescored.</b></u>	
<del>((Renewal (per year)</del>	<del>50.00))</del>
<del>((Late renewal penalty</del>	<del>50.00))</del>
<del>((Replacement certificate</del>	<del>25.00))</del>
<del>((Duplicate license</del>	<del>15.00))</del>
<del>((Land surveyor in training (effective April 1, 1996))) LAND SURVEYOR IN TRAINING:</del>	
Application, NCEES examination, and wall certificate (\$ 65 exam charge; \$10 agency fee)	75.00
NCEES <del>((E))</del> examination retake (\$ 65 exam charge; \$10 agency fee)	75.00
<del>((Replacement certificate</del>	<del>25.00))</del>
<del>((Engineer corporation, joint stock association and limited liability company:)) ENGI-NEER CORPORATION, JOINT STOCK ASSOCIATION AND LIMITED LIABILITY COMPANY:</del>	
Certificate of authorization ( <u>application and wall certificate</u> )	150.00
Renewal (per year)	100.00
<del>((Duplicate license</del>	<del>15.00))</del>
<del>((Replacement certificate</del>	<del>25.00))</del>
<u>GENERAL FEES:</u>	
<u>License renewal (for two year cycle)</u>	<u>100.00</u>
<u>Late renewal penalty</u>	<u>50.00</u>
<u>Replacement wall certificate</u>	<u>25.00</u>
<u>Duplicate license</u>	<u>15.00</u>

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.

PROPOSED

**WSR 99-08-022**  
**EXPEDITED ADOPTION**  
**DEPARTMENT OF REVENUE**

[Filed March 29, 1999, 3:50 p.m.]

Title of Rule: Amendatory section WAC 458-20-195 Taxes, deductibility.

Purpose: The purpose of the rule is to explain the circumstances under which taxes may be deducted or excluded from the measure of tax under the business and occupation (B&O) tax, retail sales tax, and public utility tax.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.04.4285, 82.04.070, 82.04.080, 82.08.010, and 82.16.010 as they apply to whether taxes are included or not included in the measure of tax.

Summary: This rule explains the circumstances under which state, local, or federal taxes may be deducted or excluded when calculating the B&O tax, retail sales tax, and public utility tax. The rule also provides nonexclusive lists of specific taxes that are deductible, and those that are not deductible.

Reasons Supporting Proposal: The rule is being revised to incorporate the amendment of RCW 82.04.4285 by chapter 176, Laws of 1998.

Name of Agency Personnel Responsible for Drafting: D. Douglas Titus, 711 Capitol Way South, #303, Olympia, WA, (360) 664-0687; Implementation: Claire Hesselholt, 711 Capitol Way South, #303, Olympia, WA, (360) 753-3446; and Enforcement: Russell W. Brubaker, 711 Capitol Way South, #303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule explains when certain taxes may be deducted or excluded when determining the measure of state retail sales, B&O, or public utility taxes. The goal of the rule is to distinguish between the specific deduction authorized for motor vehicle taxes authorized by RCW 82.04.4285 and the exclusion from the measure of tax for taxes imposed on a buyer but collected by the seller as agent of a governmental entity. The anticipated effect of this rule is that the taxpayer will be able to easily and accurately identify the circumstances under which a tax is not included in the measure of tax.

Proposal Changes the Following Existing Rules: This is a revision to an existing rule. WAC 458-20-195 identifies certain federal and state taxes which are or are not deductible in determining the measure of state tax. In addition, the proposed draft reflects the amendment to RCW 82.04.4285 providing for the deduction of motor fuel taxes from the measure of the B&O tax by chapter 176, Laws of 1998. Some of the listed taxes have been repealed since the rule was last adopted. It also updates the lists of federal, state, and local taxes which may or may not be deductible or excludable. The revision organizes the rule to more effectively distinguish between the specific deduction authorized by RCW 82.04.4285 for motor vehicle taxes and the general exclusion

from the measure of tax for taxes imposed on a buyer but collected by the seller as agent of a governmental entity.

**NOTICE**

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO D. Douglas Titus, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail dougt@dor.wa.gov, AND RECEIVED BY June 5, 1999.

March 25, 1999

Claire Hesselholt, Rules Manager  
 Legislation and Policy Division

AMENDATORY SECTION (Amending Order ET 83-1, filed 3/30/83)

**WAC 458-20-195 Taxes, deductibility. ~~((A))~~ (1) Introduction. This rule explains the circumstances under which taxes may be deducted from the gross amount reported as the measure of tax under the business and occupation tax, retail sales tax, and public utility tax. It also lists deductible and nondeductible taxes.**

**(2) Deductibility ~~((generally))~~ of taxes.** In computing tax liability, the amount of certain taxes may be excluded or deducted from the gross amount reported as the measure of tax under the business and occupation (BO) tax, the retail sales tax, and the public utility tax. ~~((Such))~~ These taxes may be deducted provided they ~~((+))~~ have been included in the gross amount reported under the classification with respect to which the deduction is sought, and ~~((2))~~ have not been otherwise deducted through inclusion in the amount of an allowable deduction taken under such classification for another reason, ~~((i.e.))~~ e.g., interstate commerce ~~((, etc))~~.

The amount of taxes which are not allowable as deductions or exclusions must in every case be included in the gross amount reported. License and regulatory fees are not deductible. Questions regarding the deductibility or exclusion of a tax that is not specifically identified in this rule should be submitted to the department of revenue for determination.

~~((B))~~ **(3) Motor vehicle fuel taxes.** ~~((So much of the sale price of motor vehicle fuel as constitutes the amount of tax imposed by the state of Washington or the United States government upon the sale thereof may be deducted by every seller thereof from the gross proceeds of sales reported under the business and occupation tax.~~

~~((C) Other taxes))~~ RCW 82.04.4285 provides a B&O tax deduction for certain state and federal motor vehicle fuel taxes when the taxes are included in the sales price. These taxes include:

State motor vehicle fuel tax ..... chapter 82.36 RCW;  
State special fuel tax ..... chapter 82.38 RCW;  
Federal tax on diesel and special motor fuels ..... 26 U.S.C.A. Sec. 4041;  
Federal tax on inland waterway commercial fuel ..... 26 U.S.C.A. Sec. 4042;  
Federal tax on gasoline and diesel fuel ..... 26 U.S.C.A. Sec. 4081.

— Tax on transportation of persons ..... 26 U.S.C.A. Sec. 4261;  
 — Tax on transportation of property ..... 26 U.S.C.A. Sec. 4271;  
 STATE—  
 — Leasehold excise tax collected from lessees, chapter 82.29A RCW;  
 — Motor vehicle fuel tax, chapter 82.36 RCW;  
 — Retail sales tax collected from buyers, chapter 82.08 RCW;  
 — Use tax collected from buyers, chapter 82.12 RCW;  
 MUNICIPAL—  
 — City admission tax (imposed by city ordinance pursuant to RCW 35.21-280);  
 — County admissions and recreations tax (imposed by county ordinance pursuant to chapter 36.38 RCW);

**(4) Taxes collected as an agent of the state or the federal government.** The amount of taxes collected by a taxpayer, as agent for the state of Washington or its political subdivisions, or for the federal government, may be deducted from the gross amount reported. ~~((Such))~~ These taxes are deductible under each tax classification of the Revenue Act under which the gross amount from such sales or services must be reported.

~~Specific taxes—Nondeductible. No deduction is allowed with respect to the following licenses and taxes, among others:~~

This deduction applies only where the amount of such taxes is received by the taxpayer as collecting agent and is paid by the agent directly to the state, its political subdivisions, or to the federal government. When the taxpayer is the person upon whom a tax is primarily imposed, no deduction or exclusion is allowed, since in such case the tax is a part of the cost of doing business. The mere fact that the amount of tax is added by the taxpayer as a separate item to the price of goods ~~((he sells))~~ sold, or to the charge for services ~~((he renders))~~ rendered, does not in itself, make such taxpayer a collecting agent for the purpose of this deduction. Examples of deductible taxes include:

FEDERAL—  
 — A.A.A. compensating tax ..... 7 U.S.C.A. Sec. 615(e);  
 — A.A.A. processing tax ..... 7 U.S.C.A. Sec. 609;  
 — Employment taxes ..... 26 U.S.C.A. chapter 21-25;  
 — Estate taxes ..... 26 U.S.C.A. chapter 11;  
 — Gift taxes ..... 26 U.S.C.A. chapter 12;  
 — Income taxes ..... 26 U.S.C.A. Subtitle A;  
 — Liquor taxes ..... 26 U.S.C.A. chapter 51;  
 — Manufacturers' and importers of sugar tax ..... 26 U.S.C.A. Sec. 4501;  
 — Manufacturers excise and import taxes ..... 26 U.S.C.A. chapter 32;  
     Automobiles, etc. ..... 26 U.S.C.A. Sec. 4061;  
     Firearms, shells and cartridges ..... 26 U.S.C.A. Sec. 4181;  
 — Taxes imposed by Revenue Act of 1954 ..... 26 U.S.C.A. chapter 32;  
     Sporting goods ..... 26 U.S.C.A. Sec. 4161;  
 — Lubricating oils ..... 26 U.S.C.A. Sec. 4091;  
 — Tires and inner tubes ..... 26 U.S.C.A. Sec. 4071;  
 — Narcotics tax ..... 26 U.S.C.A. chapter 39;  
 — Occupation taxes:  
     Importers, manufacturers and dealers in firearms ..... 26 U.S.C.A. Sec. 5801;  
     Insurance policies issued by foreign insurers ..... 26 U.S.C.A. Sec. 4371;  
 — Sale and transfer of firearms tax ..... 26 U.S.C.A. Sec. 5811;  
 — Tobacco excise taxes ..... 26 U.S.C.A. chapter 52;  
 — Wagering taxes ..... 26 U.S.C.A. chapter 35;

FEDERAL—

Tax on telegraph, telephone, radio and cable messages . . . . 26 U.S.C.A. Sec. 4251;  
Tax on transportation of persons ..... 26 U.S.C.A. Sec. 4261;  
Tax on transportation of property ..... 26 U.S.C.A. Sec. 4271;

STATE—

Leasehold excise tax collected from lessees ..... chapter 82.29A RCW;  
Retail sales tax collected from buyers ..... chapter 82.08 RCW;  
Use tax collected from buyers ..... chapter 82.12 RCW.

STATE AND MUNICIPAL—

— Ad valorem property taxes ..... Title 84 RCW;  
 — Alcoholic beverages licenses and stamp taxes ..... chapter 66.24 RCW;  
     (Breweries, distillers, distributors and wineries)  
 — Boxing and wrestling licenses and tax ..... chapter 67.08 RCW;  
 — Business and occupation tax ..... chapter 82.04 RCW;  
 — Cigarette tax ..... chapter 82.24 RCW;  
 — Conveyance tax ..... chapter 82.20 RCW;  
 — Gift and inheritance taxes ..... Title 83 RCW;  
 — Local license fees  
 — Parimutuel tax ..... RCW 67.16-100;  
 — Public utility tax ..... chapter 82.16 RCW;  
 — Real estate excise tax ..... chapter 28A.45 RCW;  
 — Regulatory fees  
 — State license fees

**(5) Specific taxes~~((;))~~ which are not deductible.** ~~((The deductions under paragraphs B and C above apply to the following excise taxes among others))~~ Examples of specific taxes which may be neither deducted nor excluded from the measure of the tax include the following:

~~((FEDERAL—~~

— Tax on gasoline ..... 26 U.S.C.A. Sec. 4081;  
 — Tax on telegraph, telephone, radio and cable messages ..... 26 U.S.C.A. Sec. 4251;

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<u>Tobacco products tax</u> .....	<u>chapter 82.26 RCW</u>
<u>Use tax when not collected as agent for state</u> .....	<u>chapter 82.12 RCW</u>

The question of the right to exclude or deduct the amount of any tax other than those authorized herein should be submitted to the department of revenue for determination.)

FEDERAL—

<u>A.A.A. compensating tax</u> .....	<u>7 U.S.C.A. Sec. 615(e)</u>
<u>A.A.A. processing tax</u> .....	<u>7 U.S.C.A. Sec. 609</u>
<u>Aviation fuel</u> .....	<u>26 U.S.C.A. Sec. 4161</u>
<u>Employment taxes</u> .....	<u>26 U.S.C.A. chapter 21-25</u>
<u>Estate taxes</u> .....	<u>6 U.S.C.A. chapter 11</u>
<u>Firearms, shells and cartridges</u> .....	<u>26 U.S.C.A. Sec. 4181</u>
<u>Gift taxes</u> .....	<u>26 U.S.C.A. chapter 12</u>
<u>Importers, manufacturers and dealers in firearms</u> .....	<u>6 U.S.C.A. Sec. 5801</u>
<u>Income taxes</u> .....	<u>26 U.S.C.A. Subtitle A</u>
<u>Insurance policies issued by foreign insurers</u> .....	<u>26 U.S.C.A. Sec. 4371</u>
<u>Liquor taxes</u> .....	<u>6 U.S.C.A. chapter 51</u>
<u>Sale and transfer of firearms tax</u> .....	<u>26 U.S.C.A. Sec. 5811</u>
<u>Sporting goods</u> .....	<u>26 U.S.C.A. Sec. 4161</u>
<u>Superfund tax</u> .....	<u>26 U.S.C.A. Sec. 4611</u>
<u>Tires</u> .....	<u>26 U.S.C.A. Sec. 4071</u>
<u>Tobacco excise taxes</u> .....	<u>26 U.S.C.A. chapter 52</u>
<u>Wagering taxes</u> .....	<u>26 U.S.C.A. chapter 35</u>
 <u>STATE AND MUNICIPAL—</u>	
<u>Ad valorem property taxes</u> .....	<u>Title 84 RCW</u>
<u>Alcoholic beverages licenses and stamp taxes (Breweries, distillers, distributors and wineries)</u> .....	<u>chapter 66.24 RCW</u>

<u>Boxing, sparring and wrestling tax</u> .....	<u>chapter 67.08 RCW</u>
<u>Business and occupation tax</u> .....	<u>chapter 82.04 RCW</u>
<u>Cigarette tax</u> .....	<u>chapter 82.24 RCW</u>
<u>Gift and inheritance taxes</u> .....	<u>Title 83 RCW</u>
<u>Insurance premiums tax</u> .....	<u>chapter 48.14 RCW</u>
<u>Municipal utility taxes</u> .....	<u>chapter 54.18 RCW</u>
<u>Parimutuel tax</u> .....	<u>RCW 67.16.100</u>
<u>Public utility tax</u> .....	<u>chapter 82.16 RCW</u>
<u>Real estate excise tax</u> .....	<u>chapter 82.45 RCW</u>
<u>Tobacco products tax</u> .....	<u>chapter 82.26 RCW</u>
<u>Use tax when not collected as agent for state</u> .....	<u>chapter 82.12 RCW</u>

**WSR 99-08-023**  
**EXPEDITED ADOPTION**  
**DEPARTMENT OF REVENUE**  
 [Filed March 29, 1999, 3:52 p.m.]

Title of Rule: Amendatory section WAC 458-20-207 Legal, arbitration, and mediation services.

Purpose: To explain the taxability of amounts received for legal, arbitration, and mediation services.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.04.290.

Summary: This rule amendment notes that legal, arbitration, and mediation services are subject to the service and other activities tax classification and tax rate after July 1, 1998. The amendment also deletes some language and examples specific to the previous selected business services tax classification.

Reasons Supporting Proposal: To incorporate the change in law repealing selected business services classification. Sections 2 and 5, chapter 7, Laws of 1997 (EHB 1821).

Name of Agency Personnel Responsible for Drafting: Edward Ratcliffe, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-3505; Implementation: Claire Hesselholt, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 753-3446; and Enforcement: Russell Brubaker, 711 Capitol Way South, Suite #303, Olympia, WA (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule explains the taxability of amounts received for legal, arbitration, and mediation services. This rule amendment updated the rule for the repeal of the selected business tax rate by sections 2 and 5, chapter 7, Laws of 1997 (EHB 1821). The selected business services tax rate was the specific business and occupation (B&O) tax rate for legal, arbitration, and mediation services prior to July 1, 1998. The amended rule notes that legal, arbitration, and mediation ser-

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services are subject to the service and other activities B&O tax rate and classification on and after July 1, 1998. The amendment also deletes some language and examples specific to the previous selected business services tax rate.

Proposal Changes the Following Existing Rules: This proposed rule amends the current version of WAC 458-20-207. The amendments reflect the repeal of the selected business services classification effective July 1, 1998. The amendment informs the taxpayer that after July 1, 1998, the service and other business classification should be used for reporting legal, mediation, and arbitration services.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Ed Ratcliffe, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail [edr@dor.wa.gov](mailto:edr@dor.wa.gov), AND RECEIVED BY June 5, 1999.

March 25, 1999

Claire Hesselholt, Rules Manager  
Legislation and Policy Division

EXPEDITED ADOPTION

AMENDATORY SECTION (Amending WSR 95-15-013, filed 7/7/95, effective 8/7/95)

**WAC 458-20-207 Legal, arbitration, and mediation services.** (1) **Introduction.** This ~~((section))~~ rule explains the taxability of amounts received for legal, arbitration, and mediation services.

(2) **Definitions.**

(a) "Arbitration" means the process by which the parties to a dispute submit to the hearing and judgment of an impartial person or group appointed by mutual consent or statute.

(b) "Arbitration services" means services relating to the resolution of a dispute submitted to arbitration.

(c) "Attorney" means an active member of a state Bar Association engaged in the practice of law. The term also includes a professional service corporation incorporated under chapter 18.100 RCW, a professional limited liability company formed under chapter 18.190 RCW, or a partnership, provided the ownership of these business entities are properly restricted to attorneys and organized primarily for engaging in the practice of law.

(d) ("~~Collective investment fund~~" means:

(i) ~~A mutual fund or other regulated investment company as defined in Internal Revenue Code section 851(a);~~

(ii) ~~An "investment company" as that term is used in section 3(a) of the Investment Company Act of 1940 as well as an entity that would be an investment company under section 3(a) of the Investment Company Act of 1940 except for the~~

~~section 3 (e)(1) or (11) exemptions, or except that it is a foreign country;~~

~~(iii) An "employee benefit plan," which includes any plan, trust, commingled employee benefit trusts, or custodial arrangement that is subject to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in Internal Revenue Code sections 125, 401, 403, 408, 457, or 501 (e)(9) and (17) through (23), or similar plan maintained by state or local governments, or plans, trusts, or custodial arrangements established to self-insure benefits required by federal, state, or local law;~~

~~(iv) A fund maintained by a tax exempt organization as defined in Internal Revenue Code sections 501 (e)(3) or 509(a) for operating, quasi-endowment, or endowment purposes; or~~

~~(v) Funds that are established for the benefit of such tax exempt organization such as charitable remainder trusts, charitable lead trusts, charitable annuity trusts, or other similar trusts.~~

~~(e))~~ "Legal services" means services relating to or concerned with the law. Such services include, but are not limited to, representation by an attorney (or other person, when permitted) in an administrative or legal proceeding, legal drafting, paralegal services, legal research services, arbitration, mediation, and court reporting services.

~~((f))~~ (e) "Mediation" means the process by which the parties to a dispute or negotiations agree to have an intermediary hear their differences and/or positions and facilitate and/or make suggestions concerning an agreement and/or the resolution of their dispute.

(3) **Business and occupation tax.** ~~((Every person whose business is providing legal, arbitration or mediation services, is taxable under the selected business services classification upon the gross income of the business, unless such services are provided to a collective investment fund or related to the identification, investigation, or cleanup arising out of the release or threatened release of hazardous substances when done to determine if a release of hazardous substances has occurred or is likely to occur.))~~ Beginning July 1, 1998, gross income from legal arbitration or mediation services is subject to the service and other activities classification. (See section 2, chapter 7, Laws of 1997.) Previously, legal, arbitration, and mediation services were taxable under the selected business service tax classification.

(a) **Gross income.** The gross income of the business generally includes the amount of compensation paid for legal, arbitration, or mediation services and amounts attributable to providing those services (i.e., charges for tangible personal property directly used or consumed in supplying legal, arbitration, or mediation services). Reimbursed general overhead costs are generally ~~((includable))~~ included in the gross income of the business even though indirectly related to litigation. Any reimbursed costs (not directly related to litigation) for which the attorney assumes personal liability for payment are also ~~((includable))~~ included in gross income.

(b) **Overhead costs.** Amounts received (or, for taxpayers reporting under the accrual accounting method, accrued) to compensate for overhead costs are fully subject to tax. Such overhead costs are taxable even though they may be sepa-

rately stated on the billings or expressly denominated as costs of the client. Examples of such overhead costs include, but are not limited to:

- (i) Photocopy or other reproduction charges, except charges paid to the provider, or the agent of the provider, for the official or original copy of a record, or other document, provided for litigation;
- (ii) Long distance telephone tolls;
- (iii) Secretarial expenses;
- (iv) Office rent;
- (v) Office supplies;
- (vi) Travel, meals and lodging;
- (vii) Utilities, including facsimile telephone charges; and
- (viii) Postage, unless paid for service of legal papers as a direct cost of litigation.

(c) Excluded amounts. The following amounts are excluded from gross income if complete and accurate records are maintained of these amounts:

- (i) Client trust accounts. The gross income of the business does not include amounts held in trust for the client.
- (ii) Litigation expenses. Attorneys are bound by the rules of professional conduct. RPC 1.8(e) prohibits an attorney from financing the expenses of contemplated or pending litigation unless the client remains ultimately liable for these expenses. This means that an attorney normally acts solely as the agent for the client when financing litigation. Accordingly, amounts received from a client for the direct expenses of litigation do not constitute gross income to the attorney. Amounts received (or, for taxpayers reporting under the accrual accounting method, accrued) to compensate for the following direct litigation expenses are not included in gross income:
  - (A) Filing fees and court costs;
  - (B) Process server and messenger fees;
  - (C) Court reporter fees;
  - (D) Expert witness fees; and
  - (E) Costs of associate counsel.

A cash basis taxpayer cannot exclude or deduct amounts of unreimbursed litigation expenses. For example, an attorney advances all the litigation expenses for a contingency fee case. The case is ultimately resolved against the attorney's client and are not repaid because of the client's bankruptcy. The attorney cannot then deduct these expenses as a bad debt or otherwise exclude them against other income earned by the attorney.

(iii) Expense advances and reimbursements. Sometimes in the regular course of business an attorney may receive amounts from a client for expenses of third-party providers or other costs incurred in connection with a legal matter other than litigation. Such amounts are excluded from the business and occupation tax only if the attorney has no obligation for payment other than as agent for the client or equivalent commitment for their payment (see WAC 458-20-111, Advances and reimbursements). Generally, such amounts will be for third-party service providers (for example, accountants, appraisers, architects, artists, drafters, economists, engineers, investigators, physicians, etc.). However, these costs could also include client expenses for registration, licensing or maintenance fees, title and other insurance premiums, and escrow fees paid to third-party escrow agents. These costs are

excludable only when the attorney does not have any personal liability to the third-party provider for their payment.

(iv) Records requirement. In order to support the exclusion from taxable gross income of any of the foregoing expenses, the attorney must maintain records which indicate the amount of the payment received from the client, the name of the client, the name of the person to whom the attorney has made payment, and a description of the item for which payment was made. If the foregoing expenses are incurred outside the context of litigation or contemplated litigation, the attorney must maintain records which indicate the amount of the payment received, the name of the client, and the person to whom the attorney makes payment. In addition, the attorney must provide the person to whom payment is made with written notice that:

(A) Payment is made, or will be made on behalf of a named client; and

(B) The attorney assumes no liability for payment, other than as agent for the named client.

(d) ~~(Excluded services. The following legal services are excluded from the selected business services tax classification:~~

~~(i) Hazardous waste. Legal, arbitration, or mediation services related to the identification, investigation, or cleanup arising out of the release or threatened release of hazardous substances when the services are performed to determine if a release of hazardous substances has occurred or is likely to occur are not taxable as selected business services. Income from these excluded services are taxable under the service and other business activities classification (see WAC 458-20-224). For example, a legal opinion specifically determining whether and to what extent a client is subject to federal and state law as it concerns hazardous waste identification, investigation, and cleanup would not be taxable as a selected business service.~~

~~Also, arbitration or mediation services provided to resolve or negotiate settlement in a case determining the liability for or the release of hazardous substances are examples of excluded services which would not be taxable as selected business services.~~

~~(ii) Collective investment funds. Income derived from legal, arbitration, or mediation services provided to, performed for, on behalf of, or for the benefit of a collective investment fund is excluded from gross income under the selected business services classification. Income received from these clients is taxable under the service and other business activities classification (see WAC 458-20-224).~~

~~(e)) Multiple business activities. Attorneys and other persons engaged in providing legal, arbitration, and mediation services sometimes engage in other business activities which are classified under a different tax classification (i.e., escrow services (~~acting as the trustee for a trust, acting as the personal representative of an estate, etc.~~)). In some circumstances, income from these other business activities will be subject to tax under a different tax classification (~~other than selected business services~~)).~~

(i) Independent business activities. If the other activities engaged in by the person are independent from the legal, arbitration, or mediation services provided to the client, these activities are taxed based on the tax classification that applies

to each of those other activities, provided these other activities are separately accounted for and/or itemized as a separate amount in billings or invoices to the client. Failure to separately account and/or itemize for such activities will result in classification of all activities under the ~~((selected business services))~~ service and other activities classification. ~~((Legal activities specifically excluded from the selected business services tax classification will be treated as an independent business activity taxable under the other services and business activities tax classification, provided the excluded service is separately accounted for and/or itemized as a separate amount in billings or invoices to the client.))~~

(ii) Combined business activities. If the other activities are related to the legal, arbitration, or mediation services provided to the client, the primary activity provided the client in each taxable period will determine the tax classification. Generally, the activity will be considered as related when there is some interaction between the two activities to reach an ultimate goal (i.e., a law firm which provides legal advice and brokers the financing of a business arrangement). There are a number of elements which may be examined to determine whether a sufficient relationship between the multiple activities exist. Some elements considered are the timing for the selection and provision of services, the relationship between the contracting parties, the procedure used in the selection process, the dependence of the relationship between the two or more activities, the relationship of the prices between the two activities, and the means of payment selected for the activities.

(iii) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.

(A) A law firm has an escrow department. This escrow department is run by employees who are not attorneys (but the supervising employee is a limited practice officer who has experience as a certified escrow agent), has a separate phone number, separate bank account, separate trust account, separate computer system, and maintains its own accounting system. Contracts for the escrow services state that the law firm is being retained as an independent escrow agent and not to represent any person involved in the transaction. Further, the contract states that the law firm shall not offer legal advice upon the transaction. The escrow department of this law firm would be considered an independent business activity and be taxed separately under the retailing classification for escrow businesses (see WAC 458-20-156).

(B) A law firm limits its practice to real estate. It primarily provides escrow services and real estate closings. Even though this firm has chosen to limit its practice, it is the nature and the character of its activities which will determine the primary activity for each closing. When a closing includes the preparation, selection, or drafting of the deed between the purchaser and seller, drafting legal documents to obtain clear title, and/or the preparation, selection or drafting of the promissory notes, deeds of trust, mortgages, and agreements modifying these documents, it will be presumed that the primary activity performed for the client is providing these legal services.

(I) The law firm closed a real estate transaction performing all the escrow services. Except for the escrow services provided, the firm represented the buyer in the closing. Although an attorney from the firm reviewed and approved the legal documents provided by the seller, the attorney did not prepare any legal documents for the transaction. Since the firm was representing a specific client in this real estate closing, the escrow services are considered incidental to the legal services provided. Accordingly, the firm will report the income from this transaction under the ~~((selected business services))~~ service and other activities classification.

(II) The firm was engaged by both parties in a real estate transaction to handle a real estate closing. An attorney for the firm selected and prepared the earnest money escrow agreement, the purchase and sales agreement, the closing agreement, and the deeds for the transfer. Title was clear and did not require any additional drafting. The firm also entered into an escrow agreement with both parties and held in escrow the buyer's deposit and the seller's deed. Since an attorney for the law firm was required to select, analyze, and review the legal documents in this transaction, the escrow activity will be considered incidental. This closing is reported under the ~~((selected business services))~~ service and other activities classification for legal services.

(III) A certified escrow agency, owned by a principal qualified under APR 12 (the limited practice rule for limited practice officers), provides both escrow and the limited legal services allowed under APR 12 to its clients. The escrow company itemizes the services provided. APR 12(d) allows a limited practice officer to select, prepare and complete documents in a form previously approved by the board for use in closing a loan, extension of credit, sale or other transfer of real or personal property. The nature of this limited license prevents an escrow company using limited practice officers from ever engaging in legal services as a primary activity in a real estate closing. Accordingly, the escrow company will report the income from escrow and closings under the retail sales classification (see WAC 458-20-156).

(IV) The same facts as above, but the escrow company hires employees who are attorneys to provide the allowable limited legal services. The result is the same. Under RPC 5.4, an attorney is prohibited from sharing legal fees with a non-lawyer and, under RPC 5.5, cannot assist a person who is not a member of the Bar Association in the performance of an activity that constitutes the unauthorized practice of law, and under RPC 7.1 a lawyer cannot make false or misleading communications about the lawyer or the lawyer's services. Accordingly, an attorney hired by an escrow company would not be providing legal services to the escrow companies' clients except to the extent authorized for a limited practice officer. Since only limited legal services can be offered, the escrow company would continue to report all fees from both the escrow and closing services under the retail sales tax classification.

~~((V) An attorney acts as the trustee for a testamentary trust which the attorney drafted. The attorney maintains the trust records, invests the assets of the trust, reviews distributions, accounts for trust assets, earnings, and distributions to the trust beneficiaries, and files all required returns and forms for the trust. The trust pays an annual fee for these services.~~

~~On occasion, the attorney provides general legal advice to the trust which is billed to the trust at an hourly rate. After the death of the settlor, the primary activity engaged in by the attorney for this client is that of trustee. Accordingly, the gross income from the trust administration activities after the death of the settlor are taxed separately under the other service and business activities classification. The separately accounted for legal services are taxed under the selected business services rate.~~

~~(VI) An attorney acts as the trustee for an inter vivos trust which the attorney drafted. After being appointed trustee, the attorney continues to represent the settlor of the trust (who is also the primary beneficiary) and provides legal advice to the trust. The attorney is paid an annual fee for duties as a trustee and an hourly rate for legal services. The initial relationship between the parties was that of attorney and client. The attorney continues to actively maintain this relationship and provides legal services to the settlor and the trust. Accordingly, the primary activity engaged in by the attorney for this client is that of attorney. The gross income from this activity would be taxed under the selected business services classification. However, if the inter vivos trust was an excluded services trust (i.e., a charitable lead trust) any legal services provided the trust would be reported under the other service and business activities classification.)~~

(4) **Retail sales tax.** Sales of tangible personal property to attorneys for use in rendering professional services are retail sales upon which the retail sales tax must be collected. Such sales include, among others, sales of office furniture and equipment, stationery, office supplies, law books, and reference materials.

(5) **Use tax.**

(a) The use tax applies upon the use of articles purchased or manufactured for use upon which retail sales tax has not been paid or collected. This includes, but is not limited to, the following:

(i) Materials used and consumed while rendering legal, arbitration, or mediation services; and

(ii) Office supplies and office equipment purchased by the firm for its own use.

(b) The use tax also applies to all purchases of tangible personal property acquired without payment of retail sales tax and resold to clients but not separately stated from legal services rendered on the agency's billing.

**WSR 99-08-032**

**EXPEDITED ADOPTION**

**DEPARTMENT OF REVENUE**

[Filed March 31, 1999, 11:12 a.m.]

Title of Rule: Amendatory section WAC 458-20-165 Laundries, dry cleaners, and self-service laundries and dry cleaners.

Purpose: The purpose of the rule is to explain the application of the B&O, retail sales, and use taxes to laundries and dry cleaners.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.04.050, 82.04.190, 82.04.290, 82.08.020, and 82.12.020 as they apply to sales of laundry and dry cleaning services.

Summary: This rule explains the application of the B&O, retail sales, and use taxes to laundries, dry cleaners, and laundry pickup and delivery services. The rule explains the taxability of charges for the use of coin-operated laundry facilities. It also explains where the place of sale takes place when a person provides laundry or linen supply services.

Reasons Supporting Proposal: To incorporate the statutory changes reflected in chapter 275, Laws of 1998, and chapter 315, Laws of 1998.

Name of Agency Personnel Responsible for Drafting: D. Douglas Titus, 711 Capitol Way South, #303, Olympia, WA, (360) 664-0687; Implementation: Claire Hesselholt, 711 Capitol Way South, #303, Olympia, WA, (360) 753-3446; and Enforcement: Russell W. Brubaker, 711 Capitol Way South, #303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule explains the application of the B&O, retail sales, and use taxes to laundry and dry cleaning services. It explains the taxability of charges for the use of coin-operated facilities. The rule is being revised to explain the effects of recent law changes with respect to the taxability of persons providing laundry and dry cleaning services. The proposed rule explains that persons selling laundry and/or dry cleaning services are generally making retail sales, except when making sales to nonprofit health care facilities or providing coin-operated laundry facilities in apartment houses, rooming houses, or mobile home parks. The proposed revision to the rule also clarifies that persons providing laundry or linen supply services to consumers in Washington are not making retail sales in this state if the laundering takes place outside Washington.

Proposal Changes the Following Existing Rules: This is an amendment of an existing rule, WAC 458-20-165 Laundries, dry cleaners, self-service laundries and dry cleaners. This rule is being revised to reflect the exclusion of laundry services provided to nonprofit health care facilities from the definition of "sale at retail" by chapter 315, Laws of 1998. It is also being revised to explain that chapter 275, Laws of 1998, excluded charges for the use of coin-operated laundry facilities provided in apartment houses, rooming houses, or mobile home parks from the definition of "retail sale."

**NOTICE**

**THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO D. Douglas Titus, Depart-**

**EXPEDITED ADOPTION**

ment of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail dougt@dor.wa.gov, AND RECEIVED BY June 5, 1999.

March 29, 1999

Claire Hesselholt, Rules Manager  
Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 94-09-016, filed 4/13/94, effective 5/14/94)

**WAC 458-20-165 Laundries, dry cleaners, self-service laundries and dry cleaners.** (1) **Introduction.** This ~~((section))~~ rule discusses the application of the business and occupation (B&O) ~~((tax and))~~, retail sales ~~((tax liability of))~~, and use taxes to laundries, dry cleaners, pickup and delivery services, and self-service laundries and dry cleaners. ~~((RCW 82.04.050 includes within the definition of "retail sale" repairing, cleaning, and altering tangible personal property for consumers, except sales of laundry services by nonprofit hospital associations to their members.))~~ Persons selling laundry and/or dry cleaning services are generally making retail sales, except when making sales to nonprofit health care facilities or providing coin-operated laundry facilities in apartment houses, rooming houses, or mobile home parks. RCW 82.04.050.

(2) ~~((Terms.))~~ **Definitions.** The following definitions apply to this rule.

(a) A "laundry or dry cleaning business" includes operating a plant or establishment, or contracting with others, for laundering, cleaning, dyeing, pressing, and incidentally repairing such articles as clothing, linens, bedding, towels, curtains, drapes, and rugs. Laundry or dry cleaning businesses include self-service businesses which provide coin-operated and noncoin-operated laundry or dry cleaning facilities ~~((and))~~. This term also includes pickup and delivery laundry services performed by persons operating in their own ~~((name))~~ respective names and not as commissioned agent for another laundry business.

(b) A "laundry or linen supply service" is the ~~((business))~~ activity of providing customers with a supply of items such as clean linen, uniforms, and towels, ~~((etc.))~~ whether ownership of such property is in the person operating the laundry or linen supply service or in the customer. The term includes supply services ~~((which operate))~~ operating their own cleaning establishments as well as those ~~((which contract))~~ contracting with other laundry or dry cleaning businesses.

(c) "Nonprofit health care facilities" means facilities operated by nonprofit organizations providing diagnostic, therapeutic, convalescent, or preventive inpatient or outpatient health care services. The term includes, but is not limited to, nonprofit hospitals, nursing homes, and hospices.

(3) **Business and Occupation Tax.** Business and occupation tax applies as follows.

(a) **Retailing.** Persons operating laundry or dry cleaning businesses ~~((, including self-service or coin-operated businesses,))~~ are generally taxable under the retailing classification upon the gross proceeds of sales, without any deduction on account of commissions allowed or amounts paid to

another for the performance of all or part of the laundry or dry cleaning service rendered.

~~((i) The gross proceeds of sales includes charges for cleaning and for sales of starch, soap, blueing or any other article sold to customers.~~

~~((ii) Laundries in Washington which provide linen supply services are making retail sales in this state even though their customers may be located outside this state. Gross income from such services is subject to tax because the charge is for laundering which takes place in this state, rather than being a true rental of property (uniforms, linen, etc.) to nonresidents.))~~ The gross proceeds of sales include charges for cleaning and for sales of soap, bleach, fabric softener, laundry bags, hangers, and other tangible personal property to consumers. Charges for alterations are also subject to the retailing classification. See "retail sales tax" below for a more detailed explanation of the charges included in the retailing classification.

(b) **Wholesaling.** Tax is due under the wholesaling classification upon the gross proceeds of sales derived from laundry or dry cleaning services rendered for other laundry and dry cleaning businesses. The laundry or dry cleaning business purchasing these services should provide a resale certificate to the seller. See WAC 458-20-102 (Resale certificates).

(c) **Service and other activities.** ~~((Nonprofit associations composed exclusively of nonprofit hospitals are taxable under the service and other activities classification on gross income received for providing laundry services to their members.))~~ Effective June 11, 1998, any person making sales of laundry services to a nonprofit health care facility is taxable under the service and other activities B&O classification on the gross income received for such services. For the period of July 1, 1993-June 10, 1998, the service and other activities B&O tax applied only to sales of laundry services to members by nonprofit associations composed exclusively of nonprofit hospitals.

(i) Effective July 1, 1998, the service and other activities BO tax applies to charges for the use of coin-operated laundry facilities in apartment houses, rooming houses, or mobile home parks which are provided for the exclusive use of tenants. Chapter 275, Laws of 1998. Prior to this date these charges were considered a retail sale.

(ii) Persons who collect and distribute laundry or dry cleaning as a commissioned agent for one or more laundry or dry cleaning businesses, and who act as an independent contractor rather than as an employee, are liable for service B&O tax on their gross commissions. See WAC 458-20-159 for the recordkeeping requirements for showing agency status.

(4) **Retail Sales Tax.** ~~((a))~~ Laundry and dry cleaning businesses, including self-service or coin-operated laundries or dry cleaners, and laundry or linen supply services are required to collect the retail sales tax upon the total charge made to the ~~((customer))~~ consumer for laundry and dry cleaning service or laundry or linen supply service. ~~((RCW 82.04.050 was amended by chapter 25, Laws of 1993 sp.s. to include as a retail sale the income from coin-operated laundry facilities situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants. This change became effective July 1, 1993. Previously such~~

~~charges were taxed under the service and other business activities classification.~~

(b)) (a) Persons in Washington who provide laundry or linen supply services are making retail sales in this state even though their customers may be located outside this state. Gross income from such services is subject to tax because the charge is for laundering which takes place in this state, rather than being a true rental of property (e.g., uniforms, linen, and towels) to nonresidents. Conversely, persons located outside the state of Washington who provide laundry or linen supply services to consumers in this state are not making retail sales in this state. The laundering service is performed outside Washington state and is exempt from Washington's BO and retail sales taxes.

(b) Prior to July 1, 1998, charges made for the use of coin-operated laundry facilities provided for the exclusive use of tenants in apartment houses, rooming houses, or mobile home parks were retail sales. This income is subject to the service and other activities B&O tax effective July 1, 1998. (Chapter 275, Laws of 1998.) Charges for the use of coin-operated laundry facilities in hotels, motels, trailer camps, and other locations providing lodging or camping facilities to transients remain subject to the retail sales tax.

(c) Laundry and dry cleaning businesses ((which provide their)) providing services through commissioned agents should collect and remit the retail sales tax to the department.

(i) If the agent is a hotel or an apartment ((which bills)) house billing guests or tenants for laundry or dry cleaning services, the hotel or apartment house should collect the retail sales tax on the total charge for the laundry or dry cleaning and remit the payment to the laundry or dry cleaning business. The laundry or dry cleaning business is responsible for remitting the tax to the department.

(ii) If the agent is a commissioned driver, the laundry or dry cleaning business can bill the customer directly for the services or the driver can collect the payment from the customer and remit the payment to the laundry or dry cleaning business. In either case, the retail sales tax must be collected on the total charge made to the customer and the laundry or dry cleaning business is responsible for remitting the tax to the department.

~~((e) Sales by supply houses to laundries, dry cleaners and persons operating laundry or linen supply services of soaps, cleaning solvents and other articles or substances which are used in rendering a laundry, laundry supply or cleaning service are retail sales and are subject to the retail sales tax. Sales to such persons of dyes, fabric softeners, starches and similar articles or substances, which become ingredients of the articles cleaned, are sales at wholesale and are not subject to the retail sales tax. Similarly, sales to persons operating laundry or linen supply services of linen, uniforms, towels, cabinets, hand soap and similar property rented or supplied to customers as a part of the service rendered are wholesale sales. Sales by supply houses to laundries, dry cleaners and operators of laundry or linen supply services of equipment and supplies such as machinery, hand tools, sewing notions, scissors, spotting brushes, stationery, etc., are retail sales and the retail sales tax must be collected thereon.~~

~~(d) Sales by supply houses to self-service or coin-operated laundries of any items which the laundries give to their customers are retail sales. Sales of soap, bleach, fabric softener or other supplies to self-service or coin-operated laundries for resale to their customers are wholesale sales. The laundry or dry cleaning business should provide a resale certificate to the supply house as provided in WAC 458-20-102. A sale is for resale if the self-service business sells the supplies to customers separate from the charge for the use of the laundry appliances.~~

~~(e) Sales to all operators of laundry or dry cleaning establishments of equipment such as washing machines, ironers, furniture, etc., are retail sales subject to the sales tax.~~

~~(f)) (d) In most cases the retail sales tax must be stated separately from the selling price or collected separately from the buyer. (See RCW 82.08.050.) An exception is made for coin-operated sales. The seller may deduct the tax from the total amount received in coin-operated machines to arrive at the net amount which becomes the measure of the tax.~~

~~((g)) (e) In general, the place of sale for purposes of local sales tax is the place the laundry or dry cleaning services are performed. See WAC 458-20-103 and 458-20-145.~~

(i) If a laundry or dry cleaning business contracts with another laundry or dry cleaning business to do the cleaning, the place of sale is the location of the laundry or dry cleaning business used by the customer to drop off and pickup the laundry.

(ii) If a laundry or dry cleaning business uses a commissioned agent such as a hotel, an apartment house, or a commissioned driver for pickup and delivery of the articles to be cleaned, the place of sale is the location of the laundry or dry cleaning business which does the cleaning.

(f) Sales to laundries or dry cleaning businesses and laundry or linen supply services of soaps, cleaning solvents, and other articles or substances consumed in rendering a laundry, laundry supply or cleaning service are retail sales and are subject to the retail sales tax. Retail sales tax also applies to sales of equipment such as washing machines, irons, and furniture, and supplies such as hand tools, sewing notions, scissors, spotting brushes, and stationery.

(g) Sales to laundry and dry cleaning businesses of dyes, fabric softeners, starches, sizing, and similar articles or substances, which become ingredients of the articles cleaned, are generally sales at wholesale and are not subject to the retail sales tax. Similarly, sales to persons operating laundry or linen supply services of linen, uniforms, towels, cabinets, hand soap, and similar property rented or supplied to customers as a part of the service rendered are generally wholesale sales.

Persons selling laundry services to nonprofit health care facilities are considered consumers of all items used in providing such services. RCW 82.04.190 (2)(a). As a result, sales of items such as dyes, fabric softeners, linens, and uniforms to these persons are retail sales and subject to the retail sales tax.

(h) Sales to self-service or coin-operated laundries of any items the laundries give to their customers are retail sales. Sales of soap, bleach, fabric softener or other supplies to self-service or coin-operated laundries for resale to their customers are wholesale sales. A sale is for resale if the self-service

business sells the supplies to customers separate from the charge for the use of the laundry appliances. The laundry or dry cleaning business should provide a resale certificate to the seller as provided in WAC 458-20-102.

(5) Deferred Sales or Use Tax. With respect to purchases by laundries or dry cleaning businesses and laundry or linen supply services, if the seller fails to collect the appropriate retail sales tax, the buyers are required to pay the retail sales tax (commonly referred to as the "deferred sales tax") or use tax to the department.

**WSR 99-08-096**  
**EXPEDITED ADOPTION**  
**DEPARTMENT OF HEALTH**

[Filed April 6, 1999, 4:40 p.m.]

Title of Rule: WAC 246-828-105 Speech-language pathology—Minimum standards of practice.

Purpose: The rule is needed to provide guidance to consumers of speech-language pathology services, members of the public and speech-language pathologists regarding the expected and recognized minimum standards of practice.

Statutory Authority for Adoption: RCW 18.35.161 (3) and (10).

Statute Being Implemented: RCW 18.35.161(10).

Summary: The rule sets standards of practice for the profession of speech-language pathology that are accepted and defined by the national organizations for this profession. The proposed amendment is housekeeping only. To correct a spelling error and provide clarity.

Reasons Supporting Proposal: To correct a spelling error "dysphasia" to "dysphagia" and delete the term oro-pharyngeal, which causes confusion.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Department of Health, Board of Hearing and Speech, 1300 Quince Street, Olympia, WA, (360) [902]-4916.

Name of Proponent: Washington Speech and Hearing Association, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule defines the expected and recognized minimum standards of practice for speech-language pathology services. The amendments are anticipated to eliminate confusion caused by a misspelled word and by deleting a unclear term.

Proposal Changes the Following Existing Rules: The proposed amendment corrects a spelling error and deletes a confusing term.

**NOTICE**

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF

YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Diane Young, Department of Health, Board of Hearing and Speech, P.O. Box 47869, Olympia, WA 98504-7869, AND RECEIVED BY June 5, 1999.

December 4, 1998

Sheila Winkler, Chair  
 Board of Hearing and Speech

AMENDATORY SECTION (Amending WSR 98-14-055, filed 6/26/98, effective 7/27/98)

**WAC 246-828-105 Speech-language pathology—Minimum standards of practice.** Certified speech-language pathologists are independent practitioners who provide a comprehensive array of services related to the identification, assessment, habilitation/rehabilitation, of communication disorders and (~~oro-pharyngeal and dysphasia~~) **dysphagia**. Speech-language pathologists serve in a number of roles including but not limited to clinician, therapist, teacher, consultant, researcher, and administrator. Speech-language pathologists provide services in hospitals, clinics, schools, nursing facilities, care centers, private practice, and other settings in which speech-language pathology services are relevant. Speech-language pathologists provide services to individuals of all ages.

Services must be provided and products dispensed only when benefit can reasonably be expected. All services provided and products dispensed must be evaluated for effectiveness. A certified speech-language pathologist must engage in and supervise only those aspects of the profession that are within the scope of their education, training, and experience. Speech-language pathologists must provide services appropriate to each individual in his or her care, which may include one or more of the following standard procedures:

- (1) Case history, to include the following:
  - (a) Documentation of referral.
  - (b) Review of the communication, cognitive and/or swallowing problem.
  - (c) Review of pertinent medical, pharmacological, social and educational status.
- (2) Examination of the oral mechanism for the purposes of determining adequacy for speech communication and swallowing.
- (3) Screening to include: Speech and language.
  - (a) Hearing screening, limited to pure-tone air conduction and screening tympanometry.
  - (b) Swallowing screening. Children under the age of three years who are considered at risk are assessed, not screened;
- (4) Assessment may include the following:
  - (a) Language may include parameters of phonology, morphology, syntax, semantics, and pragmatics; and include receptive and expressive communication in oral, written, graphic and manual modalities;

(b) Speech may include articulation, fluency, and voice (including respiration, phonation and resonance). Treatment shall address appropriate areas;

(c) Swallowing;

(d) Cognitive aspects of communication may include communication disability and other functional disabilities associated with cognitive impairment;

(e) Central auditory processing disorders in collaboration with other qualified professionals;

(f) Social aspects of communication may include challenging behaviors, ineffective social skills, lack of communication opportunities;

(g) Augmentative and alternative communication include the development of techniques and strategies that include selecting, and dispensing of aids and devices (excluding hearing instruments) and providing training to individuals, their families, and other communication partners in their use.

(5) Habilitation/rehabilitation of communication and swallowing to include the following:

(a) Treatment of speech disorders including articulation, fluency and voice.

(b) Treatment of language disorders including phonology, morphology, syntax, semantics, and pragmatics; and include receptive and expressive communication in oral, written, graphic and manual modalities.

(c) Treatment of swallowing disorders.

(d) Treatment of the cognitive aspects of communication.

(e) Treatment of central auditory processing disorders in which there is evidence of speech, language, and/or other cognitive communication disorders.

(f) Treatment of individuals with hearing loss, including aural rehabilitation and related counseling.

(g) Treatment of social aspects of communication, including challenging behaviors, ineffective social skills, and lack of communication opportunities.

(6) All services must be provided with referral to other qualified resources when appropriate.

### WSR 99-08-113

#### EXPEDITED ADOPTION

#### DEPARTMENT OF AGRICULTURE

[Filed April 7, 1999, 9:21 a.m.]

Title of Rule: Chapter 16-458 WAC, Horticultural inspection district boundaries.

Purpose: (1) Remove reference to the word "horticultural" in the title and replace with the words "fruit and vegetable" to comply with chapter 15.17 RCW; (2) remove WAC 16-458-004 Promulgation; and (3) add language to WAC 16-458-075, 16-458-080, and 16-458-085 to clarify language in these sections.

Other Identifying Information: RCW 15.17.230 Inspection districts, this section of the statute specifically identifies the inspection districts as "fruit and vegetable" districts.

Statutory Authority for Adoption: RCW 15.17.030.

Statute Being Implemented: Chapter 15.17 RCW.

Summary: Chapter 15.17 RCW identifies the inspection districts as fruit and vegetable districts. This amendment to chapter 16-458 WAC brings the rules in compliance with the statute. Removal of WAC 16-458-004 Promulgation, brings the rule to a current WAC format. Revising WAC 16-458-075, 16-458-080, and 16-458-085 with language to clarify these three sections of the rule.

Reasons Supporting Proposal: Same as above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Quigley, 1111 Washington Street S.E., Olympia, WA, (360) 902-1833.

Name of Proponent: Fruit and Vegetable Inspection Program, Jim Quigley, Program Manager, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Agency supports language change.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 16-458 WAC specifically identifies the boundaries of the three districts in the fruit and vegetable inspection program. The change of the word "horticultural" to "fruit and vegetable," removal of the promulgation section, and the addition of clarifying language, does not affect the rule.

Proposal does not change existing rules.

#### NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Dannie McQueen, Administrative Regulations Manager, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98904-2560 [98504-2560], fax (360) 902-2092, AND RECEIVED BY June 5, 1999.

April 6, 1999

Robert W. Gore  
Assistant Director

### Chapter 16-458 WAC

#### ~~HORTICULTURAL~~ FRUIT AND VEGETABLE INSPECTION DISTRICT BOUNDARIES

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

AMENDATORY SECTION (Amending Order 1471, filed 7/2/76)

WAC 16-458-075 Fruit and vegetable district two.  
Fruit and vegetable district two shall consist of Kittitas, Klic-  
kitat, Skamania, Yakima and that portion of Benton County

lying west of a line running south from the Columbia River known as the center line of Range 27E, and north of Sellards Road from its junction with Range 27E on the east, thence west to the Yakima County line; this includes the Prosser, Kiona, and Benton City areas.

AMENDATORY SECTION (Amending WSR 87-24-009, filed 11/20/87, effective 1/1/88)

**WAC 16-458-080 Fruit and vegetable district three.**  
Fruit and vegetable district three shall consist of all counties located west of the Cascade Mountains, Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman counties, and that portion of Benton County lying south and east of the Sellards Road, from its junction with Yakima County on the west thence east to the center line of Range 27E, thence north to the Columbia River; this excludes the Benton City, Kiona and Prosser areas.

AMENDATORY SECTION (Amending Order 1471, filed 7/2/76)

**WAC 16-458-085 Fruit and vegetable district four.**  
Fruit and vegetable district four shall consist of Chelan, Douglas and Okanogan counties.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-458-004            Promulgation.

**WSR 99-06-046**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed February 26, 1999, 3:29 p.m.]

Date of Adoption: February 26, 1999.

Purpose: To rewrite these rules per the Governor's Executive Order 97-02 which mandates readability, clarity, foundation in law, etc.; and to describe new methods of paying hospital providers. One new method is to change the high and low outlier thresholds for DRG claims. The other new methods is to cap dual Medicare/Medicaid hospital payments at Medicaid's maximum.

Citation of Existing Rules Affected by this Order: Amending WAC 388-550-1050, 388-550-1200, 388-550-2800, 388-550-2900, 388-550-3000, 388-550-3100, 388-550-3500, 388-550-3700, 388-550-4500, 388-550-4700, 388-550-4800, and 388-550-6000.

Statutory Authority for Adoption: RCW 74.08.090, 42 USC 1395 x(v), 42 CFR 447.271, 447.11303, and 447.2652.

Adopted under notice filed as WSR 99-01-170 on December 23, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 12, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 12, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 12, Repealed 0.

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

February 26, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-1050 Definitions.** See also chapter 388-500 WAC for other definitions and abbreviations used by the department. Unless otherwise specified, the terms used in this chapter have the following meaning:

"**Accommodation costs**" mean the expenses incurred by a hospital to provide its patients services for which a separate charge is not customarily made, such as, but not limited to, a regular hospital room, special care hospital room, dietary and nursing services, medical and surgical supplies, medical social services, psychiatric social services, and the use of certain hospital equipment and facilities.

"**Acute**" means a ~~((term describing))~~ medical condition of severe intensity with sudden onset.

"**Acute care**" means care provided by an agency for clients who are not medically stable or have not attained a satisfactory level of rehabilitation. These clients require frequent monitoring by a health care professional in order to maintain their health status (WAC 248-27-015).

"**ADATSA/DASA assessment center**" means an agency contracted by the division of alcohol and substance abuse (DASA) to provide chemical dependency assessment for clients and pregnant women in accordance with the alcohol and drug addiction treatment and support act (ADATSA). Full plans for a continuum of drug and alcohol treatment services for pregnant women are also developed in ADATSA/DASA assessment centers.

"**Add-on procedure**" means a secondary procedure that is performed in addition to another procedure.

"**Administrative day**" means a day of a hospital stay in which an acute inpatient level of care is no longer necessary, and an appropriate noninpatient hospital placement is not available.

"**Admitting diagnosis**" means the diagnosis, coded according to the International Classification of Diseases, 9th Revision, Clinical Modifications (ICD-9-CM), indicating the medical condition which precipitated the client's admission to an inpatient hospital facility.

"**Advance directive**" means a document, such as a living will, executed by a client, that tells the client's health care providers and others the client's decisions regarding his or her medical care, particularly whether the client wishes to accept or refuse extraordinary measures to prolong his or her life.

"**Aggregate capital cost**" means the total cost or the sum of all capital costs.

"**Aggregate cost**" means the total cost or the sum of all constituent costs.

"**Aggregate operating cost**" means the total cost or the sum of all operating costs.

"**Alcohol and drug addiction treatment and support act (ADATSA)**" means the law and the state-funded program it established which provides medical services for persons who are incapable of gainful employment due to alcoholism or substance addiction.

"**Alcoholism and/or alcohol abuse treatment**" means the provision of medical social services to an eligible client designed to mitigate or reverse the effects of alcoholism or alcohol abuse and to reduce or eliminate alcoholism or alcohol abuse behaviors and restore normal social, physical, and psychological functioning. Alcoholism or alcohol abuse treatment is characterized by the provision of a combination of alcohol education sessions, individual therapy, group therapy, and related activities to detoxified alcoholics and their families.

"**All-patient grouper (AP-DRG)**" means a computer program that determines the diagnosis-related group (DRG) assignments.

"**Allowed charges**" mean the maximum amount for any procedure that the department will recognize.

"**Ancillary hospital costs**" mean the expenses incurred by a hospital to provide additional or supporting services to

its patients during their hospital stay. ~~((Such services include, but are not limited to, laboratory, radiology, drugs, delivery room (including maternity labor room), and operating room (including anesthesia and postoperative recovery rooms).))~~  
See "ancillary services."

"**Ancillary services**" mean additional or supporting services, such as, but not limited to, laboratory, radiology, drugs, delivery room, operating room, postoperative recovery rooms, and other special items and services, provided by a hospital to a patient during his or her hospital stay.

"**Approved treatment facility**" means a treatment facility, either public or private, profit or nonprofit, approved by DSHS.

"**Audit**" means an assessment, evaluation, examination, or investigation of a health care provider's accounts, books and records, including:

(1) Medical, financial and billing records pertaining to billed services paid by the department through Medicaid or other state programs, by a person not employed or affiliated with the provider, for the purpose of verifying the service was provided as billed and was allowable under program regulations; and

(2) Financial, statistical and medical records, including mathematical computations and special studies conducted supporting Medicare cost reports HCFA Form 2552, submitted to the department for the purpose of establishing program rates of reimbursement to hospital providers.

"**Audit claims sample**" means a subset of the universe of paid claims from which the sample is drawn, whether based upon judgmental factors or random selection. The sample may consist of any number of claims in the population up to one hundred percent. See also "**random claims sample**" and "**stratified random sample**."

"**Authorization number**" means a nine-digit number assigned by MAA that identifies individual requests for approval of services or equipment. The same authorization number is used throughout the history of the request, whether it is approved, pending, or denied.

"**Authorization requirement**" means MAA's requirement that a provider present proof of medical necessity to MAA, usually before providing certain medical services or equipment to a client. This takes the form of a request for authorization of the service(s) and/or equipment, including a complete, detailed description of the client's diagnosis and/or any disabling conditions, justifying the need for the equipment or the level of service being requested.

"**Average hospital rate**" means the weighted average of hospital rates in the state of Washington.

"**Bad debt**" means an operating expense or loss incurred by a hospital because of uncollectible accounts receivables.

~~((**Base period** means, for purposes of establishing a provider rate, a specific period or timespan used as a reference point or basis for comparison.~~

~~((**Base period costs** mean costs incurred in or associated with a specified base period.))~~

"**Beneficiary**" means a recipient of Social Security benefits, or a person designated by an insuring organization as eligible to receive benefits.

~~((**Benefit period** means a "spell of illness" for Medicare payments. For part A coverage, the benefit period begins on the first day a Medicare beneficiary is furnished inpatient hospital or extended care services by a qualified provider and ends when the beneficiary has been out of the hospital or other covered facility for sixty consecutive days.))~~

~~((**Billed charge** - See "usual and customary charge."~~

~~((**Blended rate** means a mathematically weighted average rate.~~

~~((**Border area hospital** means a hospital located in an area defined by state law as:~~

~~((1) Oregon - Astoria, Hermiston, Hood River, Milton-Freewater, Portland, Rainier, or The Dalles; and~~

~~((2) Idaho - Coeur d'Alene, Lewiston, Moscow, Priest River or Sandpoint.~~

~~((**Bundled services** mean interventions which are incidental to the major procedure and are not separately reimbursable.~~

~~((**Buy-in premium** means a monthly premium the state pays so a client is enrolled in part A and/or part B Medicare.~~

~~((**By report** means a method of reimbursement in which MAA determines the amount it will pay for a service that is not included in MAA's published fee schedules by requiring the provider to submit a "report" describing the nature, extent, time, effort and/or equipment necessary to deliver the service.~~

~~((**Callback** means keeping physician staff on duty beyond their regularly scheduled hours, or having them return to the facility after hours to provide unscheduled services; usually associated with hospital emergency room, surgery, laboratory and radiology services.~~

~~((**Capital-related costs** mean the component of operating costs related to capital assets, including, but not limited to:~~

~~((1) Net adjusted depreciation expenses;~~

~~((2) Lease and rentals for the use of depreciable assets;~~

~~((3) The costs for betterment and improvements;~~

~~((4) The cost of minor equipment;~~

~~((5) Insurance expenses on depreciable assets;~~

~~((6) Interest expense; and~~

~~((7) Capital-related costs of related organizations that provide services to the hospital.~~

~~((It excludes capital costs due solely to changes in ownership of the provider's capital assets.~~

~~((**Case mix complexity** means, from the clinical perspective, the condition of the ((patients)) treated patients and the ((treatment)) difficulty associated with providing care. Administratively, it means the resource intensity demands that patients place on an institution.~~

~~((**Case mix index** means a measure of the costliness of cases treated by a hospital relative to the cost of the average of all Medicaid hospital cases, using diagnosis-related group weights as a measure of relative cost.~~

~~((**Charity care** means necessary hospital health care rendered to indigent persons, as defined in this section, to the extent that these persons are unable to pay for the care or to pay the deductibles or coinsurance amounts required by a third-party payer, as determined by the department.~~

**"Chemical dependency"** means an alcohol or drug addiction; or dependence on alcohol and one or more other psychoactive chemicals.

**"Children's hospital"** means a hospital primarily serving children.

~~("Coinsurance" — See WAC 388-500-005:)~~

**"Comorbidity"** means of, relating to, or caused by a disease other than the principal disease.

**"Complication"** means a disease or condition occurring subsequent to or concurrent with another condition and aggravating it.

**"Comprehensive hospital abstract reporting system (CHARS)"** means the department of health's hospital data collection, tracking and reporting system.

**"Contract hospital"** means a licensed hospital located in a selective contracting area, which is awarded a contract to participate in the department's selective contracting hospital program.

**"Contractual adjustment"** means the difference between the amount billed at established charges for the services provided and the amount received or due from a third-party payer under a contract agreement. A contractual adjustment is similar to a trade discount.

**"Conversion factor"** means a hospital-specific dollar amount that reflects the average cost of treating Medicaid clients in a given hospital. See **"cost-based conversion factor (CBCF)"** and **"negotiated conversion factor (NCF)."**

**"Cost proxy"** means an average ratio of costs to charges for ancillary charges or per diem for accommodation cost centers used to determine a hospital's cost for the services where the hospital has charges for the services has does not report costs in corresponding centers in its Medicare cost report.

**"Cost report"** means the HCFA Form 2552, Hospital and Hospital Health Care Complex Cost Report, completed and submitted annually by a provider:

(1) To Medicare intermediaries at the end of a provider's selected fiscal accounting period to establish hospital reimbursable costs for per diem and ancillary services; and

(2) To Medicaid to establish appropriate DRG and RCC reimbursement.

**"Costs"** mean MAA-approved operating, medical education, and capital-related costs as reported and identified on the HCFA 2552 form.

**"Cost-based conversion factor (CBCF)"** means a hospital-specific dollar amount that reflects the average cost of treating Medicaid clients in a given hospital. It is calculated from the hospital's cost report by dividing the hospital's costs for treating Medicaid clients during a base period by the number of Medicaid discharges during that same period and adjusting for the hospital's case mix. See also **"conversion factor"** and **"negotiated conversion factor."**

**"County hospital"** means a hospital established under the provisions of chapter 36.62 RCW.

**"Covered service"** means a service that is included in the Medicaid program and is within the scope of the eligible client's medical care program.

**"Critical care services"** mean services for critically ill or injured patients in a variety of medical emergencies that

require the constant attendance of the physician (e.g., cardiac arrest, shock, bleeding, respiratory failure, postoperative complications). For Medicaid reimbursement purposes, critical care services must be provided in a Medicare qualified critical care area, such as the coronary care unit, intensive care unit, respiratory care unit, or the emergency care facility, to qualify for reimbursement as a special care level of service.

**"Current procedural terminology (CPT)"** means a systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions performed by physicians; it is published annually by the American Medical Association (AMA).

~~("Customary charge or fee" — See "Allowed charges" and "usual and customary charge.")~~

**"Customary charge payment limit"** means the limit placed on aggregate diagnosis-related group (DRG) payments to a hospital during a given year to assure that DRG payments do not exceed the hospital's charges to the general public for the same services.

**"Day outlier"** means a case that requires MAA to make additional payment to the hospital provider but which does not qualify as a high-cost outlier. See **"day outlier payment"** and **"day outlier threshold."**

**"Day outlier payment"** means the additional amount paid to a disproportionate share hospital for a client five years old or younger who has a prolonged inpatient stay which exceeds the day outlier threshold but whose charges for care fall short of the high cost outlier threshold. The amount is determined by multiplying the number of days in excess of the day outlier threshold and the administrative day rate.

**"Day outlier threshold"** means the average number of days a client stays in the hospital for an applicable DRG before being discharged, plus twenty days.

**"Deductible"** means the amount a beneficiary is responsible for, before Medicare starts paying; or the initial specific dollar amount for which the applicant or client is responsible.

**"Detoxification"** means treatment provided to persons who are recovering from the effects of acute or chronic intoxication or withdrawal from alcohol or other drugs.

**"Diabetic education program"** means a comprehensive, multidisciplinary program of instruction offered by an MAA-approved facility to diabetic clients on dealing with diabetes, including instruction on nutrition, foot care, medication and insulin administration, skin care, glucose monitoring, and recognition of signs/symptoms of diabetes with appropriate treatment of problems or complications.

**"Diagnosis code"** means a set of alphabetic, numeric, or alpha-numeric characters assigned by the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM), as a shorthand symbol to represent the nature of a disease.

**"Diagnosis-related group (DRG)"** means a classification system which categorizes hospital patients into clinically coherent and homogenous groups with respect to resource use, i.e., similar treatments and statistically similar lengths of stay for patients with related medical conditions. Classification of patients is based on the International Classification of Diseases, the presence of a surgical procedure, patient age,

presence or absence of significant co-morbidities or complications, and other relevant criteria.

**"Direct medical education costs"** means the direct costs of providing an approved medical residency program as recognized by Medicare.

**"Discharging hospital"** means the institution releasing a client from the acute care hospital setting.

**"Disproportionate share payment"** means additional payment(s) made by the department to a hospital which serves a disproportionate number of Medicaid and other low-income clients and which qualifies for one or more of the disproportionate share hospital programs identified in the state plan.

**"Disproportionate share program"** means a program that provides additional payments to hospitals which serve a disproportionate number of Medicaid and other low-income clients.

**"Dispute conference"** means a meeting for deliberation during a provider administrative appeal.

(1) At the first level of appeal it is usually a meeting between auditors and the audited provider and/or staff to resolve disputed audit findings, clarify interpretation of regulations and policies, provide additional supporting information and/or documentation.

(2) At the second level of appeal the dispute conference is a more formal hearing, held by the office of contracts and asset management which issues a decision articulating the department's final position on the contested issue(s).

(3) See WAC ((388-81-042)) 388-502-0230.

**"Distinct unit"** means a Medicare-certified distinct area for rehabilitation services within a general acute care hospital or a department-designated unit in a children's hospital.

**"DRG"** - See **"diagnosis-related group."**

**"DRG-exempt services"** mean services which are paid for through other methodologies than those using cost-based or negotiated conversion factors.

**"DRG payment"** means the payment made by MAA for a client's inpatient hospital stay; it is calculated by multiplying the hospital-specific conversion factor by the DRG relative weight for the client's medical diagnosis.

**"DRG relative weight"** means the average cost of a certain DRG divided by the average cost for all cases in the entire data base for all DRGs, expressed in comparison to a designated standard cost.

**"Drug addiction and/or drug abuse treatment"** means the provision of medical and rehabilitative social services to an eligible client designed to mitigate or reverse the effects of drug addiction or drug abuse and to reduce or eliminate drug addiction or drug abuse behaviors and restore normal physical and psychological functioning. Drug addiction or drug abuse treatment is characterized by the provision of a combination of drug and alcohol education sessions, individual therapy, group therapy and related activities to detoxified addicts and their families.

**"Elective procedure or surgery"** means a nonemergent procedure or surgery that can be scheduled at convenience.

~~("Emergency medical condition" - See WAC 388-500-0005, Medical definitions.)~~

~~**"Emergency medical expense requirement (EMER)"** - See WAC 388-500-0005, Medical definitions.)~~

**"Emergency room"** or **"emergency facility"** means an organized, distinct hospital-based facility available twenty-four hours a day for the provision of unscheduled episodic services to patients who present for immediate medical attention, and capable of providing emergency services including trauma.

**"Emergency services"** mean medical services, including maternity services, required by and provided to a patient after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part. Inpatient maternity services are treated as emergency services.

**"Equivalency factor"** means a conversion factor used, in conjunction with two other factors (cost-based conversion factor and the ratable factor), to determine the level of state-only program payment.

**"Exempt hospital"** means a hospital that is either not located in a selective contracting area or is exempted by the department and is reimbursed for services to MAA clients through methodologies other than those using cost-based or negotiated conversion factors.

**"Experimental treatment"** means a course of treatment or procedure that:

- (1) Is not generally accepted by the medical profession as effective and proven;
- (2) Is not recognized by professional medical organizations as conforming to accepted medical practice;
- (3) Has not been approved by the federal Food and Drug Administration (FDA) or other requisite government body;
- (4) Is still in clinical trials, or has been judged to need further study;
- (5) Is covered by the federal law requiring provider institutional review of patient consent forms, and such review did not occur; or
- (6) Is rarely used, novel, or relatively unknown, and lacks authoritative evidence of safety and effectiveness.

**"Facility triage fee"** means the amount the medical assistance administration will pay a hospital for a medical evaluation or medical screening examination, performed in the hospital's emergency department, of a nonemergent condition of a *healthy options* client covered under the primary care case management (PCCM) program. This amount corresponds to the professional care level ((1)) **A** or level ((2)) **B** service.

**"Fiscal intermediary"** means Medicare's designated fiscal intermediary for a region and/or category of service.

**"Fixed per diem rate"** means a contracted nonnegotiated daily amount, used to determine payment to a hospital for specific services.

**"Formula price"** means the hospital's payment rate, which is the product of the hospital-specific conversion factor multiplied by the DRG weight for the given hospitalization.

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"**Global surgery days**" mean the number of preoperative and follow-up days that are included in the reimbursement to the physician for the major surgical procedure.

"**Graduate medical education costs**" mean the direct and indirect costs of providing medical education in teaching hospitals.

"**Grouper**" - See "**all-patient grouper (AP-DRG)**."

"**HCFA 2552**" - See "**cost report**."

"**Health care team**" means a team of professionals and/or paraprofessionals involved in the care of a client.

"**High-cost outlier**" means a case with extraordinarily high costs when compared to other cases in the same DRG, in which the allowed charges prior to July 1, 1999, exceed three times the applicable DRG payment or twenty-eight thousand dollars, whichever is greater. On and after July 1, 1999, to qualify as a high-cost outlier, the allowed charges must exceed three times the applicable DRG payment or thirty-three thousand dollars, whichever is greater.

"**Hospice**" means a medically-directed, interdisciplinary program of palliative services which is provided under arrangement with a Title XVIII Washington state-licensed and Title XVIII-certified Washington state hospice for terminally ill clients and the clients' families.

"**Hospital**" means an entity which is licensed as an acute care hospital in accordance with applicable state laws and regulations, and which is certified under Title XVIII of the federal Social Security Act.

"**Hospital admission**" means admission as an inpatient to a hospital, for a stay of twenty-four hours or longer.

"**Hospital base period**" means, for purposes of establishing a provider rate, a specific period or timespan used as a reference point or basis for comparison.

"**Hospital base period costs**" mean costs incurred in or associated with a specified base period.

"**Hospital cost report**" - See "**cost report**."

"**Hospital facility fee**" - See "**facility triage fee**."

"**Hospital market basket index**" means a measure, expressed as a percentage, of the annual inflationary costs for hospital services, as measured by Data Resources, Inc., (DRI).

"**Hospital peer group**" means the peer group categories adopted by the former Washington state hospital commission for rate-setting purposes:

(1) Group A - rural hospitals paid under a ratio-of-costs-to-charges (RCC) methodology;

(2) Group B - urban hospitals without medical education programs;

(3) Group C - urban hospitals with medical education programs; and

(4) Group D - specialty hospitals and/or hospitals not easily assignable to the other three peer groups.

"**Indigent patient**" means a patient who has exhausted any third-party sources, including Medicare and Medicaid, and whose income is equal to or below two hundred percent of the federal poverty standards (adjusted for family size), or otherwise not sufficient to enable the individual to pay for his or her care, or to pay deductibles or coinsurance amounts required by a third-party payor.

"**Indirect medical education costs**" means the indirect costs of providing an approved medical residency program as recognized by Medicare.

"**Inflation adjustment**" means, for cost inflation, the hospital inflation factor determined by Data Resources, Inc., (DRI) and published in the DRI/McGraw-Hill Report. See also "**hospital market basket index**." For charge inflation, it means the inflation factor determined by comparing average discharge charges for the industry from one year to the next, as found in the comprehensive hospital abstract reporting system (CHARS) standard reports three and four.

"**Inpatient hospital**" means a hospital authorized by the department of health to provide inpatient services.

"**Inpatient services**" means all services provided directly or indirectly by the hospital to a patient subsequent to admission and prior to discharge, and includes, but is not limited to, the following services: Bed and board; medical, nursing, surgical, pharmacy and dietary services; maternity services; psychiatric services; all diagnostic and therapeutic services required by the patient; the technical and/or professional components of certain services; use of hospital facilities, medical social services furnished by the hospital, and such drugs, supplies, appliances and equipment as required by the patient; transportation services subsequent to admission and prior to discharge; and services provided by the hospital within twenty-four hours of the patient's admission as an inpatient.

~~("Institution" - See WAC 388-500-0005, Medical definitions.)~~

"**Interdisciplinary group (IDG)**" means the team, including a physician, a registered nurse, a social worker, and a pastoral or other counselor, which is primarily responsible for the provision or supervision of care and services for a Medicaid client.

"**Intermediary**" - See "**fiscal intermediary**."

"**International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) Edition**" means the systematic listing that transforms verbal descriptions of diseases, injuries, conditions and procedures into numerical designations (coding).

"**Intervention**" means any medical or dental service provided to a client that modifies the medical or dental outcome for that client.

"**Length of stay (LOS)**" means the number of days of inpatient hospitalization. The phrase more commonly means the average length of hospital stay for patients based on diagnosis and age, as determined by the Commission of Professional and Hospital Activities and published in a book entitled *Length of Stay by Diagnosis, Western Region*. See also "**professional activity study (PAS)**."

"**Length of stay extension request**" means a request from a hospital provider for MAA to approve a client's hospital stay exceeding the average length of stay for the client's diagnosis and age.

"**Lifetime hospitalization reserve**" means, under the Medicare Part A benefit, the nonrenewable sixty hospital days that a beneficiary is entitled to use during his or her lifetime for hospital stays extending beyond ninety days per benefit period. See also "**reserve days**."

**"Low-cost outlier"** means a case with extraordinarily low costs when compared to other cases in the same DRG, in which the allowed charges for the case prior to July 1, 1999, is less than or equal to ten percent of the applicable DRG payment or four hundred dollars, whichever is greater. On and after July 1, 1999, to qualify as a low-cost outlier, the allowed charges must be less than or equal to ten percent of the applicable DRG payment or four hundred and fifty dollars, whichever is greater. Reimbursement in such cases is determined by multiplying the case's allowed charges by the hospital's RCC ratio.

**"Low income utilization rate"** means a formula represented as (A/B)+(C/D) in which:

(1) The numerator A is the hospital's total patient services revenue under the state plan, plus the amount of cash subsidies for patient services received directly from state and local governments in a period;

(2) The denominator B is the hospital's total patient services revenue (including the amount of such cash subsidies) in the same period as the numerator;

(3) The numerator C is the hospital's total inpatient service charge attributable to charity care in a period, less the portion of cash subsidies described in (1) of this definition in the period reasonably attributable to inpatient hospital services. The amount shall not include contractual allowances and discounts (other than for indigent patients not eligible for medical assistance under the state plan); and

(4) The denominator D is the hospital's total charge for inpatient hospital services in the same period as the numerator.

**"Major diagnostic category (MDC)"** means one of the twenty-five mutually exclusive groupings of principal diagnosis areas in the DRG system. The diagnoses in each MDC correspond to a single major organ system or etiology and, in general, are associated with a particular medical specialty.

**"Market basket index"** - See **"hospital market basket index."**

**"Medicaid cost proxy"** means a figure developed to approximate or represent a missing cost figure.

**"Medicaid inpatient utilization rate"** means a formula represented as X/Y in which:

(1) The numerator X is the hospital's number of inpatient days attributable to patients who (for such days) were eligible for medical assistance under the state plan in a period.

(2) The denominator Y is the hospital's total number of inpatient days in the same period as the numerator's. Inpatient day includes each day in which an individual (including a newborn) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

~~(("Medical care services" - See WAC 388-500-0005; Medical definitions-))~~

**"Medical assistance program"** means Medicaid and medical care services.

**"Medical education costs"** mean the expenses incurred by a hospital to operate and maintain a formally organized graduate medical education program.

**"Medical screening evaluation"** means the service(s) provided by a physician or other practitioner to determine whether an emergent medical condition exists. See also **"facility triage fee."**

**"Medical stabilization"** means a return to a state of constant and steady function. It is commonly used to mean the client is adequately supported to prevent further deterioration.

~~(("Medically indigent (MI)" - See WAC 388-500-0005; Medical definitions-))~~

**"Medically indigent person"** means a person certified by the department of social and health services as eligible for the limited casualty program-medically indigent (LCP-MI) program. See also **"indigent patient."**

**"Medicare cost report"** means the annual cost data reported by a hospital to Medicare on the HCFA form 2552.

**"Medicare crossover"** means a claim involving a client who is eligible for both Medicare benefits and ~~(("Medical Assistance"))~~ Medicaid.

**"Medicare fee schedule (MFS)"** means the official HCFA publication of Medicare policies and relative value units for the resource based relative value scale (RBRVS) reimbursement program.

**"Medicare Part A"** means that part of the Medicare program that helps pay for inpatient hospital services, which may include, but are not limited to:

- (1) A semi-private room;
- (2) Meals;
- (3) Regular nursing services;
- (4) Operating room;
- (5) Special care units;
- (6) Drugs and medical supplies;
- (7) Laboratory services;
- (8) X-ray and other imaging services; and
- (9) Rehabilitation services.

Medicare hospital insurance also helps pay for post-hospital skilled nursing facility care, some specified home health care, and hospice care for certain terminally ill beneficiaries.

**"Medicare part B"** means that part of the Medicare program that helps pay for, but is not limited to:

- (1) Physician services;
- (2) Outpatient hospital services;
- (3) Diagnostic tests and imaging services;
- (4) Outpatient physical therapy;
- (5) Speech pathology services;
- (6) Medical equipment and supplies;
- (7) Ambulance;
- (8) Mental health services; and
- (9) Home health services.

**"Medicare buy-in premium"** - See **"buy-in premium."**

**"Medicare payment principles"** mean the rules published in the federal register regarding reimbursement for services provided to Medicare clients.

**"Mentally incompetent"** means a client who has been declared mentally incompetent by a federal, state, or local court of competent jurisdiction for any purpose, unless the client has been declared competent for purposes which include the ability to consent to sterilization.

**"Multiple occupancy rate"** means the rate customarily charged for a hospital room with two or more patient beds.

**"Negotiated conversion factor (NCF)"** means a negotiated hospital-specific dollar amount which is used in lieu of the cost-based conversion factor as the multiplier for the applicable DRG weight to determine the DRG payment for a selective contracting program hospital. See also **"conversion factor"** and **"cost-based conversion factor."**

**"Nonallowed service or charge"** means a service or charge that cannot be billed to the department or client.

**"Noncontract hospital"** means a licensed hospital located in a selective contracting area (SCA) but which does not have a contract to participate in the selective contracting hospital program.

**"Noncovered service or charge"** means a service or charge that is not covered by medical assistance, including, but not limited to, such services or charges as a private room, circumcision, and video recording of the procedure.

**"Nonemergent hospital admission"** means any inpatient hospitalization of a client who does not have an emergent condition, as defined in WAC 388-500-0005, Emergency services.

**"Nonparticipating hospital"** means a noncontract hospital, as defined in this section.

**"Operating costs"** means all expenses incurred in providing accommodation and ancillary services, excluding capital and medical education costs.

**"Orthotic device"** means a fitted surgical apparatus designed to activate or supplement a weakened or atrophied limb or bodily function.

**"Out-of-state hospital"** means any hospital located outside the state of Washington or outside the designated border areas in Oregon and Idaho.

**"Outlier set-aside factor"** means the amount by which a hospital's cost-based conversion factor is reduced for payments of high cost outlier cases.

**"Outlier set-aside pool"** means the total amount of payments for high cost outliers which are funded annually based on payments for high cost outliers during the year.

**"Outliers"** mean cases with extraordinarily high or low costs when compared to other cases in the same DRG.

**"Outpatient"** means a client who is receiving medical services in other than an inpatient hospital setting.

**"Outpatient care"** means medical care provided (~~in~~) other than (~~an~~) inpatient services in a hospital setting (~~such as in a hospital outpatient or emergency department, a physician's office, the patient's own home, or a nursing facility~~).

**"Outpatient hospital"** means a hospital authorized by the department of health to provide outpatient services.

**"Outpatient stay"** means a hospital stay of less than or approximating twenty-four hours, except that cases involving the death of a client, delivery or initial care of a newborn, or transfer to another acute care facility are not deemed outpatient stays.

**"Pain treatment facility"** means an MAA-approved inpatient facility for pain management, in which a multidisciplinary approach is used to teach clients various techniques to live with chronic pain.

**"Participating hospital"** means a licensed hospital that accepts MAA clients.

**"PAS length of stay (LOS)"** means the average length of hospital stay for patients based on diagnosis and age, as determined by the Commission of Professional and Hospital Activities and published in a book entitled *Length of Stay by Diagnosis, Western Region*. See also **"professional activity study (PAS)"** and **"length of stay."**

**"Patient consent"** means the informed consent of the client and/or the client's guardian to the procedure(s) to be performed upon or the treatment provided to the client, evidenced by the client's or guardian's signature on a consent form.

**"Peer group"** - See **"hospital peer group."**

**"Peer group cap"** means the reimbursement limit set for hospital peer groups B and C, established at the seventieth percentile of all hospitals within the same peer group for aggregate operating, capital, and direct medical education costs.

**"Per diem charge"** means the daily charge per client that a facility may bill or is allowed to receive as payment for its services.

**"Personal comfort items"** mean items and services which do not contribute meaningfully to the treatment of an illness or injury or the functioning of a malformed body member.

**"Physical medicine and rehabilitation (PM&R)"** means a comprehensive inpatient rehabilitative program coordinated by a multidisciplinary team at an MAA-approved rehabilitation facility. The program provides twenty-four-hour specialized nursing services and an intense level of therapy for a diagnostic category for which the client shows significant potential functional improvement.

**"Physician standby"** means physician attendance without direct face-to-face patient contact and does not involve provision of care or services.

**"Physician's current procedural terminology (CPT)"** - See **"CPT."**

**"Plan of treatment"** or **"plan of care"** means the written plan of care for a patient which includes, but is not limited to, the physician's order for treatment and visits by the disciplines involved, the certification period, medications, and rationale indicating need for services.

**"Pregnant and postpartum women (PPW)"** mean eligible female clients who are pregnant or within the first one hundred sixty days following delivery.

**"Principal diagnosis"** means the medical condition determined after study of the patient's medical records to be the principal cause of the patient's hospital stay.

**"Principal procedure"** means a procedure performed for definitive treatment rather than diagnostic or exploratory purposes, or because it was necessary due to a complication.

**"Private room rate"** means the rate customarily charged by a hospital for a one-bed room.

**"Professional activity study (PAS)"** means the compilation of inpatient hospital data by diagnosis and age, conducted by the Commission of Professional and Hospital Activities, which resulted in the determination of an average

length of stay for patients. The data are published in a book entitled *Length of Stay by Diagnosis, Western Region*.

**"Professional component"** means the part of a procedure or service that relies on the physician's professional skill or training, or the part of a reimbursement that recognizes the physician's cognitive skill.

**"Prognosis"** means the probable outcome of a patient's illness, including the likelihood of improvement or deterioration in the severity of the illness, the likelihood for recurrence, and the patient's probable life span as a result of the illness.

**"Prolonged service"** means direct face-to-face patient services provided by a physician, either in the inpatient or outpatient setting, which involve time beyond what is usual for such services.

**"Prospective payment system (PPS)"** means a system that sets payment rates for a pre-determined period for defined services, before the services are provided. The payment rates are based on economic forecasts and the projected cost of services for the pre-determined period.

**(~~"Prosthetic device"~~ - See WAC 388-500-0005, Medical definitions-)**

**"Psychiatric hospitals"** mean designated psychiatric facilities, state psychiatric hospitals, designated distinct part pediatric psychiatric units, and Medicare-certified distinct part psychiatric units in acute care hospitals.

**"Public hospital district"** means a hospital district established under chapter 70.44 RCW.

**"Random claims sample"** means a sample in which all of the items are selected randomly, using a random number table or computer program, based on a scientific method of assuring that each item has an equal chance of being included in the sample. See also **"audit claims sample"** and **"stratified random sample."**

**"Ratable"** means a hospital-specific adjustment factor applied to the cost-based conversion factor (CBCF) to determine state-only program payment rates to hospitals.

**"Ratio of costs to charges (RCC)"** means the methodology used to pay hospitals for services exempt from the DRG payment method. It also refers to the factor applied to a hospital's allowed charges for medically necessary services to determine payment to the hospital for these DRG-exempt services.

**"Readmission"** means the situation in which a client who was admitted as an inpatient and discharged from the hospital is back as an inpatient within seven days as a result of one or more of the following: A new flair of illness, complication(s) from the first admission, a therapeutic admission following a diagnostic admission, a planned readmission following discharge, or a premature hospital discharge.

**"Rebasing"** means the process of recalculating the hospital cost-based conversion factors using more current data.

**"Recalibration"** means the process of recalculating DRG relative weights using more current data.

**"Regional support network (RSN)"** means a county authority or group of county authorities recognized and certified by the department, that contract with the department per chapters 38.52, 71.05, 71.24, 71.34, and 74.09 RCW and chapters 275-54, 275-55, and 275-57 WAC.

**"Rehabilitation units"** mean specifically identified rehabilitation hospitals and designated rehabilitation units of general hospitals that meet Medicare criteria for distinct part rehabilitation units.

**"Relative weights"** - See **"DRG relative weights."**

**"Remote hospitals"** mean hospitals located outside selective contracting areas (SCAs), or which:

- (1) Are more than ten miles from the nearest contract hospital in the SCA; and
- (2) Have fewer than seventy five beds; and
- (3) Have fewer than five hundred Medicaid admissions in a two-year period.

**"Reserve days"** mean the days beyond the ninetieth day of hospitalization of a Medicare patient for a benefit period or spell of illness. See also **"lifetime hospitalization reserve."**

**"Retrospective payment system"** means a system that sets payment rates for defined services according to historic costs. The payment rates reflect economic conditions experienced in the past.

**"Revenue code"** means a nationally-used three-digit coding system for billing inpatient and outpatient hospital services, home health services, and hospice services.

**"Room and board"** means services provided in a nursing facility, including:

- (1) Assistance in the activities of daily living.
- (2) Socialization activities.
- (3) Administration of medication.
- (4) Maintenance of the resident's room.
- (5) Supervision and assistance in the use of durable medical equipment and prescribed therapies.

See **"accommodation costs"** for services included in the hospital room and board category.

**"Rural health clinic"** means a clinic that is located in a rural area designated as a shortage area, and is not a rehabilitation agency or a facility primarily for the care and treatment of mental diseases.

**"Rural hospital"** means a rural health care facility capable of providing or assuring availability of health services in a rural area.

**"Secondary diagnosis"** means a diagnosis other than the principal diagnosis for which an inpatient is admitted to a hospital.

**"Selective contracting area (SCA)"** means an area in which hospitals participate in competitive bidding for hospital contracts. The boundaries of an SCA are based on historical patterns of hospital use by Medicaid patients.

**"Selective hospital contracting program"** or **"selective contracting"** means a competitive bidding program for hospitals within a specified geographic area to provide inpatient hospital services to medical assistance clients.

**"Semi-private room rate"** means a rate customarily charged for a hospital room with two to four beds; this charge is generally lower than a private room rate and higher than a ward room. See also **"multiple occupancy rate."**

**"Short stay"** means a hospital stay of less than or approximating twenty-four hours where an inpatient admission was not appropriate.

**"Special care unit"** means a Medicare-certified hospital unit where intensive care, coronary care, psychiatric inten-

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sive care, burn treatment or other specialized care is provided.

"**Specialty hospitals**" mean children's hospitals, psychiatric hospitals, cancer research centers or other hospitals which specialize in treating a particular group of clients or diseases.

"**Spendedown**" means the amount of excess income MAA has determined that a client has available to meet his or her medical expenses. The client becomes eligible for Medicaid coverage only after he or she meets the spenddown requirement.

"**Stat laboratory charges**" mean the charges by a laboratory for performing a test or tests immediately. "Stat." is the abbreviation for the Latin word "statim" meaning immediately.

"**State plan**" means the plan filed by the department with the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHHS), outlining how the state will administer the hospital program.

"**Stratified random sample**" means a sample consisting of claims drawn randomly, using statistical formulas, from each stratum of a universe of paid claims stratified according to the dollar value of the claims. See also "**audit claims sample**" and "**random claims sample**."

"**Subacute care**" means care to a patient which is less intrusive than that given at an acute care hospital. Skilled nursing, nursing care facilities and other facilities provide subacute care services.

"**Surgery**" ~~((--))~~ means the medical diagnosis and treatment of injury, deformity or disease by manual and instrumental operations. For reimbursement purposes, surgical procedures are those designated in CPT as procedure codes 10000 to 69999.

"**Swing-bed days**" means a bed day on which an inpatient is receiving skilled nursing services in a swing bed at the hospital's census hour. The hospital bed must be certified by the health care financing administration for both acute care and skilled nursing services.

"**Teaching hospital**" means, for purposes of the teaching hospital assistance program disproportionate share hospital (THAPDSH), the University of Washington medical center and harborview hospital.

"**Technical component**" means the part of a procedure or service that relates to the equipment set-up and technician's time, or the part of a reimbursement that recognizes the equipment cost and technician time.

"**Tertiary care hospital**" means a specialty care hospital providing highly specialized services to clients with more complex medical needs than acute care services.

"**Total patient days**" means all patient days in a hospital for a given reporting period, excluding days for skilled nursing, nursing care, and observation days.

"**Transfer**" means to move a client from one acute care facility to another.

"**Transferring hospital**" means the hospital transferring a client to another acute care facility.

"**Trauma care facility**" means a facility certified by the department of health as a level I, II or III facility.

"**UB-92**" means the uniform billing document intended for use nationally by hospitals, hospital-based skilled nursing facilities, home health, and hospice agencies in billing third party payers for services provided to clients.

"**Unbundled services**" mean services which are excluded from the DRG payment to a hospital, including but not limited to, physician professional services and certain nursing services.

"**Uncompensated care**" - See "**charity care**."

"**Uniform cost reporting requirements**" means a standard accounting and reporting format as defined by Medicare.

"**Uninsured indigent patient**" means an individual who receives hospital inpatient and/or outpatient services and who cannot meet the cost of services provided because the individual has no or insufficient health insurance or other resources to cover the cost.

"**Usual and customary charge (UCC)**" means the charge customarily made to the general public for a procedure or service, or the rate charged other contractors for the service if the general public is not served.

**AMENDATORY SECTION** (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-1200 Limitations on hospital coverage.** Hospital coverage under the medical assistance fee for service program is limited for certain eligible clients ~~((including;)). This coverage includes, but is not limited to((;))~~ the following:

(1) Medical care clients enrolled with the department's ~~((managed care))~~ Healthy Options carriers ~~((as follows:~~

~~((a) Comprehensive risk contracts))~~ are subject to ~~((their))~~ the respective ~~((carriers'))~~ carrier's policies and procedures ~~((regarding))~~ for coverage of hospital services;

~~((b))~~ (2) Medical care clients covered by primary care case management ~~((contracts))~~ are subject to the clients' primary care physicians' approval for hospital services;

~~((c))~~ (3) For emergency care exemptions for clients described in subsection (2) and (3) of this section, see WAC 388-538-100.

~~((2) The department shall limit))~~ (4) Coverage for ~~((clients eligible for the))~~ medically indigent (MI) ~~((program))~~ clients is limited to emergent hospital services, subject to the conditions and limitations of WAC 388-521-2140, ~~((WAC))~~ 388-529-2950, and this chapter ~~((The department shall not cover))~~;

~~((a) Out-of-state care, hospital or other medical ((care)), is not covered for clients under the MI program; and~~

~~((b) Border areas are considered in-state.~~

~~((3) The department shall not cover))~~ (5) Out-of-state medical care is not covered for clients under the medical care services program.

~~((4))~~ (6) See WAC 388-550-1100(3) for chemical-dependent pregnant clients.

~~((5) The department shall limit care in a state mental institution or an approved psychiatric facility to))~~ (7) Only Medicaid categorically needy and medically needy clients under twenty-one years of age, or sixty-five years of age or

older may receive care in a state mental institution or approved psychiatric facility.

~~((6))~~ ~~(8)~~ ~~(a)~~ ~~((The department shall pay))~~ For clients eligible for both Medicare and Medicaid ~~((only for their deductibles and coinsurance for))~~ hospitalization, MAA pays deductibles and coinsurance, unless the client has exhausted his or her Medicare part A benefits.

(i) MAA payment is limited in amount so that when added to the Medicare payment, the total amount is no more than what the department pays for the same service when provided to a Medicaid eligible, non-Medicare client.

(ii) Providers must accept the total Medicare/Medicaid amount as payment in full.

(iii) Beneficiaries are not liable for any additional charges billed by providers or by a managed care entity.

(iv) Providers or managed care entities that charge beneficiaries excess amounts are subject to sanctions.

(b) If such benefits are exhausted, the department ~~((shall))~~ pays for hospitalization for such clients subject to MAA rules.

**NEW SECTION**

**WAC 388-550-2431 Hospice services—Inpatient payments.** See chapter 388-551 WAC, Alternatives to hospital services, subchapter I—Hospice services.

**AMENDATORY SECTION** (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-2800 Establishing inpatient payment rates.** (1) MAA pays hospitals for inpatient hospital services ((shall be reimbursed)) using the ((methodologies)) rate setting methods identified ((by)) in the ((department in its)) department's approved state plan((. In determining a hospital's basic payment rate, the department shall use either:

(a) A negotiated conversion factor, for hospitals participating in the federally waived Medicaid hospital selective contracting program;

(b) A cost-based conversion factor, for hospitals not located in selective contracting areas and for hospitals and/or services exempt from selective contracting; or

(c) The ratio of cost to charge, for hospitals and services exempt from conversion factor-based payment methods, as described in WAC 388-550-4200 and WAC 388-550-4300.) that includes:

Method

Used by

Negotiated conversion factor

Hospitals participating in the federally waived Medicaid hospital selective contracting program (DRG method)

Cost-based conversion factor

Hospitals not participating in or exempt from the Medicaid hospital selective contracting program (DRG method)

Ratio of costs-to-charges

Hospitals and services exempt from DRG payment methods

Fixed per diem rate

Physical Medicine and Rehabilitation (PM&R) Level B contracted facilities

(2) ~~((As required by 42 CFR § 447.271, the department's))~~ MAA's total annual aggregate Medicaid payments to each hospital for inpatient hospital services provided to Medicaid clients ((shall)) must not exceed the hospital's customary charges to the general public for the services (42 CFR § 447.271). ~~((The department))~~ MAA will recoup amounts of total annual aggregate Medicaid payments in excess of such charges.

(3) ~~((The department's))~~ MAA's annual aggregate payments for inpatient hospital services, including annual aggregate payments to state-operated hospitals, ((shall)) must not exceed estimated amounts that ((can reasonably be estimated)) would have been paid under the Medicare payment principles.

(4) ~~((Reimbursement to a hospital shall not increase by more than))~~ When hospital ownership changes, MAA's payment must not exceed the amount allowed under 42 U.S.C. Section 1385x (v)(1)(O) ((as a result of a change of ownership)).

(5) Hospitals participating in the medical assistance program ~~((shall))~~ must annually submit ((annually)) to the department:

(a) A copy of ~~((their))~~ the hospital's HCFA 2552 uniform cost report; and

(b) A disproportionate share hospital application ~~((with the department. Participating providers shall permit the department to conduct periodic audits of their financial and statistical records)).~~

(6) ~~((The))~~ Reports referred to in subsection (5) of this section ((shall)) must be completed ((in accordance with)) according to:

(a) Medicare's cost reporting requirements((;));

(b) The provisions of this chapter((;)); and ((such))

(c) Instructions ((as may be)) issued by ((the department from time to time)) MAA.

(7) Unless federally or state-regulated ~~((or instructed by the department)),~~ providers ~~((shall))~~ must follow generally accepted accounting principles.

(8) Participating providers must permit MAA to conduct periodic audits of their financial and statistical records.

(9) Payments for trauma services may be enhanced per WAC 248-976-935.

**AMENDATORY SECTION** (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-2900 Payment limits—Inpatient hospital services.** (1) The department ~~((shall))~~ pays covered inpatient hospital services only to:

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(a) General hospitals that meet the definition in RCW 70.41.020;

(b) Inpatient psychiatric facilities and alcohol or drug treatment centers;

(i) Approved by the department; and

(ii) Not paid directly through the regional support networks.

(c) Out-of-state hospital providers, subject to conditions specified in WAC 388-550-6700.

(2) ~~((The department shall))~~ MAA does not pay for hospital care and/or services provided to a client enrolled with a ~~((department))~~ MAA-contracted managed care carrier (~~(; unless the medical assistance administration (-)).~~ An exception is when MAA(~~(?)~~) specifically authorized the provision of and payment for a service not covered by the health carrier's capitation contract ~~((with the department))~~ but covered under the client's medical assistance program.

(3) ~~((The department shall))~~ MAA does not pay a hospital for care or services provided to a client enrolled in the hospice program, except as provided under WAC 388-550-2500(3).

(4) ~~((The department shall))~~ MAA does not pay hospitals for inpatient ancillary services in addition to the diagnosis-related group (DRG) payment. The DRG payment includes ancillary services which include, but are not limited to, the following:

(a) Laboratory services;

(b) Diagnostic X-ray and other imaging services, including, but not limited to, magnetic resonance imaging, magnetic resonance angiography, computerized axial tomography, and ultrasound;

(c) Drugs and pharmacy services;

(d) Respiratory therapy and related services;

(e) Physical therapy and related services;

(f) Occupational therapy;

(g) Speech therapy and related services;

(h) Durable medical equipment and medical supplies, including infusion equipment and supplies;

(i) Prosthetic devices used during the client's hospital stay or permanently implanted during the hospital stay, such as artificial heart or replacement hip joints; and

(j) Service charges for handling and processing blood or blood derivatives.

(5) Neither ~~((the department))~~ MAA nor the client ~~((shall be))~~ is responsible for payment for additional days of hospitalization when:

(a) A client exceeds the professional activities study (PAS) length of stay (LOS) limitations; and

(b) The provider has not obtained ~~((department))~~ MAA approval for the LOS extension, as specified in WAC 388-550-1700 ~~((3)(a))~~(4).

(6) The LOS limit for a hospitalization ~~((shall be))~~ is the seventy-fifth percentile of the PAS length of stay for that diagnosis code or combination of codes, published in the *PAS Length of Stay-Western Region edition*, as periodically updated.

(7) Neither ~~((the department))~~ MAA nor the client ~~((shall be))~~ is responsible for payment of elective or nonemergent inpatient services included in ~~((the department's))~~ MAA's selective contracting program and received in a nonpartici-

pating hospital in a selective contracting area (SCA) unless the provider received prior approval from ~~((the department))~~ MAA as required by WAC 388-550-1700 (2)(a). The client, however, may be held responsible for payment of such services if he or she contracts in writing with the hospital at least seventy-two hours in advance of the hospital admission to be responsible for payment. See WAC 388-550-4600, Selective contracting program.

(8) ~~((The department shall))~~ MAA may consider hospital stays of twenty-four hours or less short stays, and ~~((shall))~~ does not pay such stays under the DRG methodology, except that stays of twenty-four hours or less involving the following situations ~~((shall be))~~ are paid under the DRG system:

(a) Death of a client;

(b) Obstetrical delivery;

(c) Initial care of a newborn; or

(d) Transfer of a client to another acute care hospital.

(9)(a) Under the ratio of costs-to-charges (RCC) method, ~~((the department shall))~~ MAA does not pay for inpatient hospital services provided more than one day prior to the date of a scheduled or elective surgery ~~((, nor shall))~~. These services must not be charged to the client.

(b) Under the DRG method, ~~((the department shall))~~ MAA deems all services provided prior to the day before a scheduled or elective surgery included in the hospital's DRG payment for the case.

(c) ~~((The department shall))~~ MAA does not count toward the threshold for hospital outlier status:

(i) Any charges for extra days of inpatient stay prior to a scheduled or elective surgery; and

(ii) The associated services provided during those extra days.

(10) ~~((The department shall apply))~~ MAA applies the following rules to RCC cases and high-cost DRG outlier cases for costs over the high-cost outlier threshold:

(a) ~~((The department shall pay hospitals for accommodation costs at the multiple occupancy rate even when a private room is provided to the client. The department shall pay accommodation costs at the semi-private or ward room rate, consistent with the type of accommodations provided.~~

~~((b) The department shall))~~ MAA covers hospital stat charges only for specific laboratory procedures determined and published by ~~((the department))~~ MAA as qualified stat procedures. ~~((The department shall))~~ MAA does not automatically treat tests generated in the emergency room as justifying a stat order.

~~((e) The department shall reimburse))~~ (b) MAA pays hospitals for special care charges only when:

(i) The hospital has a department of health (DOH) or Medicare-qualified special care unit;

(ii) The special care service being billed, such as intensive care, coronary care, burn unit, psychiatric intensive care, or other special care, was provided in the special care unit;

(iii) The special care service provided is the kind of service for which the special care unit has been DOH- or Medicare-qualified; and

(iv) The client's medical condition required the care be provided in the special care unit.

(11) ~~((The department shall))~~ MAA determines its actual payment for a hospital admission by deducting from the basic

hospital payment those charges which are the client's responsibility, referred to as spend-down, or a third party's liability.

(12) ~~((The department shall))~~ MAA reduces reimbursement rates to hospitals for services provided to MI/medical care services clients according to the individual hospital's ratable and/or equivalency factors, as provided in WAC 388-550-4800.

(13) ~~((The department shall))~~ MAA pays for the hospitalization of a client who is eligible for Medicare and Medicaid only when the client has exhausted his or her Medicare part A benefits, including the nonrenewable lifetime hospitalization reserve of sixty days.

(14) In-state and border area hospitals' accommodation charges are paid by multiplying the hospital's RCC rate to the lesser of the room rate submitted by the hospital to MAA or the accommodation charges billed on the claim.

(15) MAA pays out-of-state accommodation charges at the in-state average RCC rate times the hospital's billed charge.

(16) With regard to room rate submittals to MAA:

(a) A hospital must submit to MAA changes on the room rate change form, DSHS 13-687:

(b) Charges must not exceed the hospital's usual and customary charges to the public as required by 42 CFR § 447.271:

(c) New room rates take effect on the effective date stated on the form, or fourteen calendar days after MAA receives the form, whichever is later:

(d) MAA will not make retroactive room rate changes:

(e) Private rooms are paid at the semi-private room rate.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-3000 DRG payment system.** (1) Except where otherwise specified, ~~((the department shall))~~ MAA uses the diagnosis-related group (DRG) system, which categorizes patients into clinically coherent and homogenous groups with respect to resource use, as the reimbursement method for inpatient hospital services.

(2) ~~((The department shall))~~ MAA periodically evaluates which all-patient grouper (AP-DRG) version to use.

(3)(a) ~~((The department shall))~~ MAA calculates the DRG payment for a particular hospital by multiplying the assigned DRG's relative weight, as determined in WAC 388-550-3100, for that admission by the hospital's cost-based conversion factor, as determined in WAC 388-550-3450.

(b) If the hospital is participating in the selective contracting program, the department ~~((shall multiply))~~ multiplies the DRG relative weight for the admission by the hospital's negotiated conversion factor, as specified in WAC 388-550-4600(4).

(4)(a) ~~((The department shall))~~ MAA pays for a hospital readmission within seven days of discharge for the same client when department review concludes the readmission did not occur as a result of premature hospital discharge.

(b) When a client is readmitted to the same hospital within seven days of discharge, and ~~((department))~~ MAA review concludes the readmission resulted from premature

hospital discharge, ~~((the department shall))~~ MAA treats the previous and subsequent admissions as one hospital stay and pay a single DRG for the combined stay.

(5) If two different DRG assignments are involved in a readmission as described in subsection (4) of this section, ~~((the department shall))~~ MAA reviews the hospital's records to determine the appropriate reimbursement.

(6) ~~((The department shall recognize Medicare's))~~ MAA recognizes Medicaid's DRG payment for a Medicare-Medicaid dually eligible client to be payment in full.

(a) ~~((The department shall))~~ MAA pays the Medicare deductible and co-insurance related to the inpatient hospital services provided to clients eligible for Medicare and Medicaid subject to the Medicaid maximum allowable limit set in WAC 388-550-1200(6).

(b) ~~((The department shall))~~ MAA ensures total Medicare and Medicaid payments to a provider for such client does not exceed ~~((Medicare's))~~ Medicaid's maximum allowable charges.

(c) ~~((The department shall))~~ MAA pays for those allowed charges beyond the threshold using the outlier policy described in WAC 388-550-3700 in cases where:

(i) Such client's Medicare part A benefits including lifetime reserve days are exhausted; and

(ii) The Medicaid outlier threshold status is reached.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-3100 Calculating DRG relative weights.** (1) ~~((The department shall))~~ MAA sets Washington Medicaid-specific ~~((diagnosis-related group-))~~ DRG ~~((s))~~ relative weights, as follows:

(a) ~~((The department shall))~~ Uses the all-patient grouper (AP-DRG) to classify Washington Medicaid hospital admissions data ~~((and the hospital admissions data in the Washington state department of health's comprehensive hospital abstract reporting system (CHARS), using the all-patient grouper (AP-DRG))~~.

(b) ~~((The department shall test))~~ Statistically tests each DRG ~~((statistically))~~ for adequacy of sample size to ensure that relative weights meet acceptable reliability and validity standards.

(c) ~~((The department shall establish))~~ Establishes relative weights from Washington Medicaid hospital admissions data. These relative weights may be stable or unstable.

~~((The department shall establish relative weights from CHARS derived data which include Medicaid data. These relative weights may be stable or unstable.~~

~~((The department shall test))~~ Tests the stability of Washington Medicaid relative weights ~~((established in))~~ from subsection (1)(c) of this section using ~~((the null hypothesis test at seventy-five percent confidence interval. The department shall))~~ a reasonable statistical test to determine if the weights are stable. MAA accepts as stable and adopts those Washington Medicaid relative weights that pass the ~~((null hypothesis))~~ reasonable statistical test.

~~((The department shall test the stability of CHARS derived relative weights established in subsection (1)(d) of this section using the same procedure as in subsection (e) of~~

~~this section. The department shall replace unstable Washington Medicaid relative weights with stable CHARS derived relative weights.~~

~~(g) The department shall replace remaining))~~

~~(e) Pays admissions for DRGs having unstable Washington Medicaid relative weights ((with New York proxy relative weights. For the purposes of this chapter, remaining unstable Washington Medicaid relative weights are those that fail the null hypothesis test and for which there are no stable CHARS derived relative weight replacements)) using the RCC method.~~

~~(2) When using ratios with a Washington Medicaid relative weight as base, ((the department shall:~~

~~(a) Standardize the relative weights by adjusting the CHARS and New York proxy relative weights; and~~

~~(b) Assure all Medicaid stable and proxy weights equal a statement case mix of) MAA adjusts all stable Medicaid relative weights so that the average weight of the case mix population equals 1.0.~~

**AMENDATORY SECTION** (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-3500 Inflation adjustments.** (1) Effective on ~~((October))~~ November 1 of each year, ~~((the department shall))~~ MAA adjusts all cost-based conversion factors ~~(CBCF)~~ for inflation for the ~~((federal fiscal year October 1 through September 30))~~ following twelve months.

(2) ~~((The department shall use as))~~ MAA makes CBCF adjustments using the annual inflation factor from the ((prospective payment system-)) PPS((+))-type hospital market-basket index factor from the most recent McGraw-Hill Data Resources, Inc., (DRI) forecast.

(3) ~~((The department shall))~~ MAA considers adjustments to negotiated conversion factors according to the terms of the individual hospital's contract.

**AMENDATORY SECTION** (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-3700 DRG outliers and administrative day rates.** (1) ~~((The department shall))~~ MAA calculates high-cost diagnosis-related group (DRG) outlier payments for qualifying cases as follows:

(a) To qualify as a DRG high-cost outlier((-)) the allowed charges for ~~((the))~~ a case;

(i) With an admission date prior to July 1, 1999, must exceed a threshold of three times the applicable DRG payment or twenty-eight thousand dollars, whichever is greater; and

(ii) For an admission date on and after July 1, 1999, must exceed a threshold of three times the applicable DRG payment or thirty-three thousand dollars, whichever is greater.

(b) ~~((Reimbursement))~~ Payment for high-cost outlier cases other than those in subsections (1)(c) and (d) of this section ~~((shall be))~~ is the applicable DRG payment amount, plus seventy-five percent of the hospital's ratio of costs-to-charges (RCC) ~~((ratio))~~ rate applied to the allowed charges exceeding the outlier threshold.

(c) ~~((Reimbursement))~~ Payment for psychiatric high-cost outliers for DRGs 424-432 ~~((shall be))~~ is at the applicable DRG rate plus one hundred percent of the hospital RCC applied to the allowed charges exceeding the outlier threshold.

(d) ~~((Reimbursement))~~ Payment for high-cost outlier cases at in-state children((-))s hospitals ~~((shall be))~~ is the applicable DRG payment amount, plus eighty-five percent of the hospital's RCC applied to the allowed charges exceeding the outlier threshold.

(2) ~~((The department shall))~~ MAA calculates low-cost DRG outlier payments for qualifying cases as follows:

(a) To qualify as a DRG low-cost outlier, the allowed charges for ~~((the))~~ a case ~~((shall))~~;

(i) With an admission date prior to July 1, 1999, must be less than or equal to ten percent of the applicable DRG payment or four hundred dollars, whichever is greater; and

(ii) With an admission date on and after July 1, 1999, must be less than or equal to ten percent of the applicable DRG payment or four hundred fifty dollars, whichever is greater.

(b) ~~((The department's reimbursement))~~ MAA's payment for low-cost DRG outlier claims ~~((shall be))~~ is the allowed charges multiplied by the hospital's RCC.

(3) ~~((The department shall))~~ MAA pays hospitals an all-inclusive administrative day rate for those days of hospital stay in which a client no longer needs an acute inpatient level of care, but is not discharged because an appropriate noninpatient hospital placement is not available.

(a) ~~((The department shall))~~ MAA sets ~~((reimbursement))~~ payment for administrative days at the statewide average Medicaid nursing facility per diem rate. The administrative day rate ~~((shall be))~~ is adjusted annually effective ~~((October))~~ November 1.

(b) Ancillary services ~~((shall))~~ are not ((be reimbursed)) paid during administrative days.

(c) For a DRG payment case, ~~((the department shall))~~ MAA does not pay administrative days until the case exceeds the high-cost outlier threshold for that case.

(d) For DRG-exempt cases, ~~((the department shall identify))~~ MAA identifies administrative days during the length of stay review process after the client's discharge from the hospital.

(e) If the hospital admission is solely for a stay until an appropriate sub-acute placement can be made, ~~((the department shall reimburse))~~ MAA pays the hospital at the administrative day ~~((per diem))~~ rate from the date of admission.

(4) ~~((The department shall))~~ MAA makes day outlier payments to hospitals, in accordance with section 1923 (a)(2)(C) of the Social Security Act, for exceptionally long-stay clients. A hospital ~~((shall be))~~ is eligible for the day outlier payment if it meets all of the following criteria:

(a) The hospital is a disproportionate share (DSH) hospital and the client served is under the age of six, or the hospital may not be a DSH hospital but the client served is a child under age one;

(b) The payment methodology for the admission is DRG;

(c) The charge for the hospitalization is below the high-cost outlier threshold ~~((three times the DRG rate or twenty-~~

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eight thousand dollars, whichever is greater))) as defined in subsection (1)(a) of this section; and

(d) The client's length of stay is over the day outlier threshold for the applicable DRG. The day outlier threshold is defined as the number of an average length of stay for a discharge (for an applicable DRG), plus twenty days.

(5) ~~((The department shall))~~ MAA bases the day outlier payment on the number of days exceeding the day outlier threshold, multiplied by the administrative day rate.

(6) ~~((The department's))~~ MAA's total ~~((reimbursement))~~ payment for day outlier claims ~~((shall be))~~ is the applicable DRG payment plus the day outlier or administrative days payment.

(7) Day outliers ~~((shall))~~ are only ~~((be))~~ paid for cases that do not reach high-cost outlier status. A client's outlier claim ~~((shall be))~~ is either a day outlier or a high-cost outlier, but not both.

**AMENDATORY SECTION** (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-4500 Payment method—RCC.** (1)(a) ~~((The department shall))~~ MAA calculates a hospital's ratio of costs-to-charges (RCC) by dividing allowable operating costs by patient revenues associated with these allowable costs.

(b) ~~((The department shall))~~ MAA bases these figures on the annual Medicare cost report data provided by the hospital.

(c) ~~((The department shall))~~ MAA updates hospitals' RCC ~~((ratios))~~ rates annually with the submittal of new HCFA 2552 Medicare cost report data. Prior to computing the ratio, ~~((the department shall))~~ MAA excludes increases in operating costs or total rate-setting revenue attributable to a change in ownership.

(2) ~~((The department shall))~~ MAA limits a hospital's RCC to one hundred percent of its allowable charges. ~~((The department shall))~~ MAA recoups payments made to a hospital in excess of its customary charges to the general public.

(3) ~~((The department shall))~~ MAA establishes the basic hospital payment by multiplying the hospital's assigned RCC ~~((ratio))~~ rate by the allowed charges for medically necessary services. ~~((The department shall))~~ MAA deducts client responsibility (spend-down) or third-party liability (TPL) as identified on the billing invoice or by ~~((the department))~~ MAA from the basic payment to determine the actual payment due from ~~((the department))~~ MAA for that hospital admission.

(4) ~~((The department shall))~~ MAA uses the RCC payment method to reimburse:

- (a) Peer group A hospitals;
- (b) Other DRG-exempt hospitals identified in WAC 388-550-4300; and
- (c) Any hospital for DRG-exempt services described in WAC 388-550-4400.

(5) ~~((The department shall))~~ MAA deems the RCC for in-state and border area hospitals lacking sufficient HCFA 2552 Medicare cost report data the weighted average of the RCC ~~((ratios))~~ rates for in-state hospitals.

(6) ~~((The department shall))~~ MAA calculates an outpatient ratio of costs-to-charges by dividing the projected costs by the projected charge multiplied by the average RCC.

(a) In no case ~~((shall))~~ may the outpatient adjustment factor exceed 1.0.

(b) The outpatient adjustment factor ~~((shall be))~~ is updated ~~((each October))~~ annually effective November 1.

**AMENDATORY SECTION** (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-4700 Payment—Non-SCA participating hospitals.** (1) In a selective contracting area (SCA), ~~((the department shall))~~ MAA pays any qualified hospital for inpatient hospital services provided to an eligible medical care client for treatment of an emergency medical condition.

(2) ~~((The department shall))~~ MAA pays any qualified hospital for medically necessary but nonemergent inpatient hospital services provided to an eligible medical care client deemed by the department to reside an excessive travel distance from a contracting hospital.

(a) The client is deemed to have an excessive travel burden if the travel distance from a client's residence to the nearest contracting hospital exceeds the client's county travel distance standard, as follows:

<u>County</u>	<u>Community Travel Distance</u> <u>((Norm)) Standard</u>
Adams	25 miles
Asotin	15 miles
Benton	15 miles
Chelan	15 miles
Clallam	20 miles
Clark	15 miles
Columbia	19 miles
Cowlitz	15 miles
Douglas	20 miles
Ferry	27 miles
Franklin	15 miles
Garfield	30 miles
Grant	24 miles
Grays Harbor	23 miles
Island	15 miles
Jefferson	15 miles
King	15 miles
Kitsap	15 miles
Kittitas	18 miles
Klickitat	15 miles
Lewis	15 miles
Lincoln	31 miles
Mason	15 miles
Okanogan	29 miles
Pacific	21 miles

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Pend Oreille	25 miles
Pierce	15 miles
San Juan	34 miles
Skagit	15 miles
Skamania	40 miles
Snohomish	15 miles
Spokane	15 miles
Stevens	22 miles
Thurston	15 miles
Wahkiakum	32 miles
Walla Walla	15 miles
Whatcom	15 miles
Whitman	20 miles
Yakima	15 miles

(b) If a client must travel outside his/her SCA to obtain inpatient services not available within the community, such as treatment from a tertiary hospital, the client ~~((shall))~~ may obtain such services from a contracting hospital appropriate to the client's condition.

(3) ~~((The department shall))~~ MAA requires prior authorization for all nonemergent admissions to nonparticipating hospitals in an SCA. See WAC 388-550-1700 (2)(a).

(4) ~~((The department shall))~~ MAA pays a licensed hospital all applicable Medicare deductible and coinsurance amounts for inpatient services provided to Medicaid clients who are also beneficiaries of Medicare part A subject to the Medicaid maximum allowable as established in WAC 388-550-1200 (8)(a).

(5) The department ~~((shall))~~ pays any licensed hospital DRG-exempt services as listed in WAC 388-550-4400.

**AMENDATORY SECTION** (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-4800 Hospital payment method—State-only programs.** (1)(a) ~~((The department shall))~~ MAA calculates payments to hospitals for state-only MI/medical care services clients according to the:

- (i) Diagnosis-related group (DRG); or
- (ii) Ratio of cost-to-charge (RCC) methodologies; and

(b) ~~((The department shall))~~ MAA reduces hospitals' Title XIX rates by their ratable and/or equivalency (EQ) factors, as applicable.

(2) ~~((The department shall))~~ MAA calculates ratables as follows:

(a) A hospital's Medicare and Medicaid revenues are added together, along with the value of the hospital's charity care and bad debts. The hospital's low-income disproportionate share (LIDSH) revenue is deducted from this total to arrive at the hospital's community care dollars.

(b) Revenue generated by hospital-based physicians, as reported in the hospital's HCFA 2552 report, is subtracted from total hospital revenue, also as reported in the hospital's cost report.

(c) The amount derived in step (2)(a) is divided by the amount derived in step (2)(b) to obtain the ratio of community care dollars to total revenue.

(d) The result of step (2)(c) is subtracted from 1.000 to derive the hospital's ratable. The hospital's Title XIX cost-based conversion factor (CBCF) or RCC rate is multiplied by (1-ratable) for an MI or medical care services client.

(e) The reimbursements for MI/medical care services clients are mathematically represented as follows:

MI/medical care services RCC = Title XIX RCC x (1-Ratable)

MI/medical care services CBCF = Title XIX Conversion Factor x (1-Ratable) x EQ

(3) ~~((The department shall))~~ MAA updates each hospital's ratable annually on ~~((July))~~ August 1.

(4)(a) ~~((The department shall))~~ MAA uses the equivalency factor (EQ) to hold the DRG reimbursement rates for the MI/medical care services programs at their current level prior to any rebasing. ~~((The department shall apply))~~ MAA applies the EQ only to the Title XIX DRG CBCFs. ~~((The department shall))~~ MAA does not apply the EQ when the DRG rate change is due to the application of the annual ~~((DRI))~~ inflation ~~((adjustment))~~ factor from the PPS-type hospital market-basket index from the most recent McGraw-Hill Data Resources, Inc., (DRI) forecast.

(b) ~~((The department shall))~~ MAA calculates a hospital's equivalency factor as follows:

EQ = (Current MI/medical care services conversion factor)/(Title XIX DRG rate x (1-ratable))

(5) Effective for hospital admissions on or after December 1, 1991, ~~((the department shall))~~ MAA reduces its payment for MI (but not medical care services) clients further by multiplying it by ninety-seven percent. ~~((The department shall apply))~~ MAA applies this payment reduction adjustment to the MIDSH methodology in accordance with section 3(b) of the "Medicaid Voluntary Contributions and Provider-Specific Tax Amendment of 1991."

(6) When the MI/medical care services client has a trauma ~~((severity factor of nine or more, the department shall))~~ that qualifies under the trauma program, MAA pays the full Medicaid Title XIX amount when care has been provided in a nongovernmental hospital designated by DOH as a trauma center. ~~((The department shall apply))~~ MAA applies the reduction in MI cases ~~((where the trauma severity factor is less than nine))~~ which do not qualify under the trauma program. ~~((The department shall))~~ MAA gives an annual grant to governmental hospitals certified by DOH.

**AMENDATORY SECTION** (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-6000 Payment—Outpatient hospital services.** (1)(a) ~~((The department shall))~~ MAA determines allowable costs for hospital outpatient services, excluding nonallowable revenue codes, by the application of the hospital-specific outpatient ratio of costs to charges (RCC), except as specified in subsection (2) below.

(b) ~~((The department shall))~~ MAA does not pay separately for ancillary hospital services which are included in the hospital's RCC reimbursement rate.

(2) ~~((The department shall))~~ MAA pays the lesser of billed charges or ~~((the department's))~~ MAA's published maximum allowable fees for the following outpatient services:

- (a) Laboratory/pathology;
- (b) Radiology, diagnostic and therapeutic;
- (c) Nuclear medicine;
- (d) Computerized tomography scans, magnetic resonance imaging, and other imaging services;
- (e) Physical therapy;
- (f) Occupational therapy;
- (g) Speech/language therapy; and
- (h) Other hospital services as identified and published by the department.

(3) ~~((The department shall))~~ MAA is not ~~((be))~~ responsible for payment of hospital care and/or services provided to a client enrolled in a ~~((department))~~ MAA-contracted, prepaid medical plan when the client fails to use:

- (a) For a nonemergent condition, a hospital provider under contract with the plan;
- (b) In a bona fide emergent situation, a hospital provider under contract with the plan; or
- (c) The provider whom ~~((the department))~~ MAA has authorized to provide and receive payment for a service not covered by the prepaid plan but covered under the client's medical assistance program.

(4) ~~((The department shall))~~ MAA considers a hospital stay of twenty-four hours or less as an outpatient short stay. ~~((The department shall))~~ MAA does not ~~((reimburse))~~ pay an outpatient short stay under the diagnosis-related group system except when it involves one of the following situations:

- (a) Death of a client;
  - (b) Obstetrical delivery;
  - (c) Initial care of a newborn; or
  - (d) Transfer of a client to another acute care hospital.
- (5) ~~((The department shall))~~ MAA does not pay for patient room and ancillary services charges beyond the twenty-four period for outpatient stays.

(6) ~~((The department shall))~~ MAA does not cover short stay unit, emergency room facility charges, and labor room charges in combination when the billed periods overlap.

(7) ~~((The department shall))~~ MAA requires that the hospital's bill to the department shows the admitting, principal, and secondary diagnoses, and include the attending physician's name.

(8) Payments for trauma services may be enhanced per WAC 246-976-935.

**WSR 99-08-003**  
**PERMANENT RULES**  
**BOARD OF**  
**PILOTAGE COMMISSIONERS**

[Filed March 25, 1999, 1:27 p.m.]

Date of Adoption: January 14, 1999.

Purpose: To modify familiarization/training trip requirements and license limitations for new pilots during their first five years. To define the term "tanker" for purposes of this section.

Citation of Existing Rules Affected by this Order:  
Amending WAC 363-116-082 Limitations on new pilots.

Statutory Authority for Adoption: RCW 88.16.105.

Adopted under notice filed as WSR 98-21-053 on October 19, 1998.

Changes Other than Editing from Proposed to Adopted Version: One clarifying grammatical change replaced the verb "complete" with "pilot."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

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

March 22, 1999

Peggy Larson

Administrator

**AMENDATORY SECTION** (Amending WSR 97-14-032, filed 6/25/97, effective 7/26/97)

**WAC 363-116-082 Limitations on new pilots.** (1) The following limitations shall apply to a newly licensed pilot during his/her first five years of active service. Except where otherwise noted, the pilotage assignment may include docking and undocking of vessels within the tonnage limitations. For purposes of this section, the term "tanker" shall in addition to tankers include any combination of tug and tank barge, and any tonnage restrictions thereon shall be calculated by including the gross tonnage of the tug and tank barge combined. All tonnages referred to are international tonnages.

(2) Progressive lifting of tonnage limitations requires a newly licensed pilot to satisfactorily ~~((complete the familiarization/training trips listed))~~ pilot vessels under the direct supervision of a five-year pilot on the familiarization/training trips listed below. This veteran pilot shall complete and submit an evaluation form for each trip a new pilot performs. All of these trips must, if practical, be completed during the last ninety days of the license year.

(3) Puget Sound pilotage district - License limitations.

(a) First year:

(i) Not authorized to pilot loaded petroleum tankers.

(ii) Not authorized to pilot any vessels in excess of 25,000 gt or 660' in length ~~((or)).~~

(iii) Not authorized to pilot any passenger vessels in excess of 5,000 gt.

(b) Second year:

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(i) Not authorized to pilot loaded petroleum tankers in excess of 25,000 gt.

(ii) Not authorized to pilot any vessels in excess of 30,000 gt.

(c) Third year:

(i) Not authorized to pilot loaded petroleum tankers in excess of 32,000 gt.

(ii) Not authorized to pilot any vessels in excess of 45,000 gt.

(d) Fourth year:

(i) Not authorized to pilot loaded petroleum tankers in excess of ~~((32,000))~~ 38,000 gt.

(ii) Not authorized to pilot any vessels in excess of 60,000 gt.

(e) Fifth year:

(i) Not authorized to pilot loaded petroleum tankers in excess of 45,000 gt.

(ii) Not authorized to pilot any vessels in excess of 75,000 gt.

(4) Puget Sound pilotage district - Familiarization/training trips.

(a) Prior to the expiration of the FIRST license year, a new pilot must make three familiarization/training trips, two of which shall involve docking loaded petroleum tankers of not more than ~~((25,000))~~ 30,000 gt; and the third trip shall involve a ~~((bridge and))~~ waterway transit of a vessel between 25,000 and 35,000 gt.

(b) Prior to the expiration of the SECOND license year, a new pilot must make three familiarization/training trips, two of which shall involve docking loaded petroleum tankers of between 25,000 and 32,000 gt; and the third trip shall involve the ~~((anchoring))~~ docking of a vessel between 30,000 and 45,000 gt other than a loaded petroleum tanker.

(c) Prior to the expiration of the THIRD license year, a new pilot must make ~~((two))~~ three familiarization/training trips, one of which shall involve docking a loaded petroleum tanker of between 32,000 and 38,000 gt; and two trips shall involve the docking of vessels between 45,000 and ~~((55,000))~~ 60,000 gt other than loaded petroleum tankers.

(d) Prior to the expiration of the FOURTH license year, a new pilot must make three familiarization/training trips, one of which shall involve docking a loaded petroleum tanker(s) of between ~~((32,000))~~ 38,000 and 45,000 gt; and two trips shall involve the docking of vessels between 60,000 and 75,000 gt other than loaded petroleum tankers.

(e) Prior to the expiration of the FIFTH license year, a new pilot must make three familiarization/training trips which shall involve two trips docking and one trip anchoring loaded petroleum tankers of 55,000 gt or larger.

(f) All of these trips must be complete trips between one port and another port, or between the pilot station and a port.

(5) Grays Harbor pilotage district - License limitations.

(a) First year:

(i) Not authorized to pilot loaded tankers ~~((or barges))~~ carrying chemical or petroleum products.

(ii) Not authorized to pilot any vessels in excess of 17,500 gt.

(iii) Not authorized to pilot loaded or partially loaded vessels through the Chehalis River bridge(s).

(b) Second year:

(i) Not authorized to pilot loaded tankers ~~((or barges))~~ carrying chemical or petroleum products in excess of 10,000 gt.

(ii) Not authorized to pilot any vessels in excess of 20,000 gt.

(c) Third year: Not authorized to pilot any vessels in excess of 22,500 gt.

(d) Fourth Year: Not authorized to pilot any vessels in excess of 25,000 gt.

(e) Fifth year: Not authorized to pilot any vessels in excess of 30,000 gt.

(6) Grays Harbor pilotage district - Familiarization/training trips.

(a) Prior to the expiration of the FIRST license year, a new pilot must make ten familiarization/training trips. Eight of these trips shall be through the Chehalis River bridge(s) on loaded or partially loaded vessels. The other trips may be elsewhere on the waterway but shall be on vessels in excess of 17,500 gt.

(b) Prior to the expiration of the SECOND license year, a new pilot must make three familiarization/training trips on vessels in excess of 20,000 gt. Two of these trips shall involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway.

(c) Prior to the expiration of the THIRD license year, a new pilot must make three familiarization/training trips on vessels in excess of 25,000 gt to or from the sea buoy. Two of these trips shall involve docking these vessels.

(d) Prior to the expiration of the FOURTH license year, a new pilot must make three familiarization/training trips on vessels in excess of 27,500 gt or on the nearest larger size vessels available. Two of these trips shall involve docking these vessels; and one of these trips shall involve turning the vessel in the waterway.

(e) Prior to the expiration of the FIFTH license year, a new pilot must make three familiarization/training trips on vessels in excess of 32,500 gt or on the nearest larger size vessels available.

(7) The initial license shall contain the limitations contained above and list the date of commencement and expiration of such periods. If a newly licensed pilot is unable to pilot for forty-five days or more in any one of the five years, he shall notify the board and request a revised schedule of limitations.

(8) No pilot shall be dispatched to, or accept an assignment on, any vessel which exceeds the limitations of his/her license. On vessels in which there is more than one pilot assigned, the license limitations shall apply only to the pilot in charge.

(9) All limitations on a new pilot's license shall be lifted at the beginning of the sixth year of piloting provided he/she has submitted to the board a statement attesting to the fact that he/she has completed all the required familiarization/training requirements and the vessel simulator courses required.

**WSR 99-08-004**  
**PERMANENT RULES**  
**STATE BOARD OF EDUCATION**

[Filed March 25, 1999, 3:00 p.m.]

Date of Adoption: March 19, 1999.

Purpose: The purpose is to make grammatical changes to clarify administrative language and to update RCW references.

Citation of Existing Rules Affected by this Order: Repealing WAC 180-20-035, 180-20-040, 180-20-055, 180-20-060, 180-20-070, 180-20-080 and 180-20-150; and amending WAC 180-20-034, 180-20-101, 180-20-111, 180-20-115, and 180-20-120.

Statutory Authority for Adoption: RCW 28A.160.210.

Adopted under notice filed as WSR 99-01-157 on December 23, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 5, Repealed 8.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 5, Repealed 8.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 5, Repealed 8; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

March 25, 1999

Larry Davis

Executive Director

### NEW SECTION

**WAC 180-20-011 Training and qualifications of school bus drivers—Administration.** It shall be the responsibility of the superintendent of public instruction to administer the program of training and qualifications of school bus drivers consistent with the provisions of this chapter.

**AMENDATORY SECTION** (Amending WSR 93-08-007, filed 3/24/93, effective 4/24/93)

**WAC 180-20-034 Definitions.** As used in this chapter, the following terms mean:

**(1) "Student"** means the following:

~~((+))~~ **(a)** Any person enrolled in a school program who is under the supervision, direction, or control of the motor vehicle operator authorized under this chapter;

~~((+))~~ **(b)** Any person enrolled in a school program in any public school served by the motor vehicle operator;

~~((+))~~ **(c)** Any person enrolled in a school program in any public school while attending a school related activity at

which the motor vehicle operator is performing professional duties; or

~~((+))~~ **(d)** Any former student who is under eighteen years of age and who has been under the supervision, direction, or control of the motor vehicle operator. Former student, for the purpose of this section, includes but is not limited to drop outs, graduates, and students who transfer to other districts or schools.

**(2) "School bus driver"** means a person, who is employed by a school district including contracted drivers under WAC 180-20-031 (1) and (2) and as part of that employment or contract, operates a school bus as defined in WAC 392-143-010, as well as other motor vehicles for the regularly scheduled transportation of students between home and school, and for school related activities on routinely scheduled routes. An authorized school bus driver may also transport students on field trips and other school related activities.

**(3) "A school bus driver's authorization"** means an authorization issued by the superintendent of public instruction indicating that the person has met state board of education requirements to operate a school bus or other motor vehicle for the purpose of transporting students to and from school routinely on scheduled routes and for school activities.

**(4) "School bus driver instructor's endorsement"** means an endorsement issued by the superintendent of public instruction to a person successfully completing the superintendent of public instruction approved school bus driver instructor course. This endorsement qualifies a person to train and verify the training of school bus drivers. This endorsement shall lapse unless the holder successfully completes an annual school bus driver instructor's in-service course.

**(5) "School bus driver training course"** means a course established by the superintendent of public instruction and taught by a qualified school bus driver instructor. This course shall be successfully completed by all applicants for a continuing school bus driver's authorization.

**(6) "School bus driver annual in-service training course"** means an annual course taught by a qualified school bus driver instructor. The content and minimum time requirements of such course shall be annually determined by the superintendent of public instruction and shall be required to be completed by the end of the school year by all authorized school bus drivers.

**(7) "School bus driver instructor's course"** means a training program authorized by the superintendent of public instruction to qualify a person as a school bus driver instructor.

**(8) "Instructor's annual in-service course"** means an annual required course, the content of which shall be determined by the superintendent of public instruction. Successful completion of this course prevents the instructor's qualification from lapsing.

**AMENDATORY SECTION** (Amending WSR 96-20-042, filed 9/24/96, effective 10/25/96)

**WAC 180-20-101 Minimum qualifications of school bus drivers.** (1) Every school bus driver must meet and continue to meet the following minimum requirements:

(a) Be at least twenty-one years of age.

(b) Have a valid driver's license or commercial driver's license, as required by law, issued by the state department of licensing.

(c) Have at least one year of experience as a driver of a truck or commercial vehicle requiring a special endorsement or, in the alternative, at least three years of experience as a driver of a passenger vehicle.

(d) Hold a current and valid first aid card or equivalent which certifies that the applicant has completed a course in the basic principles of first aid.

(e) Submit to the school district a disclosure of all crimes against children or other persons and all civil adjudications in a dependency action or in a domestic relation action and all disciplinary board final decisions of sexual abuse or exploitation or physical abuse as required by RCW 43.43.834(2) and disclosure of all convictions which may be grounds for denial of authorization under (h), (i), and (j) of this subsection.

(f) Submit to a criminal record check according to chapter 28A.400 RCW which shows that no offenses have been committed which would be grounds for denial of an authorization.

(g) Shall not have misrepresented or concealed a material fact in obtaining a school bus driver's authorization or in reinstatement thereof in the previous five years.

(h) Shall not have had a driving license privilege suspended or revoked within the preceding three years; a certified copy of the suspension or revocation order issued by the department of licensing being conclusive evidence of the suspension or revocation.

(i) Shall not have incurred three or more speeding tickets in excess of ten miles per hour over the speed limit within any twelve-month period, within the last thirty-six months.

(j) Shall not have been convicted of any misdemeanor, gross misdemeanor, or felony (including instances in which a plea of guilty or nolo contendere is the basis for the conviction) or any proceedings in which the charge has been deferred from prosecution under chapter 10.05 RCW or the sentence has been deferred or suspended, and is related to the occupation of a school bus driver, including but not limited to the following:

(i) Any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW, sexual exploitation of a child under chapter 9.68A RCW; sexual offenses under chapter 9A.44 RCW where a minor is the victim; promoting prostitution of a minor under chapter 9A.88 RCW; the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction;

(ii) Any crime involving the use, sale, possession, or transportation of any controlled substance or prescription within the last seven years: *Provided*, That in the case of felony convictions, the applicable time limit shall be ten years;

(iii) Any crime involving driving when a driver's license is suspended or revoked, hit and run driving, driving while intoxicated, being in physical control of motor vehicle while intoxicated, reckless driving, negligent driving of a serious nature, vehicular assault or vehicular homicide, within the last three years;

(iv) Any crime against children or other persons as defined in RCW 43.43.830(5) when the date of the conviction or prison release, which ever is more recent, is within ten years of the date of the job application for felonies and within seven years for other crimes.

(k) Shall not have been found in any dependency action under RCW (~~(13.34.040)~~) 13.34.030 to have sexually assaulted or exploited any minor or to have physically abused any minor, within the last seven years.

(l) Shall not have been found by a court in a domestic relation proceeding under Title 26 RCW, to have sexually abused or exploited any minor or to have physically abused any minor, within the last seven years.

(m) Shall not have been found in any disciplinary board final decision to have sexually or physically abused or exploited any minor or developmentally disabled person, within the last seven years.

(n) Shall not have intentionally and knowingly transported public school students within the state of Washington within the previous five years with an expired, lapsed, surrendered, or revoked authorization in a position for which authorization is required under this chapter.

(o) Shall not have a serious behavioral problem which endangers the educational welfare or personal safety of students, teachers, bus drivers, or other colleagues. For the purpose of this chapter, a serious behavioral problem includes, but is not limited to, conduct which indicates unfitness to carry out the responsibilities related to the occupation or job performance of transporting children, such as: Dishonesty; immorality; or misuse of alcohol, a controlled substance, or a prescription drug; or furnishing alcohol or controlled substances to a minor or student.

(2) Every school bus driver must also meet and continue to meet the following requirements:

(a) Be certified by a local school district that the person seeking a school bus driver authorization:

(i) Is physically able to maneuver and control a school bus under all driving conditions; and

(ii) Is physically able to use all hand/or foot operated controls and equipment found on state minimum specified school buses; and

(iii) Is physically able to perform daily routine school bus vehicle safety inspections and necessary emergency roadside services; and

(iv) Has sufficient strength and agility to move about in a school bus as required to provide assistance to students in evacuating the bus. The driver must be able to move from a seated position in a sixty-five passenger school bus, or the largest school bus the driver will be operating, to the emergency door, open the emergency door, and exit the bus through the emergency door, all within twenty-five seconds.

(b) Provide certification of passing a physical examination every twenty-four months in accordance with the standards established in 49 C.F.R. 391.41 through 391.49, of the Federal Motor Carrier Safety Regulations. School bus drivers must continue to meet these physical examination requirements during the time between examinations. This requirement does not prevent a school district from requesting a more frequent examination.

(c) Satisfactorily complete a comprehensive school bus driver training course and each year thereafter, satisfactorily complete a school bus driver in-service training course.

**AMENDATORY SECTION** (Amending WSR 96-20-042, filed 9/24/96, effective 10/25/96)

**WAC 180-20-111 Issuing procedures for school bus driver authorizations.** (1) School bus driver authorizations shall be issued by the superintendent of public instruction upon request by an authorized representative of the employing school district subject to compliance with the following provisions:

(2) The employing school district shall forward to the superintendent of public instruction an application for a school bus driver authorization prior to issuance. The following verifications relating to the applicant must be provided:

(a) Verification by a qualified training instructor of successful completion of the ~~((appropriate)) school bus driver training course, as defined in this chapter.~~

(b) Verification by the employing school district that it has on file a physical health certification or statement as required by this chapter.

(c) Verification by the employing school district that it has on file a current driver's abstract of the applicant's employment and nonemployment driving record issued by the department of licensing verifying compliance with all provisions of this chapter. The issue date of this abstract must be within sixty calendar days of the date the application is being submitted for authorization.

(d) Verification that the applicant has a current and valid first aid card or equivalent.

(e) Verification by the employing school district that it has on file a disclosure statement in compliance with pre-employment inquiry regulations in WAC 162-12-140, signed by the applicant, specifying all convictions which relate to fitness to perform the job of a school bus driver under WAC 180-20-101 and all crimes against children or other persons, that meets the requirements of RCW 43.43.834(2).

(f) Verification that the school district has on file the results of a criminal record check as required under chapter 28A.400 RCW and that such results establish that the applicant has not committed any offense which constitutes grounds for denying, suspending, or revoking an authorization under this chapter.

(g) Verification by the school district that it has on file an applicant's disclosure of all serious behavioral problems which explains the nature of all such problems and/or conditions, a listing of the names, addresses, and telephone numbers of all doctors, psychologists, psychiatrists, counselors, therapists, or other health care practitioners of any kind or hospitals, clinics, or other facilities who have examined and/or treated the applicant for such problems and/or conditions and dates of examinations, therapy, or treatment and the school district has determined that any reported serious behavioral problem does not endanger the education welfare or personal safety of students, teachers, bus drivers, or other colleagues.

(h) Verification by the employing school district that the applicant complies with all of the requirements for school bus drivers set forth in this chapter.

(3) Upon approval of an application, the superintendent of public instruction shall issue a notice of school bus driver authorization to the employing school district.

(4) Subsequent authorizations for an individual driver with new or additional employing school districts must be issued from the superintendent of public instruction to such districts prior to the operation of any motor vehicle for the transportation of children.

(5) On or before August 15 of each year, the superintendent of public instruction will provide each school district with a list of authorized drivers and their status.

**AMENDATORY SECTION** (Amending WSR 96-20-042, filed 9/24/96, effective 10/25/96)

**WAC 180-20-115 Issuing procedures for temporary school bus driver authorization—Effective period.** A temporary authorization may be issued by an educational service district superintendent upon application by an authorized representative of the employing school district subject to compliance with the following provisions:

(1) Issuing procedure.

(a) Application for a temporary authorization must be approved by an authorized representative of the employing school district, verified by said school official that the applicant meets the qualification requirements set forth in WAC 180-20-101 (except for a course in first aid and/or the results of a requested criminal record check), and further verified by a certified instructor that the applicant has satisfactorily completed the ~~((appropriate)) school bus driver training course, as defined in this chapter.~~ The application shall be submitted to the educational service district superintendent for approval.

(b) Upon approval of the application by the educational service district superintendent, the temporary authorization will be transmitted to the employing school district.

(2) Effective period. The temporary authorization shall be valid for a period of sixty calendar days and shall be non-renewable. *Provided*, That the issuing educational service district superintendent may extend such period for a reasonable number of days when extenuating circumstances exist.

**AMENDATORY SECTION** (Amending WSR 96-20-042, filed 9/24/96, effective 10/25/96)

**WAC 180-20-120 Discipline—Grounds for denial, suspension, or revocation of authorization.** (1) A request for an authorization may be denied or an authorization issued under this chapter may be suspended, or revoked for failure to meet any of the minimum requirements set forth in WAC 180-20-101, established by a preponderance of the evidence.

(2) Conduct, which by a preponderance of the evidence, amounts to a serious behavioral problem which endangers the educational welfare or personal safety of students, teachers, bus drivers, or other colleagues is grounds for denial, suspension, or revocation whether or not the conduct constitutes a crime. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to denial, suspension,

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or revocation action. Upon such conviction, however, the judgment and sentence is conclusive evidence at the ensuing hearing of the guilt of the authorized driver or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based.

(3)(a) Any person in treatment for alcohol or other drug misuse shall have his or her authorization ((temporarily)) suspended until successful treatment is satisfactorily completed and the completion is confirmed by a state-approved alcohol or other drug treatment program((, or by the court)) at which time the authorization will be reinstated.

(b) In all cases of deferred prosecution ((cases)) under chapter 10.05 RCW, the authorization shall be suspended until the court confirms successful completion of the court approved treatment program at which time the authorization will be reinstated.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 180-20-035 Definition—School bus driver.
- WAC 180-20-040 Definition—A school bus driver's authorization.
- WAC 180-20-055 Definition—School bus driver instructor's endorsement.
- WAC 180-20-060 Definition—School bus driver training course.
- WAC 180-20-070 Definition—School bus driver annual in-service training course.
- WAC 180-20-075 Definition—School bus driver instructor's course.
- WAC 180-20-080 Definition—Instructor's annual in-service course.
- WAC 180-20-150 Training and qualifications of school bus drivers—Administration.

**WSR 99-08-005**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed March 25, 1999, 3:52 p.m.]

Date of Adoption: March 25, 1999.

Purpose: To repeal three excise tax rules because: (1) The information provided in WAC 458-20-157 is currently provided in WAC 458-20-122 Sales of feed, seed, fertilizer, spray materials, and other tangible personal property for farm use and 458-20-210 Sales of agricultural products by farmers; (2) WAC 458-20-206 provides little information of value and the exemption cited in the rule is more completely dis-

cussed in WAC 458-20-134 Commercial or industrial use and 458-20-178 Use tax; and (3) WAC 458-20-225 provides incomplete information and much of the information is more completely discussed in WAC 458-20-102 Resale certificates and 458-20-134 Commercial or industrial use.

Citation of Existing Rules Affected by this Order: Repealing WAC 458-20-157 Producers of poultry and hatching eggs, 458-20-206 Use tax, fuel oil, oil products, other extracted products, and 458-20-225 Pattern makers.

Statutory Authority for Adoption: RCW 82.32.300.

Adopted under preproposal statement of inquiry filed as WSR 99-04-019 on January 22, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

March 25, 1999

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

**WSR 99-08-006**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed March 25, 1999, 3:55 p.m.]

Date of Adoption: March 25, 1999.

Purpose: To repeal the following rules: (1) WAC 458-50-010 because it does not provide any important information regarding the valuation and apportionment of the operating property of public utilities, which is the subject of chapter 458-50 WAC; and (2) WAC 458-50-050 because the information is less complete and accurate than the information provided in RCW 84.12.240, the statute that this rule implements.

Citation of Existing Rules Affected by this Order: Repealing WAC 458-50-010 Assessment of public utilities—Purpose—Definitions and 458-50-050 Access to books, records, and property.

Statutory Authority for Adoption: RCW 84.12.240.

Adopted under preproposal statement of inquiry filed as WSR 99-04-031 on January 26, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

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Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
March 25, 1999

Russell W. Brubaker  
Assistant Director  
Legislation and Policy Division

**WSR 99-08-007**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**

[Filed March 25, 1999, 3:57 p.m.]

Date of Adoption: March 25, 1999.

Purpose: To repeal the following rules: (1) WAC 458-65-020 and 458-65-030 because they fail to reflect the amendment of chapter 63.29 RCW by chapter 498, Laws of 1993; and (2) WAC 458-65-040 because the information is sufficiently explained in RCW 63.29.060.

Citation of Existing Rules Affected by this Order: Repealing WAC 458-65-020 Use of department forms, 458-65-030 Simultaneous reporting and remittance of unclaimed property, and 458-65-040 Maturity of automatically renewable instruments.

Statutory Authority for Adoption: RCW 63.29.370.

Adopted under preproposal statement of inquiry filed as WSR 99-04-018 on January 22, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

March 25, 1999

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

**WSR 99-08-008**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Order 99-01—Filed March 25, 1999, 4:13 p.m.]

Date of Adoption: March 25, 1999.

Purpose: To adopt rules revisions to the contracting provisions of WAC 392-121-188 implementing section 6, chapter 265, Laws of 1997, which is codified as RCW 28A.150.305. The purpose is to provide school districts with more options for serving at-risk students through alternative providers.

Citation of Existing Rules Affected by this Order: Amending WAC 392-121-188, 392-121-107, 392-121-201, 392-121-206, 392-121-210, and 392-121-182.

Statutory Authority for Adoption: Section 6, chapter 265, Laws of 1997, RCW 28A.150.290.

Adopted under notice filed as WSR 98-24-118 on December 16 [2], 1998.

Changes Other than Editing from Proposed to Adopted Version: Revisions made to clarify that interdistrict cooperative agreements are not covered by WAC 392-121-188, and to further clarify standard for contracting out academically at-risk programs.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 6, Repealed 3.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

March 25, 1999

Dr. Terry Bergeson

Superintendent of

Public Instruction

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**AMENDATORY SECTION** (Amending WSR 95-18-097, filed 9/6/95, effective 10/7/95)

**WAC 392-121-182 Alternative learning experience requirements.** An alternative learning experience may be counted as a course of study. An alternative learning experience is an individualized course of study for a student who is not home-based pursuant to RCW 28A.225.010(4), a private school student pursuant to RCW 28A.225.010 (1)(a), or an adult education student. The alternative learning experience is provided in accordance with a written alternative learning experience plan that is implemented pursuant to the school district board's policy for alternative learning experiences. The school district board policy must have been adopted in a public meeting. The alternative learning experience ~~(is provided by the school district and)~~ may be conducted in part outside of the regular classroom. A portion of the alternative learning experience may be provided by the student's parent(s) or guardian under supervision by ~~(the)~~ school ~~(district)~~ staff. ~~(Such)~~ As used in this section "school staff" means staff of the school district or a contractor pursuant to WAC 392-121-188. Alternative learning experience may be counted as a course of study pursuant to WAC 392-121-107 if the following requirements are met:

(1) School district board policies for alternative learning experiences — Effective January 1, 1996, each school district claiming basic education funding for alternative learning experiences shall have written policies on file that:

(a) Require a written plan for each student participating in an alternative learning experience that meets the minimum criteria pursuant to subsection (2) of this section;

(b) Require that all alternative learning experience curriculum and course requirements be approved by the school district;

(c) Describe how student performance will be supervised, evaluated, and recorded by school ~~(district)~~ staff;

(d) Require that each student's educational progress will be reviewed at least once during the first twenty school days and afterwards at least once every forty-five school days and that the results of each evaluation shall be communicated to the student and if the student is in grades K-8, the student's parent or guardian. If the school ~~(district)~~ staff determines that a student is not substantially successful in completing the learning activities described in the written alternative learning experience plan, a revised written plan may be implemented. Any revised written plan shall be designed to enable the student to be substantially successful in completing the learning activities described in the revised written plan within ninety school days from the date that the ~~(district)~~ school staff first determines that the student is not substantially successful in completing the assigned learning activities included in the original written plan. If the school ~~(district)~~ staff determines that the student is still not substantially successful in completing their assigned learning activities after ninety school days from the date that the district first determines that the student is not substantially successful in completing the learning activities included in the original written plan, or sooner at the discretion of the school ~~(district)~~ staff, a plan to remove the student from the alternative program shall be devised. Such plan shall specify that the student shall

be removed from the alternative program no later than the end of the current school year for a period of at least one school term. Students removed from the alternative program shall be offered the opportunity to enroll in another course of study as defined in WAC 392-121-107;

(e) A requirement that the alternative learning experience plan for each student and all records of enrollment, attendance, and total hours of participation in educational activities for the student are maintained and available for audit in the appropriate school building; and

(f) At the discretion of the school district board, the policy may describe responsibilities of the student's parent(s) or guardian including, but not limited to:

(i) Approval of the written alternative learning experience plan;

(ii) Responsibility for the parent(s) or guardian to provide or supervise a portion of the student's alternative learning experience if the parent(s) or guardian agrees; and

(iii) Requirements to meet with ~~(district)~~ school staff for purposes of evaluating the student's performance and/or receiving instructions on assisting with the student's alternative learning experience. The school district board may also prescribe requirements for appointing a person to provide or supervise a portion of the student's alternative learning experience in the event the student's parent(s) or guardian will not or can not be a participant in the student's alternative learning experience;

(2) A written alternative learning experience plan is developed — Effective January 1, 1996, the alternative learning experience plan for a student shall be a written plan of instruction designed to meet the individual needs of the student, and shall be approved by a school ~~(district)~~ official and any other person(s) as required or allowed by school district policy. The written plan shall include, but not be limited to, the following elements:

(a) A schedule of the duration of the program, including beginning and ending dates;

(b) A description of the learning activities the student is expected to successfully complete. Such description shall be sufficient in detail to guide and advise the student of the expectations;

(c) A description of the teaching component(s) of the program, including where and when teaching activities will be conducted by school ~~(district)~~ staff;

(d) A description of the responsibilities of the student including a requirement that if, on average, the student attends school less than five hours a week, the student shall meet one-on-one with qualified ~~(district)~~ school staff for an average minimum of sixty minutes every five school days for instruction, review of the student's assignments, testing, and/or other learning activities. If more than one student meets with a qualified ~~(district)~~ school staff member at one time, the required time is increased proportionately, for example, the requirement becomes one hundred twenty minutes if two 1.0 full-time equivalent students meet with the staff member at one time; and

(e) A reasonably accurate estimate of the average number of hours per month that the student will be engaged in learning activities to meet the requirements of the alternative learning experience plan. This estimate may be used in

reporting enrollment in compliance with subsection (3) of this section and must be based upon the criteria in subsection (3)(a)(i) of this section;

(3) Reporting enrollment — Effective beginning with the 1995-96 school year the full-time equivalency of students enrolled in alternative learning experiences shall be determined based upon both (a) and (b) of this subsection as follows:

(a) Using the definition of a full-time equivalent student in WAC 392-121-122 and the number of hours that each student engages in learning activities as determined by either (a)(i) or (ii) of this subsection as follows:

(i) The total number of hours that the student engages in learning activities pursuant to the written alternative learning experience plan including:

(A) Those hours that meet the criteria in WAC 392-121-107 (1)(a);

(B) Those hours of work based learning calculated in accordance with WAC 392-121-107 (1)(f);

(C) Those hours of learning activity other than those specified in (a)(i)(A), (B) and (D) of this subsection that are provided by the student's parent(s) or guardian, or other person as designated by the written plan, under the direct supervision of the ~~((district's))~~ school's qualified instructional staff; and

(D) Those hours that the student participates in learning activities other than those specified in (a)(i)(A), (B) and (C) of this subsection. Such learning activity shall be pursuant to the student's alternative learning experience plan and if the student is in grades K-8, only includes those hours the student is supervised by the student's parent(s) or guardian or other person designated by the written alternative learning experience plan;

(ii) The district may use the estimated average hours per month the student is engaged in learning activities as stated in the alternative learning experience plan which meet the requirements of (a)(i) of this subsection: Provided, That for any count date on which the student has averaged, for the immediate two prior months during the current school year, a number of hours engaged in learning activities that differ by more than five hours a week from the alternative learning experience plan estimate pursuant to subsection (2)(e) of this section, ~~((the district shall adjust))~~ the full-time equivalency of the student for such count date shall be adjusted to the lesser of 1.0 or the full-time equivalency calculated using the two-month average;

(b) The ~~((district))~~ enrollment count shall exclude students meeting the definition of enrollment exclusions in WAC 392-121-108 or students who have not met with appropriate ~~((district))~~ school staff for twenty consecutive school days. Any such student shall not be counted as an enrolled student until the student has met with appropriate ~~((district))~~ school staff and resumed participation in their alternative learning experience or participated in another course of study as defined in WAC 392-121-107;

(4) Documentation required — Effective with the 1995-96 school year the district shall keep on file in the appropriate school building and have available for audit, documentation of all hours of learning activities used to determine the stu-

dent's full-time equivalency including documentation of the following:

(a) For students in grades K-8, written statements from the student's parent(s) or guardian or other person as designated by the written alternative learning experience plan. Such statements shall be submitted to the district on a monthly basis or more often at the discretion of the district and shall list those hours that the student has engaged in planned learning activities while not in the presence of ~~((district))~~ school staff. Reported hours shall be used to determine the full-time equivalency of the student pursuant to subsection (3) of this section; and

(b) For students in grades 9-12, the student shall submit ~~((to the district))~~ written statements on a monthly basis or more often at the discretion of the ~~((district))~~ school staff. Such statements shall list those hours that the student has engaged in planned learning activities while not in the presence of ~~((district))~~ school staff. Reported hours shall be used to determine the full-time equivalency of the student pursuant to subsection (3) of this section;

(5) Effective with the 1995-96 school year the school district shall either:

(a) Maintain a ratio of full-time equivalent certificated instructional staff serving the annual average full-time equivalent students reported for basic education funding pursuant to this section which is at least equal to the district's basic education funding ratio for the grade band of the students being reported for basic education funding pursuant to this section; or

(b) Separately account for, document, and have available for audit, evidence that the district expends during the school year at least seventy percent of the basic education entitlement claimed for students enrolled in alternative learning experiences during the school year. Such expenditures shall be direct expenditures in the following programs as defined in the *Accounting Manual for Public School Districts in Washington State* for the school year:

(i) Program 01, Basic Education; and/or

(ii) Program 31, Vocational, Basic, State; and/or

(iii) Program 45, Skills Center, Basic, State.

**AMENDATORY SECTION** (Amending Order 97-06, filed 10/27/97, effective 11/27/97)

**WAC 392-121-107 Definition—Course of study.** As used in this chapter, "course of study" means those activities for which students enrolled pursuant to chapters 180-16, 180-50, 180-51, 392-169 and 392-134 WAC may be counted as enrolled students for the purpose of full-time equivalent student enrollment counts.

(1) Course of study includes:

(a) Instruction - teaching/learning experiences conducted by ~~((the))~~ school district staff as directed by the administration and the board of directors of the school district, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time for meals.

(b) Alternative learning experience - alternative learning experience ~~((conducted))~~ provided by the school district in conformance with WAC 392-121-182.

~~(c) ((Contracting with a higher education institution in conformance with WAC 392-121-183-))~~ Instruction provided by a contractor - instruction provided by a contractor in conformance with WAC 392-121-188.

(d) National guard - participation in a national guard high school career training program for which credit is being given toward either required or elective high school credits pursuant to RCW 28A.305.170 and WAC 180-50-320. Such participation may be counted as a course of study only by the school district which the individual last attended.

(e) Ancillary service - any cocurricular service or activity, any health care service or activity, and any other services or activities, for or in which enrolled students are served by appropriate school district staff. The term shall include, but not be limited to, counseling, psychological services, testing, remedial instruction, speech and hearing therapy, health care services, and if such service is provided by the district, certificated contact time pursuant to RCW 28A.225.010 (4)(a) with students who are in a home-based instruction program. The term shall exclude all extracurricular activities and all other courses of study defined in this section. In conformance with WAC 392-134-025, school districts report the actual number of student contact hours of ancillary service for part-time, private school, and home-based students to the superintendent of public instruction.

(f) Work based learning - training provided pursuant to WAC 180-50-315 and reported as provided in WAC 392-121-124. ~~((One hour per scheduled school day may be counted for not less than four hundred five hours of scheduled work experience.))~~

(g) Running start - attendance at an institution of higher education pursuant to RCW 28A.600.300 through 28A.600.400, chapter 392-169 WAC.

(h) Transition school - participation in the University of Washington's transition school and early entrance program pursuant to RCW 28A.185.040, and chapter 392-120 WAC. Such participation shall be reported by the University of Washington and shall not be reported by a school district.

(i) Technical college direct funding - enrollment at a technical college pursuant to RCW 28A.150.275 and WAC 392-121-187. Such participation shall be reported by the technical college and shall not be reported by a school district unless the technical college and the school district agree to have the school district report such enrollment.

~~((j) Contracting with an agency pursuant to WAC 392-121-188.~~

~~(k) Contracting with a public or nonpublic school agency for students with a disability in accordance with WAC 392-172-222-))~~

(2) Course of study does not include:

(a) Home-based instruction pursuant to RCW 28A.225.010(4): Education programs provided by a parent which do not meet the requirements of WAC 392-121-182 cannot be claimed for state funding;

(b) Private school instruction pursuant to chapter 28A.195 RCW;

(c) Adult education as defined in RCW 28B.50.030(12);

(d) Instruction provided to students who do not reside in Washington state (RCW 28A.225.260);

(e) Enrollment in state institutions, i.e., state operated group homes, county juvenile detention centers, state institutions for juvenile delinquents, and state residential habilitation centers;

(f) Instruction preparing a student for the general education development (GED) test if such instruction generates state or federal moneys for adult education;

(g) Enrollment in education centers except as provided under contract with a school district pursuant to RCW 28A.150.305 and WAC 392-121-188;

(h) Enrollment in the Washington state school for the deaf and the Washington state school for the blind;

(i) Extracurricular activities including but not limited to before and after school activities such as classes, sports and other activities offered outside the regular curriculum or for which credit is not earned; or

(j) Attendance at universities, colleges, community colleges, or technical colleges of students not earning high school credit.

AMENDATORY SECTION (Amending WSR 95-18-097, filed 9/6/95, effective 10/7/95)

WAC 392-121-188 ((Contracting with an agency-))  
Instruction provided under contract. ~~((Contracting with an agency))~~ School districts have general authority to contract for the services of individuals to provide instruction, subject to applicable state and federal laws and local collective bargaining agreements. School districts also have authority to enter into interdistrict cooperative agreements for instructional services with other school districts under RCW 28A.225.250. However, when a school district contracts with an entity other than a school district and that entity employs staff to provide basic education instruction claimed by the school district for state basic education funding, the requirements of this section also apply. Instruction provided by such an entity (hereafter called the contractor) may be counted as a course of study ((pursuant to WAC 392-121-107 if)) and claimed by the school district for state funding if the following requirements are met:

(1) ~~((Effective with the 1995-96 school year))~~ The school district board of directors in accordance with RCW 28A.320.015 adopts a resolution that concludes it is in the best interest of the students to expand the options available ~~((to))~~ by providing an appropriate basic education program ((for those students that are to be educated)) pursuant to the contract and sets forth the rationale in support of the conclusion;

(2) The school district retains full responsibility for compliance with all state and federal laws;

(3) The ~~((agency))~~ contractor complies with all relevant state and federal laws that are applicable to the school district;

(4) The contractor provides instruction free of sectarian or religious influence or control.

(5) ~~The ((agency))~~ contractor serves the students at no cost to the student for tuition and fees and enrollment is voluntary and no student or person is unlawfully excluded from

participation on the grounds of race, creed, color, national origin, sex, marital status, or presence of any sensory, mental, or physical handicap;

~~((5))~~ (6) Each student is enrolled in the school district reporting the enrollment and each high school student is working toward course credits which satisfy high school graduation requirements;

~~((6) There is a requirement that)~~ (7) If the contractor is a state higher education institution, a state funded education center, or any other state funded entity, the contractor is not claiming enrollment of the student or receiving direct state support for the contracted instruction reported pursuant to this section.

(8) The curriculum ~~((for the student shall be))~~ is approved by the district;

~~((7))~~ (9) The ~~((agency))~~ contractor provides enrollment reports to the school district that comply with ~~((the definition of a full-time equivalent student in WAC 392-121-107 (1)(f), limitations on enrollment counts in WAC 392-121-136, and enrollment exclusions in WAC 392-121-108))~~ this chapter;

~~((8))~~ (10) The ~~((agency))~~ contractor maintains and has available for audit or review by the school district, state, or federal authorities documentation of enrollment, hours of instructional activity participated in by the students, personnel data, and financial data including all revenues and expenditures pertaining to the contract with the school district;

~~((9) If an agency)~~ (11) If a contractor other than an institution of higher education at any time during the school year serves more than twenty-five students which equals more than one quarter of one percent (.0025) of the district's annual average full-time equivalent enrollment claimed for basic education funding the school district reports the certificated instructional employees of the ((agency)) contractor funded with any state moneys or federal moneys that flow through the school district as required by the SPI annual personnel reporting system for calculation of state funding, staff ratios and statistics;

~~((10) Effective with the 1995-96 school year)~~ (12) If the contract is with an entity other than an institution of higher education, for the students served pursuant to the contract, the ((agency)) contractor maintains a ratio of full-time equivalent certificated instructional staff serving the annual average full-time equivalent students reported for basic education funding pursuant to this section which is at least equal to the district's basic education funding ratio for the grade level of the students being reported for basic education funding pursuant to this section;

~~((11))~~ (13) The school district and ~~((agency))~~ contractor execute a written contract which is consistent with this section, and which sets forth the duties of the ~~((agency))~~ contractor in detail sufficient to hold the ~~((agency))~~ contractor accountable to the school district; ~~((and~~

~~((12))~~ (14) The school district and ~~((agency))~~ contractor establish a process for periodic on-site monitoring by the school district for compliance with this section and other terms of the contract between the school district and ~~((agency))~~ contractor;

(15) Contracts for services for students with disabilities shall comply with WAC 392-172-220 and 392-172-222;

(16) Full-time equivalent enrollment reported for students served under a contract with a higher education institution shall be based on the number of hours of instruction meeting the criteria in WAC 392-121-107 (1)(a) provided by staff of the higher education institution under the contract. This section does not apply to running start enrollment, which is governed by chapter 392-169 WAC; and

(17) When a school district contracts for an alternative learning experience program and the contractor exercises primary responsibility for the student's written learning plan, the program shall be for academically at-risk students and shall comply with RCW 28A.150.305. Enrollment in these programs shall be reported pursuant to WAC 392-121-182.

AMENDATORY SECTION (Amending Order 95-09, filed 10/18/95, effective 11/18/95)

WAC 392-121-201 Definition—((Agency)) Contractor certificated employee. As used in this chapter, "~~((agency))~~ contractor certificated employee" means a person who holds a professional education certificate issued by the superintendent of public instruction and who is employed by ~~((an agency))~~ a contractor as defined in WAC 392-121-188 in a position for which such certificate is required.

AMENDATORY SECTION (Amending Order 95-09, filed 10/18/95, effective 11/18/95)

WAC 392-121-206 Definition—((Agency)) Contractor certificated instructional employee. As used in this chapter, "~~((agency))~~ contractor certificated instructional employee" means ~~((any agency))~~ a contractor certificated employee ~~((where))~~ who:

(1) ~~((The agency))~~ Is employed by a contractor, pursuant to WAC 392-121-288, to serve~~((s more than twenty-five students which equals more than one quarter of one percent (.0025) of the district's annual average full-time equivalent enrollment))~~ students claimed for basic education funding by a school district; and

(2) ~~((The employee provides services to such students solely))~~ Is employed as one or both of the following:

(a) An elementary, secondary or other teacher who instructs pupils in classes or courses; or

(b) An educational staff associate who assists, evaluates, counsels, or instructs students in a manner consistent with the employee's educational staff associate certificate.

AMENDATORY SECTION (Amending Order 95-09, filed 10/18/95, effective 11/18/95)

WAC 392-121-210 Definition—Basic education certificated instructional employee. As used in this chapter, "basic education certificated instructional employee" means a district certificated instructional employee or ~~((an agency))~~ a contractor certificated instructional employee assigned in whole or in part to the following programs as defined in the accounting manual for public school districts in the state of Washington:

(1) Basic education, program 01;

(2) Vocational, basic, state, program 31;

- (3) Skills center, basic, state, program 45;
- (4) Instruction support, program 94; and
- (5) District-wide support, program 97.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 392-121-10603	Definition—Higher education institution.
WAC 392-121-10604	Definition—Agency.
WAC 392-121-183	Contracting with a higher education institution.

**WSR 99-08-020****PERMANENT RULES****TRANSPORTATION IMPROVEMENT BOARD**

[Filed March 29, 1999, 3:32 p.m.]

Date of Adoption: March 29, 1999.

Purpose: To amend rules for administering the federal Transportation Equity Act for the 21st Century (TEA-21) surface transportation program state-wide and enhancement program as directed by the state TEA-21 steering committee.

Citation of Existing Rules Affected by this Order: Amending WAC 479-510-410 and 479-510-420.

Statutory Authority for Adoption: Chapters 47.26 and 47.66 RCW.

Adopted under notice filed as WSR 99-03-088 on January 20, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 2, Amended 2, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

March 29, 1999

Jerry M. Fay

Executive Director

**AMENDATORY SECTION** (Amending WSR 95-22-056, filed 10/30/95, effective 11/30/95)

**WAC 479-510-410** ~~Intermodal Surface Transportation Efficiency Act~~ **Transportation Equity Act for the 21st**

**Century or its successor acts, surface transportation program, statewide competitive program account—Eligibility.** (1) Eligibility to apply shall be limited to public agencies.

(2) Programs and projects eligible for funding shall be limited to the following purposes:

- (a) Planning;
- (b) Preliminary engineering;
- (c) Right of way acquisition;
- (d) Construction; and
- (e) Capital equipment acquisition.

(3) Projects eligible for funding under the account shall be limited to applications that directly benefit Washington state.

(4) All projects must be regionally significant.

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

**AMENDATORY SECTION** (Amending WSR 95-22-056, filed 10/30/95, effective 11/30/95)

**WAC 479-510-420** (~~Intermodal Surface Transportation Efficiency Act~~) **Transportation Equity Act for the 21st Century or its successor acts, surface transportation program, statewide competitive program account—Criteria.** (1) Projects selected for funding from the statewide competitive program account shall be consistent with the following criteria without regard to geographic distribution:

- (a) Local, regional, and state transportation plans;
- (b) Local transit development plans; and
- (c) Local comprehensive land use plans.

(2) The following criteria shall be considered:

(a) Objectives of the Growth Management Act, the High Capacity Transportation Act, the Commute Trip Reduction Act, transportation demand management programs, federal and state air quality requirements, and federal Americans with Disabilities Act and related state accessibility requirements; and

(b) Energy efficiency issues, freight and goods movement ~~(as related to)~~ economic development, ~~(regional significance)~~ rural isolation, fish passage, flood mitigation, the leveraging of other funds including funds administered by the transportation improvement board, and safety and security issues.

(3) In addition to the criteria identified in subsections (1) and (2) of this section, the transportation improvement board may choose to identify additional criteria for program and project selection for the state-wide competitive program. Such criteria shall be subject to public meetings as required by federal law, and shall be identified in the application guidelines.

(4) The transportation improvement board shall prepare application forms and guidelines to assist eligible applicants and ensure their distribution to all eligible applicants no later than thirty days prior to the date on which the applications must be submitted.

(5) The Transportation Improvement Board shall select projects for the statewide competitive program and forward the recommended list to the legislature, governor's Office.

and the Washington state department of transportation on March 26, 1999, and February 1st for each year thereafter.

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

#### NEW SECTION

**WAC 479-510-450 Transportation Equity Act for the 21st Century or its successor acts, enhancement program account—Eligibility.** (1) Eligibility to apply shall be limited to public agencies.

(2) Programs and projects eligible for funding shall be limited to the following purposes:

- (a) Provision of bicycle and pedestrian facilities;
- (b) Acquisition of scenic easement;
- (c) Scenic or historic highway programs (including tourist and welcome center facilities);
- (d) Landscaping and other scenic beautification;
- (e) Historic preservation;
- (f) Rehabilitation and operation of historic transportation buildings, structures or facilities;
- (g) Preservation of abandoned railway corridors;
- (h) Control and removal of outdoor advertising;
- (i) Archaeological planning and research;
- (j) Mitigation of water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity;
- (l) Establishment of transportation museums.

(3) Projects eligible for funding under the account shall be limited to applications that directly benefit Washington State.

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

#### NEW SECTION

**WAC 479-510-460 Transportation Equity Act for the 21st Century or its successor acts, enhancement program account—Criteria.** (1) Projects selected for funding from the enhancement program account shall be consistent with the following criteria:

- (a) Local, regional, and state transportation plans;
  - (b) Local comprehensive land use plans.
- (2) The following procedures shall be considered:
- (a) Project applications shall be reviewed and regionally prioritized by the regional transportation planning organizations or metropolitan planning organizations and shall be forwarded to the transportation improvement board for selection.
  - (b) The Washington state department of transportation shall prepare application forms and guidelines to assist eligible applicants and ensure their distribution to all eligible applicants no later than thirty days prior to the date on which the applications must be submitted.
  - (c) The transportation improvement board shall establish priorities to fund regionally significant projects by allocating 25% of the funds to projects on a statewide basis and the remaining funds based on population distribution to the

regional transportation planning organizations or metropolitan planning organizations.

(d) The transportation improvement board shall select projects for the enhancement program and forward the recommended list to the legislature, governor's office and Washington state department of transportation on March 26, 1999 and by February 1st for each year thereafter.

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

#### **WSR 99-08-021**

#### **PERMANENT RULES**

#### **TRANSPORTATION IMPROVEMENT BOARD**

[Filed March 29, 1999, 3:33 p.m.]

Date of Adoption: March 29, 1999.

Purpose: The rules shown below are being revised to update current language, provide needed language to reflect the current procedures of the Transportation Improvement Board (TIB) programs, and to reflect desired changes in the TIB programs.

Citation of Existing Rules Affected by this Order: Amending WAC 479-16-020, 479-16-040, 479-16-098, 479-20-007, 479-20-020, 479-20-025, and 479-20-037.

Statutory Authority for Adoption: Chapter 47.26 RCW.

Adopted under notice filed as WSR 99-03-089 on January 20, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

March 29, 1999

Jerry M. Fay  
Executive Director

**AMENDATORY SECTION** (Amending WSR 90-11-035, filed 5/10/90, effective 6/10/90)

**WAC 479-16-020 Standard specifications.** (~~Either Standard Specifications for Municipal Public Works Construction, current edition, Washington state chapter, American Public Works Association, or Standard Specifications for Road and Bridge Construction, current edition, state of Washington, revised as to form to make reference to local~~

governments;)) The current edition of the Standard Specifications for Road, Bridge, and Municipal Construction shall be included in any contract entered into by local governments using board funds.

**AMENDATORY SECTION** (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

**WAC 479-16-040 Traffic control devices.** Traffic control devices included in a participating project may be installed by the employees and with the equipment and materials of the local governmental units subject to the limits of RCW 35.22.620(3), 35.23.352(1), and 36.77.065(3): *Provided*, That the basis for payment of board funds is reimbursement of the appropriate portion of actual cost of such work, subject to audit.

**AMENDATORY SECTION** (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

**WAC 479-16-098 Inclusion of bicycle facilities in transportation improvement board projects.** If an eligible agency has a project funded by transportation improvement board funds that includes the construction of bicycle facilities, the agency shall submit their bikeway plan to the board in map form along with the agency's verification that the plan has been((+)

(1) ~~Integrated with existing "user designated," as well as officially designated bikeways;~~

(2) ~~Integrated with bikeways of adjacent units and levels of government;~~

(3)) reviewed with, and approved by, the agency's legislative body.

~~((The total bikeway plan of the agency shall identify separately arterial bikeways, as previously defined, that would be desired to be improved in conjunction with an arterial construction project.~~

~~The board shall notify the submitting city or county of its concurrence in the bikeway plan after such plan has been reviewed and found to be reasonable in relation to the rules adopted by the board.))~~ The proposed bicycle facility shall be in accordance with definitions, criteria, and design standards shown in Chapter 1020 of the *Washington Department of Transportation Design Manual*.

**AMENDATORY SECTION** (Amending WSR 90-11-035 [95-04-072], filed 5/10/90 [1/30/95], effective 6/10/90 [3/2/95])

**WAC 479-20-007 Matching ratios for urban arterial trust account funds.** Urban arterial trust account funds for local agency arterial projects shall be matched in accordance with the following scheduled percentage of the total project cost.

City with a population from 5,000 to 9,999 or a ((3rd Class)) county ((or smaller)) with a population less than 70,000 - 10% match

City with a population from 10,000 to 14,999 or a ((1st or 2nd Class)) county with a population from 70,000 to 210,000 - 15% match

City with a population from 15,000 and up or a ((Class AA)) county ((and over)) with a population over 210,000 - 20% match

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

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

**AMENDATORY SECTION** (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

**WAC 479-20-020 Partial or progress payments for project costs.** Participation and payment of board funds to counties and cities shall be governed by the following:

(1) Board participation. Board funds shall not participate in any cost which is not incurred in conformity with all applicable federal and state law and the rules, regulations and procedures as may be prescribed by the board promulgated in conformity with the statutes.

(2) Project agreements. Projects for which board funds are requested by the eligible agencies and for which the board has allocated funds will be the subject of a project agreement to be entered into by the eligible agency with the board evidencing acceptance of the conditions to payment of funds, as prescribed by laws and regulations, and the amount of funds to be obligated.

(3) Changes in project work and cost. No material change in the termini, character, or scope of the work on an approved project shall be made without prior concurrence in such changes by the board.

(4) Payments. Eligible agencies are to submit requests for payment of funds claimed to be due on approved projects. Such requests are to be on forms prescribed by the board, and shall be certified and accompanied by supporting data as may be required by the board. Requests for payment may be submitted from time to time as the work progresses and final requests shall be submitted within six months of contract completion. Payment of TIB funds shall at no time exceed the ((board's share)) approved amount of the project costs incurred to the date of the payment request.

(5) Compliance with laws and regulations. If an eligible agency has failed to comply with laws and regulations with respect to a project, payment of funds may be withheld on such projects, or approval of additional projects may be withheld until compliance or remedial action has been accomplished by the eligible agency to the satisfaction of the board.

~~((6) Progress payments. Progress payments for project costs shall be limited to the board's percentage share of the costs for project development incurred to the date of the payment request. *Provided*, That in all projects where the total project cost exceeds the amount of authorized board funds, there shall be imposed a limitation on progress payments in order that the percentage of board fund progress payments in relation to total progress costs as of each payment request date shall not exceed the percentage determined by dividing the total authorized amount of board funds by the most recently determined total project cost.))~~

**AMENDATORY SECTION** (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

**WAC 479-20-025 Record requirements.** All eligible agencies requesting payment of board funds on authorized projects shall have procedures in effect that will provide adequate assurance that payments requested are proper and accurate:

(1) Quantities of complete construction contract work shall be supported by all related source documents upon which payment to the contractor is based. These source documents shall include, but shall not be limited to, tickets for items measured on a weight or volume basis, cross section notes, inspector's diaries, engineering calculations for items measured in place, material tests, shipping invoices for steel, and all other field records normally developed by field engineers to support final quantities paid to contractors. The quantity field record should be summarized so that final pay estimates would lend themselves to comparison with supporting records.

(2) All appraisal reports, record of negotiations with grantors including a negotiator's diary indicating dates of contracts, offers made, and final acceptance by grantor, title insurance documents, transfer documents such as warranty deeds, quit claim deeds, easements, contract and sale documents, shall be maintained.

(3) Daily labor time records, equipment use records, requisitions for materials used, invoices for goods and services, and other invoices shall be maintained. Records shall also be maintained which support employee benefit percentages which are used in calculating amounts charged to construction projects.

(4) All records shall be retained ~~((in compliance with the requirements of the division of audit and))~~ until notification from the board that a project audit is complete or is not required.

**AMENDATORY SECTION** (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

**WAC 479-20-037 Procedure to request increase in board funds.** The amount of funds approved will be based upon the amount requested in the design prospectus. This amount may be adjusted from the amount shown in the project application with adequate justification. ~~((The authorized funds and scope of work approved by the board at the design phase will be the base for comparison in the following phases.))~~ Board fund increases are not approved at predesign phase.

Local agencies may request an increase in the participation of funds over the amount set forth in the design phase, at the construction phase, bid opening or contract completion of a project in accordance with the following procedures:

(1) At the construction phase all requests shall be reviewed by the director. The director shall report the findings to the board for its review, consideration and final action. The board shall not grant a request for increase at this phase if:

(a) The requested increase is to pay for an expansion of the scope of the work that is beyond the work required to

accomplish the intent of the project as approved at the design phase.

(b) The granting of the request will obligate funding beyond the level acceptable to the board or will in any way adversely affect authorized funds previously approved by the board including the reserve for the following:

(i) Increases at bid opening that will not exceed ten percent of the engineers estimate multiplied by the account matching ratio.

(ii) Increases for construction overruns at the amount equal to the account matching ratio multiplied by the sum of ten percent of the original contract amount up to one million dollars and five percent of the amount in excess of one million dollars for those projects which have been approved for the construction phase.

(2) Request for increases at bid opening shall not exceed ten percent of the engineers estimate submitted to the board at the time the construction phase was approved multiplied by the account matching ratio. Requests for increases at this phase will take priority over design and construction phase approvals. Such requests shall be reviewed by the director and will not be approved if:

(a) The requested increase is to pay for an expansion of the authorized scope of the work; or

(b) If the request is not substantiated and the director determines that the increased funds should have been anticipated by the local agency at the construction phase of the project.

(3) Requests for increases in funds submitted to the board at contract completion shall not exceed the account matching ratio multiplied by the sum of ten percent of the original contract amount up to one million dollars and five percent of the amount in excess of one million dollars. Requests for increases at this phase will take priority over design and construction phase approvals. Such requests shall be reviewed by the director and will not be approved if:

(a) The requested increase is to pay for an expansion of the authorized scope of the work; or

(b) If the request is not substantiated and the director determines that the increased funds should have been anticipated by the local agency at the construction approval phase of the project.

(4) If the director or the board, as the case may be, does not approve the request of a local agency for an increase, the administering agency may:

(a) Proceed with the project, paying for any additional costs with local or other funds; or

(b) Withdraw the request for participation; or, if applicable

(c) Within the authorized amount, and subject to approval by the director, reduce the scope of the project while retaining a usable and functional improvement.

**WSR 99-08-024**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-19—Filed March 29, 1999, 4:08 p.m.]

Date of Adoption: February 5, 1999.

Purpose: Amend deleterious exotic rules.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 232-12-017 and 232-12-01701.

Statutory Authority for Adoption: RCW 77.12.040.

Adopted under notice filed as WSR 98-23-097 on November 18, 1998 and WSR 99-01-055 on December 10, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

March 22, 1999

Kelly D. White, Chairman  
 Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 96-80, filed 7/19/96, effective 8/19/96)

**WAC 232-12-01701** (~~((Zebra mussels.))~~) **Aquatic nuisance species.** (1) The following species are designated as deleterious exotic wildlife and aquatic nuisance species:

(a) Zebra mussels, including *Dreissena polymorpha* and other species commonly known as quagga, (~~are hereby designated as deleterious exotic wildlife and a public nuisance~~);

(b) The European green crab, *Carcinus maenas*; and

(c) Chinese mitten crabs, including all members of the genus *Eriocheir*.

(2) It is unlawful to intentionally import into the state or possess (~~((zebra mussels))~~) aquatic nuisance species except as provided in this section.

(3) Zebra mussels: It is unlawful to import live aquatic organisms, including plants, for release into state waters from any state or Canadian province east of the Continental Divide without each importation being accompanied by a zebra mussel-free certificate issued by the department and signed by the supplier of the aquatic organisms. The original receiver in the state of Washington of the shipment of aquatic organisms is required to retain the zebra mussel-free certificate for two years. Secondary receivers, while in possession of live

aquatic organisms, are required to retain invoices or other records showing who was the original receiver.

(4) Scientific research: The director may authorize, by prior written permit, a person to possess (~~((zebra mussels))~~) aquatic nuisance species for scientific research, provided:

(a) Specimens are confined to a secure facility, defined as an enclosure that will prevent the escape or release of (~~((zebra mussels))~~) aquatic nuisance species or any form of (~~((zebra mussel))~~) aquatic nuisance species larvae, is not a natural watercourse, and is inaccessible to wildlife or other animals that could transport (~~((zebra mussels or zebra mussel larvae))~~) aquatic nuisance species.

(b) Specimens are not transferred to any other facility(ies) without written approval by the director or designee.

(c) All zebra mussels are incinerated or chemically preserved at the conclusion of the project, and the enclosure, holding waters and all equipment are disinfected. All other aquatic nuisance species must be killed at the conclusion of the project and either chemically preserved or disposed of in a landfill.

(d) The permittee provides an annual report to the department, no later than January 31 of the following year, on a form provided by the department, describing the number, size and location of (~~((zebra mussel))~~) aquatic nuisance species enclosures and general nature of the research.

~~((All zebra mussel enclosures are subject to inspection without warrant at reasonable times and in a reasonable manner by authorized department personnel.))~~

(5) Monitoring and control programs: The director may authorize persons working within the scope and supervision of a department-sponsored monitoring and control program to capture, possess and destroy aquatic nuisance species, provided:

(a) The persons have completed a mandatory training program and are certified by the department;

(b) The persons have a permit authorized by the director or designee in possession;

(c) All aquatic nuisance species are disposed of in accordance with the monitoring and control program; and

(d) Participants submit a report to the department within thirty days of any monitoring or control activity in accordance with the specifications outlined in the monitoring and control program.

(6) Abatement. Except as provided for in subsection (4) of this section, the department may take action to prevent or abate introduced (~~((zebra mussels))~~) aquatic nuisance species as a public nuisance, including but not limited to chemical treatment of the water containing the (~~((zebra mussels))~~) aquatic nuisance species or object to which (~~((the zebra mussels are))~~) an aquatic nuisance species is attached, heat treatment of such object, or other abatement measures as are appropriate. The possessor of (~~((zebra mussels))~~) aquatic nuisance species may be responsible for costs incurred by the department in abating (~~((a zebra mussel))~~) an aquatic nuisance species infestation.

**AMENDATORY SECTION** (Amending Order 582, filed 1/27/93, effective 2/13/93)

**WAC 232-12-017 Deleterious exotic wildlife.** (1) The following animals are hereby designated as deleterious exotic wildlife:

- (a) Fish
    - (i) In the family (~~Characidae~~) Clariidae, (walking catfish) all members of the family.
    - (ii) In the family Cyprinidae, (diploid grass carp,) *Ctenopharyngodon idella*
    - (iii) In the family Amiidae, (bowfin, mudfish or grinnel) *Amia calva*
    - (iv) In the family Characidae, the piranha (also pirameba, caribe, pira, piraya, chupita, rodoleira, palometa), all species of the genera *Serrasalmus*, *Roseveltella* and *Pygocentrus*
    - (v) In the family Cyprinidae, the rudd (*Scardinius erythrophthalmus*) and Ide (silver orfe or golden orfe (*Leuciscus idus*))
    - (vi) In the family Lepiosteidae, the gar-pikes
    - (vii) In the family Channidae, the snakeheads (China fish) and all forms of the genus *Channa* (*Ophicephalus*)
  - (b) Amphibians
    - (i) In the family Pipidae, the African clawed frog (*Xenopus laevis*)
  - (c) Birds
    - (i) In the family Anatidae, the mute swan (*Cygnus olor*)
  - (d) Mammals
    - (i) In the family Viverridae, the mongoose (all members of the genus *Herpestes*)
    - (ii) In the family Suidae, the wild boar(~~(f, t)~~) (*Sus scrofa*) and all wild hybrids)
    - (iii) In the family Tayassuidae, the collared peccary (javelina) (*Tayassu tajacu*)
    - (iv) In the family Bovidae, all members and hybrids of the following genera: *Rupicapra* (Chamois); *Hemitragus* (Tahr); *Capra* (goats, ibexes except domestic goat *Capra hircus*); *Ammotragus* (Barbary sheep or Aoudad); *Ovis* (sheep), except domestic sheep *Ovis aries*; *Damaliscus* (Sassabies); *Alcelaphus buselaphus* (Hartebeest); *Connochaetes* (Wildebeests).
    - (v) In the family Cervidae, the European red deer (*Cervus elaphus elaphus*), all nonnative subspecies of *Cervus elaphus*, and all hybrids with North American elk; Fallow deer (*Dama dama*), Axis deer (*Axis axis*), Rusa deer or Sambar deer (*Cervus unicolor*, *Cervus timorensis*, *Cervus mariannus* and *Cervus alfredi*), Sika deer (*Cervus nippon*), Reindeer (all members of the Genus *Rangifer* except *Rangifer tarandus caribou*), and Roedeer (all members of the Genus *Capreolus*).
- (2) It is unlawful to import into the state, hold, possess, propagate, offer for sale, sell, transfer, or release live specimens of deleterious exotic wildlife, their gametes and/or embryo, except as provided under (3), (4), (5), (6), or (7) below and as provided in WAC 232-12-01701.

(3) Scientific research or display: The director may authorize, by written approval, a person to import into the state, hold, possess, and propagate live specimens of deleterious exotic wildlife for scientific research or for display by zoos or aquariums who are accredited institutional members

of the American Association of Zoological Parks and Aquariums (AAZPA) provided:

- (a) The specimens are confined to a secure facility,
  - (b) The specimens will not be transferred to any other location within the state, except to other AAZPA accredited facilities with written director approval or as otherwise authorized in writing by the director,
  - (c) The specimens will be euthanized and all parts incinerated at the end of the project, except federally listed endangered or threatened species may be retained or transferred where in compliance with federal law,
  - (d) The person will keep such records on the specimens and make such reports as the director may require, and
  - (e) The person complies with other requirements of this section.
- (4) Retention or disposal of existing specimens lawfully in captivity:
- (a) Specimens lawfully in captivity prior to January 18, 1991: A person holding exotic wildlife specimens in captivity which were classified by the wildlife commission as deleterious exotic wildlife on or before January 18, 1991 may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to January 18, 1991 provided such person complies with subsections (4)(c) through (4)(h) hereunder and the other requirements of this section:
  - (b) Specimens lawfully in captivity prior to June 20, 1992: A person holding the following deleterious exotic wildlife specimens in captivity which were classified by the wildlife commission as deleterious exotic wildlife by operation of emergency rule filed June 19, 1992 (in the family Bovidae, *Sassabies* (all member of the Genus *Damaliscus*), *Hartebeest* (*Alcelaphus buselaphus*), *Wildebeests* (all members of the Genus *Connochaetes*), *Markhor* (*Capra falconeri*), and *Marcopolo sheep* (*Ovis ammon*); in the family Cervidae, *Fallow deer* (*Dama dama*), *Axis deer* (*Axis axis*), *Sika deer* (*Cervus nippon*), *Rusa deer* or *Sambar deer* (*Cervus unicolor*, *Cervus timorensis*, *Cervus mariannus* and *Cervus alfredi*)), may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to June 20, 1992, and the lawful progeny thereof provided such person complies with subsections (4)(c) through (4)(h) hereunder and the other requirements of this section and except as provided under subsection (7).
  - (c) The person reported to the director in writing the species, number and location of the specimens as required.
  - (d) The specimens are confined to a secure facility at the location reported,
  - (e) Live specimens are not propagated, except at AAZPA accredited facilities with the written permission of the director or as otherwise authorized in writing by the director,
  - (f) Live specimens shall be neutered, physically separated by sex, and/or rendered infertile by means of contraception, except at AAZPA accredited facilities with the written permission of the director,
  - (g) Live specimens are not released,
  - (h) Live specimens are not sold or transferred except:
  - (i) Live specimens in lawful possession may be permanently removed from the state of Washington or transported

directly to slaughter where in accordance with other applicable law,

(ii) Federally listed endangered or threatened species may be transferred to AAZPA accredited facilities where in compliance with federal law,

(iii) Live specimens may be moved to the new primary residence of the possessor with the written approval of the director, provided all other requirements are satisfied and the total number of locations where animals are held is not increased.

(iv) AAZPA facilities may sell and/or transfer live specimens within the state with the written permission of the director.

(5) Retention or disposal of existing specimens lawfully in captivity prior to February 13, 1993: A person holding exotic wildlife specimens in captivity which are newly classified by the Wildlife Commission as deleterious exotic wildlife by operation of this rule ((f)) (Reindeer (all members of the Genus Rangifer, except Rangifer tarandus caribou), and Roedeer (all members of the Genus Capreolus)((h))), may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to February 13, 1993, provided:

(a) The person reports to the director in writing by March 31, 1993, and reports annually thereafter, or as otherwise required by the director, the species, number, and location of such specimens,

(b) The person complies with subsections (4)(d) through (4)(h) herein and the other requirements of this section.

(6) The provisions of this section shall not prohibit the importation, possession, propagation, sale, transfer, or release of live specimens of federally listed threatened or endangered species, their gametes and/or embryo, where in compliance with federal law.

(7) Notwithstanding the provisions of subsection (2), Fallow deer (*Dama dama*) and reindeer (all members of the Genus Rangifer, except Rangifer tarandus caribou) may be imported into the state, held, possessed, propagated, offered for sale, sold, and/or transferred provided:

(a) The person complies with subsection (4)(c) through (4)(g) hereunder and the other requirements of this section, except for subsections (4)(e), (4)(f), and (4)(h), and

(b) The person complies with department of agriculture WAC 16-54-035 as now or hereafter amended except:

(i) Animals which have resided at any time east of a line drawn through the eastern boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and the 100th Meridian where it passes through Texas or have had contact with or shared common ground with animals which have resided at any time east of such line shall not be imported into the state of Washington, unless specifically authorized in writing by the directors of the department of agriculture and the department of wildlife.

(c) No specimens affected with any infectious or communicable disease shall be imported into the state unless in compliance with all applicable laws and regulations and unless written permission is obtained from the directors of the department of agriculture and the department of wildlife.

(d) The specimens are confined to a secure facility.

(e) Reindeer may not be imported into, held, or possessed in Ferry, Stevens, or Pend Oreille counties or that portion of Spokane County north of Spokane River.

(8) Escaped animals

(a) Escaped deleterious exotic wildlife, including Fallow deer (*Dama dama*), and Reindeer (all members of the Genus Rangifer, except Rangifer tarandus caribou) will be considered a public nuisance. The department or any peace officer may seize, capture, or destroy deleterious exotic wildlife that have escaped the possessor's control. The former possessor shall be responsible for costs incurred by the department in recovering, maintaining, or disposing of such animals, as well as any damage to the state's wildlife or habitat.

(b) Escapes of deleterious exotic wildlife must be reported immediately to the department.

(c) The recapture or death of escaped deleterious exotic wildlife must be reported immediately to the department.

(9) Secure facility

(a) All deleterious exotic wildlife will be held in a secure facility. For the purpose of this rule, a secure facility is an enclosure so constructed as to prevent danger to the environment or wildlife of the state, including escape of deleterious exotic wildlife specimens or ingress of resident wildlife ungulates (hoofed animals). The adequacy of the facility shall be determined by the director or agents of the director.

(b) For deleterious exotic wildlife listed in subsections (1)(d)(iv) and (1)(d)(v), the "secure facility" must comply with the fencing requirements in subsection (10) unless otherwise authorized by the director in writing.

(10) Fencing requirements

(a) Perimeter fences must be, at a minimum, eight feet above ground level for their entire length. The bottom six feet must be mesh of sufficient size to prevent resident wildlife ungulates (hoofed animals) from entering and deleterious exotic wildlife from escaping. Supplemental wire required to attain a height of eight feet may be smooth, barbed, or woven wire (at least 12-1/2 gauge) with strands spaced not more than six inches apart.

(b) Perimeter fences constructed of high tensile wire must be supported by a post or stay at minimum intervals of eight feet.

(c) Perimeter fences must be at least 12-1/2 gauge woven wire, 14-1/2 gauge high-tensile woven wire, chain link, non-climbable woven fence, or other fence approved by the director.

(i) If the wire used is not a full eight feet in height, it must be overlapped one row and securely fastened at every other vertical row or woven together with cable.

(d) Electric fencing materials may be used on perimeter fences only as a supplement to conventional fencing materials.

(e) All gates in the perimeter fences must be self-closing, equipped with two locking devices, and installed only in locations that have been approved by the director. Double gates may be required at points in the perimeter fences subject to frequent vehicle traffic that is not related to activities involving the holding of deleterious exotic wildlife.

(f) Posts used in the perimeter fences must be:

(i) Wood (pressure treated), five-inch minimum diameter or an equivalent as approved by the director;

- (ii) Spaced no more than twenty-four feet apart with stays or supports at eight foot intervals between the posts;
- (iii) Extended at least eight feet above ground level;
- (iv) Corners braced with wood or with an equivalent material as approved by the director.

(g) Fences must be maintained at all times to prevent deleterious exotic wildlife from escaping or resident wildlife ungulates (hoofed animals) from entering the enclosure. If such animals do pass through, under, or over the fence because of any topographic feature or other conditions, the person possessing deleterious exotic wildlife must immediately supplement the fence to prevent continued passage.

(h) For any fence existing prior to February 13, 1993, a person may petition the director in writing for a variance from the above fencing requirements. Any such petition must be filed no later than May 31, 1993 and must identify all aspects in which the existing fence does not meet the fencing requirements contained herein. On approval of the director, such person may maintain such existing fence with normal repair. However, any extension or relocation of existing fence must meet the fencing requirements contained herein.

#### (11) Marking requirements

(a) All live specimens of deleterious exotic wildlife except those listed in subsections (1)(a) and (1)(b), shall be permanently and individually identified by methods approved by the director,

(b) Identification assigned to an individual animal may not be transferred to any other animal.

(c) All specimens of deleterious exotic wildlife identified in subsections (1)(d)(iv) and (1)(d)(v) must be individually identified by the methods specified below.

(i) All live specimens of such deleterious exotic wildlife shall be marked with USDA Official ear tags or with ear tags supplied or approved by the department. Tags shall be applied in sequential order, and

(ii) All live specimens of such deleterious exotic wildlife shall be marked with a tattoo with an identifying number that has been recorded with the director. The tattoo must be placed on the left ear of the animal.

(d) All lawful progeny of deleterious exotic wildlife must be tagged and tattooed by December 31 of the year of birth or upon leaving the holding facility, whichever is earlier.

(e) Where allowed, if an animal is sold or transferred within the state, the tag and tattoo must accompany the animal. The new owner or possessor shall not renumber the animal.

(f) Where allowed, live specimens of deleterious exotic wildlife shall be marked prior to importation.

(g) No unmarked deleterious exotic wildlife may be sold or otherwise transferred from the holding facility.

#### (12) Testing of specimens

(a) Where allowed, prior to entry into the state of Washington, a person importing any member of the Genus Cervus which is identified in subsection (1)(v) herein must submit records of genetic tests, conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex *Cervus elaphus* not indigenous to the state of Washington). Such testing shall

be at the possessor's expense. Animals which are deemed by department of wildlife biologists upon examination to exhibit either: behavioral (vocalization), morphological (size, rump patch, color) or biochemical indications of such influence (hemoglobin, superoxide dismutase, transferrin and post-transferrin, or others to be developed) may not be imported.

(b) The director may require a person currently possessing any member of the Genus Cervus which are identified in subsection (1)(v) herein to submit records of genetic tests, conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex *Cervus elaphus* not indigenous to the state of Washington), for each individual cervid to the department. Such testing shall be at the ~~((possessor's))~~ possessor's expense. The director may require that any animal identified a red deer or having non-indigenous genetic influence be destroyed, removed from the state, or neutered.

(c) The director may require that all specimens of deleterious exotic wildlife lawfully in captivity be tested for brucellosis (*brucella abortus*), tuberculosis (*mycobacterium bovis* and *mycobacterium tuberculosis*), meningeal worm (*Paralophostrongylus tenuis*), and muscle worm (*Elaphostrongylus cervis*) in accordance with the procedures specified in department of agriculture WAC 16-54-035 as now or hereafter amended and/or for other disease or parasites determined to pose a risk to wildlife. The results of such tests shall be filed with the director as required.

#### (13) Reporting

(a) A person holding deleterious exotic wildlife in captivity shall submit a completed report no later than March 30, 1993 and then no later than January 31 of each year, or as otherwise required by the director, on a form provided by the department.

(b) Persons possessing deleterious exotic wildlife must notify the director within ten days of any change of such persons' address and/or location of the holding facility.

#### (14) Inspection

(a) All holding facilities for deleterious exotic wildlife located in the state are subject to inspection for compliance with the provisions of this section.

(b) Such inspections may take place without warrant or prior notice but shall be conducted at reasonable times and locations.

#### (15) Notification and disposition of diseased animals.

(a) Any person who has reason to believe that deleterious exotic wildlife being held pursuant to this rule have or have been exposed to a dangerous or communicable disease or parasite shall notify the department immediately.

(b) Upon having reason to believe that deleterious exotic wildlife held pursuant to this rule have been exposed to or contracted a dangerous or contagious disease or parasite, the director may order inspection of such animals by a licensed, accredited veterinarian or inspection agent. Inspection shall be at the expense of the possessor.

(c) The director shall determine when destruction of animals, quarantine, or disinfection is required at any facility holding deleterious exotic wildlife pursuant to this rule. If the director determines that destruction, quarantine, or disinfection is required, a written order shall be issued to the pos-

essor describing the procedure to be followed and the time period for carrying out such actions. Such activities shall be the expense of the possessor.

(16) Quarantine area

(a) Any facility holding deleterious exotic wildlife must have an approved quarantine facility within its exterior boundary or submit an action plan to the director that guarantees access to an approved quarantine facility within the state of Washington.

(i) An approved quarantine facility is one that meets criteria set by the Washington State department of agriculture.

(ii) The quarantine area must meet the tests of isolation, separate feed and water, escape security, and allowances for the humane holding and care of its occupants for extended periods of time.

(b) Should the imposition of a quarantine become necessary, the possessor must provide an on-site quarantine facility or make arrangements at such possessor's expense to transport the animals to the approved quarantine facility named in the quarantine action plan.

(17) Seizure

(a) The department of wildlife may seize any unlawfully possessed deleterious exotic wildlife.

(b) The cost of any seizure and/or holding of deleterious exotic wildlife may be charged to the possessor of such animals.

**WSR 99-08-025**

**PERMANENT RULES**

**DEPARTMENT OF TRANSPORTATION**

[Order 191—Filed March 30, 1999, 8:13 a.m.]

Date of Adoption: March 29, 1999.

Purpose: Amends compliance date for being a certified escort vehicle operator from July 1, 1999, to January 1, 2000.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-110.

Statutory Authority for Adoption: RCW 46.44.090.

Adopted under notice filed as WSR 99-05-006 on February 5, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

March 29, 1999

Gerald E. Smith

Deputy Secretary, Operations

**AMENDATORY SECTION** (Amending Order 179, filed 7/31/98, effective 8/31/98)

**WAC 468-38-110 Escort vehicle requirements.** (1)

When the escort vehicle is in front of the permitted vehicle, the operator shall:

(a) Warn oncoming traffic of the presence of the permitted vehicle by use of signs and lights as provided in subsections (4) and (8) of this section.

(b) Notify the driver of the permitted vehicle, and driver(s) of any trailing escorts, by two-way radio, of all hazards; overhead clearances; obstructions; traffic congestion; pedestrians; and any other circumstances evident to the operator that could affect either the safe movement of the permitted vehicle, the safety of the traveling public, or the efficient movement of traffic in sufficient time for the driver of the permitted vehicle to take corrective action, as necessary.

(c) To the extent necessary, locate safe places (if available) adjacent to the highway and notify the driver of the permitted vehicle, and driver(s) of trailing escorts, in ample time for the permitted vehicle and the escort vehicle(s) to clear the highway, allowing the traffic following to safely pass, or for any other reasons necessary to provide for the safety of the traveling public.

(d) Be far enough in front of the permitted vehicle to signal oncoming motorists to stop in a timely manner, or as specified by local jurisdiction, before such motorists enter any narrow structures or other restrictions on the highway, to permit the safe passage of the permitted vehicle.

(2) When the escort vehicle is behind the permitted vehicle, the operator shall:

(a) Warn traffic approaching from the rear of the presence of the permitted vehicle ahead, by use of signs and lights as provided in subsections (4) and (8) of this section.

(b) Notify the driver of the permitted vehicle, and driver of any lead escort, by two-way radio of flat tires or other problems with the permitted vehicle; objects coming loose from the permitted vehicle; other traffic approaching or passing the permitted vehicle; and any other circumstances evident to the operator that could affect either the safe movement of the permitted vehicle, the safety of the traveling public, or the efficient movement of traffic, in sufficient time for the driver of the permitted vehicle to take corrective action.

(c) Notify the front escort driver and the driver of the permitted vehicle by two-way radio of traffic build-up and other delays to the normal flow and efficient movement of traffic caused by the movement of the permitted vehicle.

(d) Notify the driver of the permitted vehicle, and driver of any lead escort, by two-way radio of other vehicles attempting to pass the permitted vehicle or load.

(e) Be far enough behind the permitted vehicle to signal motorists following the permitted vehicle to slow or stop in a timely manner, or as specified by local jurisdiction, before narrow structures or other restrictions in the highway, to permit the safe passage of the permitted vehicle.

PERMANENT

(3) The escort vehicle operator shall ensure that the escort vehicle is in safe and reliable operating condition.

(4) An escort vehicle shall, in addition to any other equipment required by traffic law, be equipped with a minimum of two flashing or rotating amber lights, positioned above the roof line, visible from a minimum of five hundred feet to traffic approaching from the front or rear of the escort. The light apparatus must not obstruct, or be obstructed by, the required OVERSIZE LOAD sign.

(5) The escort vehicle shall:

(a) Be either a single unit passenger car or a two-axle truck;

(b) Not exceed a maximum gross vehicle weight rating of fourteen thousand pounds;

(c) Be at least sixty inches wide; and

(d) Not exceed the legal limits of size and weight, as defined in chapter 46.44 RCW.

(6) The escort vehicle shall not carry any passengers, human or animal (excluding individuals in training status or necessary flag persons), or equipment or load in or on the escort vehicle which:

(a) Exceeds the height, length, or width of the escort vehicle, or overhangs the escort vehicle, or otherwise impairs its immediate recognition as a safety escort vehicle by the motoring public; or

(b) Obstructs the view of the flashing or rotating yellow lights, or the signs used by the escort vehicle; or

(c) Causes safety risks; or

(d) Otherwise impairs the performance by the operator of the escort vehicle of the duties required by these rules.

(7) The escort vehicle operator shall properly load and secure any item(s) or equipment or load carried by the escort vehicle to ensure compliance with the requirements of this section.

(8) An escort vehicle shall display "oversize load" signs, in clear readable condition, which shall be mounted above the roofline of the escort vehicle and be visible to approaching traffic from the front and the rear. All such signs shall be a minimum of five feet wide, ten inches high with one-inch wide brush stroke, black letters a minimum of eight inches high on yellow background, or shall be a maximum of seven feet wide, eighteen inches high, with a 1.41 inch brush stroke, black letters a minimum of ten inches high on yellow background.

(9) The escort vehicle(s) shall have its headlights activated at all times when escorting a permitted vehicle.

(10) The escort vehicle shall be equipped with a two-way radio capable of providing reliable two-way voice communication between the driver of the permitted vehicle and the driver(s) of the escort vehicle(s) when the permitted vehicle is in motion on a public highway.

(11) An escort vehicle shall carry the following items of equipment at all times when escorting a permitted vehicle:

(a) Standard eighteen inch STOP & SLOW paddle sign.

(b) Three bi-directional emergency reflective triangles.

(c) A minimum of one 5 pound B, C, fire extinguisher, or equivalent.

(d) A reflectorized high visibility orange or other color vest, shirt or jacket, as permitted by the *Manual on Uniform Traffic Control Devices*, and a yellow or other highly visible

colored hard hat to be worn by the operator while directing traffic, in accordance with WAC 296-155-305, Signaling.

(e) A height measuring device which is nonconductive and nondestructive to overhead clearances, when required by the terms of the permit or regulations.

(f) First-aid supplies must be readily available as described in WAC 296-24-06145.

(g) A flashlight in working order with red nose cone.

(12) An escort vehicle is prohibited from escorting more than one permitted vehicle at the same time, unless expressly authorized by the department.

(13) A front escort vehicle shall use a height pole at all times when escorting a permitted vehicle exceeding fifteen feet in height, unless otherwise expressly authorized/directed by the department on the permit. The height pole shall not extend less than three inches nor more than six inches above the maximum height of the permitted vehicle being escorted. When the escort vehicle is not escorting a permitted vehicle, but is moving on the highway, the height pole shall be removed, tied down, or shortened to within legal limits, unless involved in the act of prerunning a route to determine height acceptance.

(14) When an escort vehicle is not escorting a permitted vehicle, or prerunning a route, but is moving on a public highway, the signs, described in subsection (8) of this section, shall either be removed, lowered to a position not readily visible, or covered, and the flashing yellow lights, described in subsection (4) of this section, shall not be operated.

(15) In the performance of the duties required by these rules, the operator of the escort vehicle may be required to advise the permitted vehicle to stop, allowing other traffic to proceed safely. The operator of the escort vehicle shall signal the permitted vehicle to stop, and the permitted vehicle shall stop, as far off the roadway as practicable to allow other traffic to pass in the following situations:

(a) When the permitted vehicle becomes disabled; or

(b) When the movement of the permitted vehicle on a particular section of public highway presents a safety risk or unreasonably interferes with the efficient movement of other traffic, based upon such factors as the widths of the permitted vehicle and the roadway, volume of other traffic, visibility and limited sight distance, and mountainous terrain; or

(c) When driving conditions for the permitted vehicle are hazardous for any other reason, including weather.

(16) In the performance of the duties required by these rules, the escort vehicle operator may be required to direct other traffic to stop, slow or proceed in order to allow the permitted vehicle to continue moving safely, or to help the other traffic to navigate around a stopped permitted vehicle. When directing traffic in these situations, the operator of the escort vehicle shall, effective January 1, (~~1999~~) 2000:

(a) Be certified, having a valid WSDOT certificate/card on person, as an escort vehicle operator;

(b) Comply with procedures described in Section 6 of the MUTCD, as may be amended by the department of transportation, and such other criteria as may be developed under WAC 296-155-305, Signaling.

(17) The operator of the permitted vehicle and the operator(s) of the escort vehicle(s) shall comply with the following procedures:

- (a) Before trip:
    - (i) Discuss aspects of the move, including the permitted vehicle, the route, and specific responsibilities.
    - (ii) Review permit special conditions.
    - (iii) Review the permitted route.
    - (iv) Determine the proper position of the escort vehicle(s).
    - (v) Establish any necessary procedures.
    - (vi) Check mandatory equipment, each operator being responsible for their own vehicle.
    - (vii) Mount signs, adjust mirrors, turn on lights.
    - (viii) Check each two-way radio to ensure clear communication on a selected channel.
    - (ix) Assure special motor vehicle permit(s) is in the possession of the appropriate operator(s).
    - (x) Determine if additional flagpersons will be necessary and, if so, have them available.
  - (b) During the trip:
    - (i) Obey all traffic laws.
    - (ii) Do not follow or precede more closely than is reasonably prudent, considering the speed of the permitted vehicle, other traffic, and highway conditions.
    - (iii) Do not exceed 1/2 mile distance between permitted vehicle and the escort vehicle to maintain radio contact, except when necessary to safely travel a long narrow section of highway.
  - (c) Traffic lights:
    - (i) If the front escort vehicle goes through a traffic light but the permitted vehicle does not, the escort vehicle must pull over to the right side of the highway, where practicable, to wait for the permitted vehicle.
    - (ii) If the permitted vehicle goes through the traffic light but the escort vehicle does not, then the permitted vehicle must pull over to the right side of the highway, where practicable, to wait for the rear escort vehicle.
- (18) When uniformed off-duty law enforcement officers act as escorts, using official police cars or motorcycles, the requirements of this section may be amended as necessary.

**WSR 99-08-026**  
**PERMANENT RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Docket No. TV-971477, General Order No. R-454 (Supplement)—Filed March 30, 1999, 9:01 a.m.]

**ORDER OF CORRECTION**

In the matter of repealing all rules in chapter 480-12 WAC except WAC 480-12-100 and 480-12-375 and adopting new chapter 480-15 WAC, relating to motor carriers of household goods.

The commission adopted and repealed rules relating to carriers of household goods by General Order No. 454 on December 14, 1998, filed at WSR 99-01-077. The intention

of the commission staff, of stakeholders in the process, and of the commission was unanimously to exclude from the repeal of existing rules those rules that relate to the operation of common carrier brokers. This intention is reflected in the minutes of the adoption hearing, in the commission staff memorandum that has been adopted as an element of the concise statement of the commission's reasoning for taking its actions, and in representations about the effect of the rule making.

Through a scrivener's error, however, the commission inadvertently repealed one of the sections relating to common carrier brokers. WAC 480-12-375 was inadvertently repealed in the Order of Adoption, General Order No. 454, dated December 14, 1998, and in the rule text filed with the code reviser. WAC 480-12-370, relating to carrier insurance, was inadvertently excluded from repeal.

By this order, the commission corrects the error. References in the original General Order No. 454 and in the text accompanying the order are hereby changed to exclude WAC 480-12-375 from repeal and, by exclusion, to effect the repeal of WAC 480-12-370. This correction will take effect pursuant to RCW 34.05.380.

DATED at Olympia, Washington this 30th day of March, 1999.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
 Marilyn Showalter, Chairwoman  
 Richard Hemstad, Commissioner  
 William R. Gillis, Commissioner

**WSR 99-08-029**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-13—Filed March 30, 1999, 2:54 p.m., effective May 1, 1999.]

Date of Adoption: February 5, 1999.

Purpose: Amend sportfishing rules.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 220-16-225, modifies geographical definition of Columbia River.

WAC 220-55-160, designates first full weekend in June as free fishing weekend.

WAC 220-56-100, modifies definition of "Buoy 10 Line."

WAC 220-56-103, removes Merwin Lake from the list of landlocked lakes. Updates references to new sportfish licenses.

WAC 220-56-145, modifies rules for filleting food fish while in the field.

WAC 220-56-185, updates the name of the buoy used to mark the line between Marine Areas 6 and 7.

WAC 220-56-255, modifies season for halibut fishery.

WAC 220-56-267, closes herring fishery in parts of Marine Areas 6 and 7.

WAC 220-56-270, closes smelt fishery in the Columbia River and its tributaries because of declines in stock size.

WAC 220-56-310, details the carapace measurement requirement for spot shrimp.

**PERMANENT**

WAC 220-56-320, modifies rules for buoys on shellfish pots.

WAC 220-56-330, makes it illegal to tend crab pot gear from a boat at night.

WAC 220-56-350, adjusts beach seasons for clams to conserve resource.

WAC 220-56-380, adjusts beach seasons for oysters to conserve resource.

WAC 232-12-001, defines "hatchery fish."

WAC 232-12-018, removes Merwin Lake from the list of landlocked lakes. Updates reference to new sportfish license.

WAC 232-12-619, removes requirement for a hunting license to harvest bullfrogs. Modifies rules for filleting food fish while in the field. Designates first full weekend in June as free fishing weekend.

WAC 232-28-619, adjusts game fish seasons and gear requirements for sea-run cutthroat protection, bull trout protection, and additional fishing opportunity.

Statutory Authority for Adoption: RCW 75.08.080, 77.12.040.

Adopted under notice filed as WSR 98-21-089 on October 21, 1998.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-55-160, fish and wildlife lands vehicle use permit is not required on free fishing weekend.

WAC 220-56-103, license reference updated to match new license structure.

WAC 220-56-145, requirement to retain the frame of halibut and bottomfish was dropped. Dolly Varden and sturgeon may not be possessed in the field in such a condition that the total length cannot be determined. Salmon may not be possessed in the field in such a condition that the total length and absence or presence of all fins cannot be determined, unless they are being prepared for immediate consumption. Other fish or shellfish with size or weight limits may be filleted after they have been brought to shore and the fisher has stopped fishing for the day and may be prepared for immediate consumption while in the field.

WAC 220-56-250, lingcod proposal withdrawn.

WAC 220-56-350, seasonal changes made to clam beach seasons based on surveys of use patterns and population size.

WAC 220-56-380, seasonal changes made to oyster beach seasons based on surveys of use patterns and population size.

WAC 232-12-018, license reference updated to match new license structure.

WAC 232-12-619, Dolly Varden and sturgeon may not be possessed in the field in such a condition that the total length cannot be determined. Game fish with size or weight limits may be prepared for immediate consumption while in the field, and may be filleted after they have been brought to shore and the fisher has stopped fishing for the day. Fish and wildlife lands vehicle use permit is not required on free fishing weekend.

WAC 232-28-619, Cady Lake rules changed to year round season, catch and release only. Drano Lake rules require the release of all cutthroat. Goldsborough Creek minimum size for trout changed to 14 inches. East Fork Grays River rules require the release of all cutthroat. Wild cutthroat

release is not required on the West Fork Grays River. Wild cutthroat release is not required on Lacamas Creek (Clark County). Lacamas Creek (Lewis County) rules require the release of all cutthroat. East Fork Lewis River rules require the release of all cutthroat. Wild cutthroat release is not required in the Little White Salmon River. North Fork and South Fork Naselle - release all fish. Selective gear rules required only in some sections of the Middle and South Nemah. Release all fish in the entire Niawiakum River. North River (Grays Harbor/Pacific Counties) - catch and release only zone adjusted. Release cutthroat in Olequa Creek. Salmon Creek (Pacific County) selective gear requirement dropped. Union River selective gear requirement dropped and trout minimum size dropped during late season.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 18, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 1, 1999.

March 30, 1999

Kelly D. White, Chairman  
Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 817, filed 5/29/69)

**WAC 220-16-225 Geographical definitions—Columbia River.** The term "Columbia River" shall be construed to include all the waters of the Columbia River, including sloughs tributary thereto, upstream and easterly of a line projected (~~((from the inshore end of the north jetty to the knuckle of the south jetty at the entrance to the river))~~) true north-south through Buoy 10 located between the north and south jetties at the mouth of the Columbia River.

**NEW SECTION**

**WAC 220-55-160 Free fishing weekend.** The Saturday and Sunday following the first Monday in June is declared to be free fishing weekend in Washington. On this weekend a fishing license is not required for any person, regardless of age or residency, to fish for or possess fish and shellfish and a fish and wildlife lands vehicle use permit is not required to utilize department parking facilities. During free fishing weekend only the license and permit provided for in this section are affected, and all other rules including the catch record card requirement remain in effect.

**AMENDATORY SECTION** (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

**WAC 220-56-100 Definitions—Personal use.** (1)

"Daily limit" means the maximum number or pounds of food fish, shellfish or seaweed of the required size of a given species or aggregate of species which a person may legally retain in a single day.

(2) "Possession limit" means the number of daily limits allowed to be retained in the field or in transit.

"In the field or in transit" means any place other than at the ordinary residence of the harvester. An ordinary residence is a residential dwelling where a person normally lives, with associated features such as address, telephone number, utility account, etc. A motorhome or camper parked at a campsite or a vessel are not considered to be an ordinary residence.

(3) "Hook" means one single, double or treble hook. A "single hook" means a hook having a single point. A "double hook" means a hook having two points on a common shank. A "treble hook" means a hook having three points on a common shank. "Barbless hook" means a hook on which all barbs have been deleted when manufactured or filed off or pinched down.

(4) "Lure" means a manufactured article constructed of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber, or plastic which does not use scent and/or flavoring to attract fish.

"Nonbuoyant lure" means a lure complete with hooks, swivels or other attachments, which does not float in fresh-water.

"Bait" means any substance which attracts fish by scent and/or flavors. Bait includes any device made of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber, or plastic which uses scent and/or flavoring to attract fish.

(5) 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, boiled or canned.

(6) The term "fresh" is defined as food fish or shellfish that are refrigerated, iced, salted or surface glazed.

(7) The term "frozen" is defined as fish or shellfish that are hard frozen throughout.

(8) "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 three hooks 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 three hooks. When fishing for bottomfish, "angling" and "jigging" shall be identical in meaning.

(9) "Snagging" means an effort to take fish with a hook and line in a manner that the fish does not take the hook or hooks voluntarily in its mouth.

"Gaffing" means an effort to take fish by impaling the fish with a hook attached directly to a pole or other device.

"Spearing" or "spear fishing" means an effort to take fish by impaling the fish on a shaft, arrow, or other device.

(10) 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 fisher is above the surface of the water.

(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 lighthouse on Tatoosh Island to the buoy adjacent Duntz Rock 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)~~) at 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.

(16) The term "selective gear rules" means terminal gear is limited to artificial flies with a barbless single hook or lures with a barbless single hook, bait is prohibited, and fishing from a floating device equipped with a motor is prohibited unless otherwise provided. In waters under selective gear rules, fish may be released until the daily limit is retained.

**AMENDATORY SECTION** (Amending Order 97-53, filed 3/19/97, effective 5/1/97)

**WAC 220-56-103 Definitions—Landlocked chinook and coho.** Chinook and coho taken from the following waters are defined as landlocked. A (~~(game fish)~~) freshwater license is required to fish for these species, and a (~~(food fish license)~~) catch record card is not required. Season, daily limit, and size restriction rules for landlocked chinook and coho are the same as trout rules (except Lake Chelan). The angler's combined catch of landlocked salmon and trout applies toward the trout limit.

(1) Big Lake (Skagit County).

(2) Clear Lake (Pierce County).

(3) Cushman Reservoir (Mason County).

(4) Mayfield Lake (reservoir) (Lewes County).

(5) McMurray Lake (Skagit County).

(6) (~~(Merwin Lake) Reservoir (Clark/Cowlitz County)~~;

~~(7))~~ Riffe (lake) Reservoir (Lewes County).

~~((8))~~ (7) Scanewa Lake (Cowlitz Falls Reservoir) (Lewes County).

~~((9))~~ (8) Wilderness Lake (King County).

~~((10))~~ (9) Wynoochee Reservoir (Grays Harbor County).

~~((11))~~ (10) Chelan, Lake (Chelan County).

~~((12))~~ (11) Roosevelt, Lake (Columbia River) (Stevens County).

~~((13))~~ (12) Spokane River (Spokane County).

~~((14))~~ (13) Tarboo Lake (Jefferson County).

**AMENDATORY SECTION** (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

**WAC 220-56-145 Possession of food fish or shellfish in unlawful condition.** (1) ~~(It is unlawful to possess in the field for any purpose any salmon in such a condition:~~

~~(a) That its size or species cannot be determined.~~

~~(b) That its weight or sex cannot be determined if a weight or sex restriction is prescribed for said salmon.~~

~~(2) It is unlawful to possess in the field for any purpose any food fish other than salmon in such a condition that its size, weight, or sex cannot be determined, if a size, weight, or sex restriction is prescribed for said food fish except that it is lawful to possess lingcod and halibut in filleted form after the fisher has brought the fish to shore and has stopped fishing. For purposes of calculating the daily limit, two fillets equals one fish.~~

~~(3) It is unlawful to possess in the field for any purpose any shellfish in such a condition that its size, weight, or sex cannot be determined, if a size, weight, or sex restriction is prescribed for said shellfish.)~~ It is unlawful to possess Dolly Varden/bull trout or sturgeon in the field in such condition that the total length cannot be determined.

(2) It is unlawful to possess salmon or steelhead in the field in such condition that the total length and presence or absence of all fins cannot be determined.

(3) It is unlawful to possess gamefish, food fish, or shellfish in the field in such condition that the size, weight or sex cannot be determined if a size, weight or sex restriction applies to the species. This subsection does not apply to gamefish, food fish, or shellfish if the fisher has stopped fishing for the day after the catch has been brought ashore, or if the catch is in the process of being prepared for immediate consumption. Dolly Varden/bull trout and sturgeon must comply with subsection (1) of this section at all times when in the field.

**AMENDATORY SECTION** (Amending Order 95-10, filed 1/30/95, effective 5/1/95)

**WAC 220-56-185 Marine area codes.** The term "marine area code numbers" is defined as the catch area for the 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. 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. Area 2 excludes waters of Willapa Bay and Grays Harbor.

(b) 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) Area 2-2: Grays Harbor east of a line 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))~~ Vessel Traffic Separation 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 98-06-031, filed 2/26/98, effective 5/1/98)

**WAC 220-56-255 Halibut—Season.** It is unlawful to fish for or possess halibut taken for personal use except from:

(1) Catch Record Card Area 1: Open May 1 through September 30, unless closed earlier by emergency regulation. Minimum size limit 32 inches in length.

(2) Catch Record Card Area 2 - Open May ~~((3))~~ 2 through September 30, unless closed earlier by emergency regulation. Closed to fishing for halibut 12:01 a.m. of each Friday through 11:59 p.m. of each Saturday. If May 1 occurs on a closed day, the season opens on the first Sunday follow-

PERMANENT

ing. The following waters are closed to halibut fishing: West of 124°40'W, north of 47°10'N and south of 47°31'42"N (Puget River).

(3) Catch Record Card Area 3 and those waters of Catch Record Card Area 4 west of the Bonilla-Tatoosh line: Open May 1 to June 30, unless closed earlier by emergency regulation, and July 1 through September 30 unless closed by emergency regulation. Closed to fishing for halibut 12:01 a.m. of each Sunday through 11:59 p.m. of each Monday. If May 1 occurs on a closed day, the season opens on the first Tuesday following. The following area southwest of Cape Flattery is closed to halibut fishing at all times:

Those waters within a line from 48°18'N, 125°11'W to 48°18'N, 124°59'W to 48°04'N, 125°11'W to 48°04'N, 124°59'W to the point of origin.

(4) Catch Record Card Area 4 east of the Bonilla-Tatoosh line and Catch Record Card Areas 5 through 13: May 21 through August 3 - Closed 12:01 a.m. Tuesday through 11:59 p.m. Wednesday of each week during the open period.

**NEW SECTION**

**WAC 220-56-267 Herring—Areas and seasons.** Herring fishing is open in all state waters year around except:

(1) Those waters of Catch Record Card Area 6 south of a line from Ediz Hook to Partridge Point are closed January 16 through April 15.

(2) Those waters of Catch Record Card Area 7 north of a line from Sandy Point through Patos Island to the United States-Canada boundary are closed year around.

**AMENDATORY SECTION** (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

**WAC 220-56-270 Smelt—Areas and seasons.** (1) Smelt fishing is permitted the entire year on Pacific Ocean beaches and in all rivers except the Columbia River and tributaries.

(2) Smelt fishing is open in Puget Sound and the Strait of Juan de Fuca the entire year except closed weekly from 8:00 a.m. Wednesday to 8:00 a.m. Friday for all types of gear except forage fish jigger gear.

(3) The Columbia River and tributaries are closed to the fishing for or retention of smelt.

**AMENDATORY SECTION** (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

**WAC 220-56-310 Shellfish—Daily limits.** It is unlawful for any one person to take in any one day for personal use more than the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, other than razor clams, geoduck clams and horse clams, 40 clams in the aggregate, or 10 pounds, whichever is achieved first except:

(a) In Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance - diggers may additionally retain up to 20 pounds of eastern softshell clams in the shell.

(b) Willapa Bay - diggers may additionally retain up to twenty-four cockles.

(2) Razor clams: 15 clams.

(3) Geoduck clams: 3 clams.

(4) Horse clams: 7 clams.

(5) Oysters:

(a) In all Puget Sound waters except those contiguous waters south of a line from Tala Point to Foulweather Bluff, 18 oysters in the shell, minimum size 2 1/2 inches across the longest dimension of the shell.

(b) In the Puget Sound contiguous waters south of a line from Tala Point to Foulweather Bluff and waters of the Pacific Ocean, Grays Harbor and Willapa Bay, 18 oysters, shucked and the shells left on the beach.

(6) Rock scallops: 12 scallops.

(7) Sea scallops: 12 scallops (over 4 inches).

(8) Common or pink scallops: 10 pounds or 5 quarts in the shell.

(9) Shrimp:

(a) In all waters except Shrimp District 5 - total weight 10 pounds, fishers must retain the heads of all shrimp taken while in the field. Spot shrimp minimum size one and three-sixteenths inch from the base of the eyestalk to the top rear edge of the carapace.

(b) In Shrimp District 5 (Hood Canal) - 7 pounds, whole in the shell.

(10) Octopus: 2 octopus.

(11) Pinto abalone: Closed state-wide.

(12) Crawfish: 10 pounds in the shell. Minimum size 3 1/4 inches from tip of rostrum to tip of tail. Female crawfish with eggs or young attached to the abdomen must be released immediately.

(13) Squid: 10 pounds or 5 quarts.

(14) Sea cucumbers: 25 sea cucumbers.

(15) Red sea urchins: 18 sea urchins.

(16) Purple sea urchins: 18 sea urchins.

(17) Green sea urchins: 36 sea urchins.

(18) Dungeness crabs:

(a) In all waters except the Columbia River - 6 male crabs.

(b) In the Columbia River - 12 male crabs.

(19) Red rock crabs: 6 crabs.

(20) Blue mussels and sea mussels: 10 pounds in the shell.

(21) Goose barnacles: 10 pounds of whole barnacles or 5 pounds of barnacle stalks.

(22) Ghost and mud shrimp: 10 dozen.

(23) King and box crab: Closed state-wide.

**AMENDATORY SECTION** (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

**WAC 220-56-320 Shellfish gear—Unlawful acts.** (1)

It is unlawful for the owner or operator of any personal use shellfish gear to leave such gear unattended in the waters of the state unless said gear is marked with a buoy to which shall be affixed in a permanent visible and legible manner the first and last name and permanent mailing address of the operator. It is unlawful for more than one person's name and address to appear on the same marker buoy. Unattended shellfish gear

must have the line attaching the buoy to the pot weighted sufficiently to prevent the line from floating on the water's surface. The following additional requirements apply to buoys attached to unattended shellfish pots:

(a) All buoys must consist of durable material and remain ~~((floating on the water's surface when at least 5 pounds of weight are attached))~~ visible on the surface at all times except during extreme tidal conditions. It is unlawful to use bleach, antifreeze or detergent bottles, paint cans or any other container.

(b) All buoys attached to shrimp gear must be yellow or fluorescent yellow in color. Flags and staff, if attached, may be any color.

(c) All buoys attached to crab gear must be half red or half fluorescent red in color and half white in color. Flags and staff, if attached, may be any color.

(2) The maximum perimeter of any shrimp pot shall not exceed 10 feet, and the pot shall not exceed 1-1/2 feet in height.

(3) It is unlawful to fish for or possess crab taken with shellfish pot gear that are equipped with tunnel triggers or other devices which prevent free exit of crabs under the legal limit unless such gear is equipped with not less than two escape rings located in the upper half of the pot which are not less than 4-1/4 inches inside diameter.

(4) It is unlawful to take, fish for or possess shrimp taken for personal use with shellfish pot gear in the waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge unless such gear meets the following requirements:

(a) The entire top, bottom, and sides of the shellfish pots must be constructed of mesh material and except for the entrance tunnels have the minimum mesh opening size defined below.

(b) The minimum mesh opening size for Hood Canal shrimp pots is defined as a mesh that a 7/8-inch square peg will pass through each mesh without changing the shape of the mesh opening.

(c) All entrance tunnels must open into the pot from the side.

(d) The sum of the maximum widths of all entrance tunnels must not exceed 1/2 the perimeter of the bottom of the pot.

(5) It is unlawful to fish for or possess shellfish taken for personal use with shellfish pot gear unless the gear allows for escapement using at least one of the following methods:

(a) Attachment of pot lid hooks or tiedown straps with a single strand or loop of untreated, 100 percent cotton twine no larger than thread size 120 so that the pot lid will open freely if the twine or fiber is broken.

(b) An opening in the pot mesh no less than three inches by five inches which is laced or sewn closed with untreated, 100 percent cotton twine no larger than thread size 120. The opening must be located within the top half of the pot and be unimpeded by the entry tunnels, bait boxes, or any other structures or materials.

(c) Attachment of pot lid or one pot side serving as a pot lid with no more than three single loops of untreated 100 percent cotton or other natural fiber twine no larger than thread size 120 so that the pot lid or side will open freely if the twine or fiber is broken.

(6) Shellfish pots must be set in a manner that they are covered by water at all times.

**AMENDATORY SECTION** (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

**WAC 220-56-330 Crab—Areas and seasons.** (1) It is unlawful to fish for or possess crab taken for personal use with shellfish pot gear or to have in the water, set or fish any shellfish pot gear except during the open shellfish pot gear season. The open shellfish pot gear season for crab in Puget Sound waters may open by emergency regulation prior to July 16, but if not previously opened by emergency regulation will open July 16 through April 15.

The open shellfish pot gear season in waters of the Pacific Ocean, Grays Harbor, Willapa Harbor, and waters of the Columbia River is December 1 through September 15.

(2) It is lawful to fish for and possess male Dungeness crabs taken for personal use the entire year in state waters.

(3) It is lawful to fish for and possess red rock crabs of either sex taken for personal use the entire year in state waters.

(4) No crab fisher may set or pull crab pots, ring nets or star traps ~~((in the waters of Hood Canal between))~~ from a vessel in all state waters from one hour after official sunset and one hour before official sunrise.

**AMENDATORY SECTION** (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

**WAC 220-56-350 Clams other than razor clams, cockles, borers, mussels—Areas and seasons.** (1) It is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year except that public tidelands at the following beaches are closed unless otherwise provided:

(a) Ben Ure Spit: Open January 1 through ~~((June 15))~~ April 30.

(b) Cama Beach State Park: Closed the entire year.

(c) Camano Island State Park: Open June 1 through June ~~((30))~~ 15.

(d) Cline Spit: ~~((Open January 1 through May 15.))~~ Closed the entire year.

(e) Cutts Island State Park: Open January 1 through June 15.

(f) Dabob Bay - All state-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays Beach are closed to the harvest of clams the entire year except as follows:

(i) State-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires.

(ii) State-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north.

(iii) State-owned tidelands from markers and signs posted immediately north of the community of Lindsays Beach north to a line immediately north of Broad Spit identified by markers and signs.

- (g) Dosewallips State Park: Open ~~((entire year))~~ March 1 through May 15 only in area defined by boundary markers and signs posted on the beach.
- (h) Duckabush - All state-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are closed to the harvest of clams.
- (i) Dungeness Spit - Open May 15 through September 30.
- (j) Eagle Creek: Open ~~((April))~~ January 1 through April 30.
- (k) Fort Flagler State Park: Open April 1 through ~~((June))~~ April 30.
- (l) Frye Cove - Open January 1 through March 31.
- (m) Garrison Bay: Tidelands at Guss Island and those tidelands at British camp between the National Park Service dinghy dock at the north end and the park boundary at the south end are closed the entire year.
- (n) Gertrude Island - All tidelands at Gertrude Island closed the entire year.
- (o) Hoodspout: Tidelands at Hoodspout Salmon Hatchery are closed the entire year.
- (p) Hope Island State Park (South Puget Sound): Open April 1 through June 15.
- (q) Illahee State Park: Open May 1 through May ~~((31))~~ 7.
- (r) Kayak Point County Park: Open April 1 through April 15.
- (s) Kitsap Memorial State Park: Open June 1 through July 31.
- (t) Kopachuck State Park: ~~((Open May 1 through May 31))~~ Closed the entire year.
- (u) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of clams the entire year.
- (v) McNeil Island - All tidelands on McNeil Island are closed the entire year.
- (w) Mukilteo State Park - Closed the entire year.
- (x) Mystery Bay State Park: Open ~~((April))~~ October 1 through April 30.
- (y) North Bay - All state-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed to the harvest of clams the entire year except state-owned Oyster Reserves on the east side of North Bay north of the power transmission lines.
- (z) North Sequim Bay State Park - Open ~~((April 1))~~ May 16 through June 15.
- (aa) Oak Bay County Park: Open ~~((January))~~ May 1 through ((July)) May 31.
- (bb) Oyster Reserves: Puget Sound and Willapa Bay state oyster reserves are closed the entire year except the following are open the entire year:
- (i) Case Inlet: Tidelands on the east side of North Bay at the north end of the inlet.
- (ii) North Bay: State-owned oyster reserves on the east side of North Bay north of the power transmission lines which cross the bay at the north end of Case Inlet.
- (iii) Oakland Bay: Tidelands on the channel of the northwest shore of the Bayshore Peninsula between department markers.
- (iv) Willapa Bay - Long Island oyster reserve: Northwest side of Long Island between reserve monuments 39 and 41 and southwest side of Long Island between reserve monuments 58 and 59.
- (cc) Penrose Point State Park: Open May 1 through May 15.
- (dd) Picnic Point County Park: Closed the entire year.
- (ee) Pitship Point: Closed the entire year.
- (ff) Pitt Island - All tidelands on Pitt Island are closed the entire year.
- (gg) Point Whitney (excluding Point Whitney Lagoon): ~~((Open May 1 through August 31))~~ Closed the entire year.
- (hh) Point Whitney Lagoon: Open June 1 through July 31.
- (ii) Port Townsend Ship Canal: Open April 1 through June 30.
- (jj) Potlatch DNR tidelands: Open ~~((January))~~ March 1 through ((August 15)) June 30.
- (kk) Potlatch State Park: Open ~~((January))~~ March 1 through ((August)) March 31.
- (ll) Purdy Spit County Park: The southern shore of the spit from the boat ramp to the bridge is closed the entire year.
- (mm) Quilcene Bay - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed to the harvest of clams the entire year, except those tidelands on the west side of the bay defined by boundary markers and a sign on the beach are open April 1 through ~~((June))~~ September 30, daily from official sunrise to official sunset only.
- (nn) Rendsland Creek: Open January 1 through ~~((July 31))~~ April 30.
- (oo) Saltwater State Park: Closed the entire year.
- (pp) Samish Island Recreation Area - Open January 1 through June 15.
- (qq) Scenic Beach State Park - Open April 16 through June 15.
- (rr) Seahurst County Park: ~~((Open January 1 through April 15))~~ Closed the entire year.
- (ss) Sequim Bay State Park - Open ~~((April 1))~~ May 16 through June 15.
- (tt) Shine Tidelands: Open January 1 through ~~((July))~~ May 31.
- (uu) South Indian Island County Park: Open January 1 through ~~((July 15))~~ September 30.
- (vv) Spencer Spit State Park: Open April 1 through June 30.
- (ww) Strait of Juan de Fuca: All beaches west of the tip of Dungeness Spit: Open November 1 through March 31.
- (xx) Triton Cove State Park: Open April 1 through June 30.
- (yy) Twanoh State Park: Closed the entire year.
- (zz) West Dewatto: DNR Beach 44A is open January 1 through ~~((May))~~ March 15.
- (aaa) Willapa Bay: State-owned tidelands east of the department Willapa Bay Field Station and Nahcotta Tidelands Interpretive Site are closed year-round.
- (bbb) Wolfe Property State Park: Open January 1 through ~~((May 15))~~ April 30.
- (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 98-06-031, filed 2/26/98, effective 5/1/98)

**WAC 220-56-380 Oysters—Areas and seasons.** (1) It is lawful to take and possess oysters taken for personal use from public tidelands the entire year, except that public tidelands at the following beaches are closed unless otherwise provided:

(a) Brown Point: Closed the entire year.

(b) Dabob Bay - All state-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays Beach are closed to the harvest of oysters the entire year, except as follows:

(i) State-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires.

(ii) State-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north.

(iii) State-owned tidelands from markers and signs posted immediately north of the community of Lindsays Beach north to a line immediately north of Broad Spit identified by markers and signs.

(c) Dosewallips State Park: Open ~~((January))~~ March 1 through ((May-15)) June 30 only in areas defined by boundary markers and signs posted on the beach.

(d) Duckabush - All state-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are closed to the harvest of oysters the entire year.

(e) Eagle Creek: Open January 1 through March 31.

(f) Hoodsport: Tidelands at the Hoodsport Salmon Hatchery are closed the entire year.

~~((#))~~ (g) Illahee State Park: Open May 1 through ~~((July 15))~~ May 7.

~~((#))~~ (h) Kitsap Memorial State Park: Open June 1 through ~~((December 31))~~ September 30.

~~((#))~~ (i) Kopachuck State Park: Open May 1 through May 31.

(j) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of oysters the entire year.

~~((#))~~ (k) Mystery Bay: Open October 1 through April 30.

~~((#))~~ (l) North Bay - All state-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed to the harvest of oysters the entire year except for oyster reserves.

~~((#))~~ (m) Oyster Reserves: Puget Sound and Willapa Bay oyster reserves are closed the entire year except the following are open the entire year:

(i) North Bay - State-owned reserves on the east side of North Bay north of the power transmission lines.

(ii) Willapa Bay - Long Island oyster reserve: Northwest side of Long Island between reserve monuments 39 and 41 and southwest side of Long Island between reserve monuments 58 and 59.

~~((#))~~ (n) Penrose Point State Park: Open May 1 through June 15.

~~((#))~~ (o) Point Whitney (excluding Point Whitney Lagoon): Open September 1 through December 31.

(p) Potlatch State Park: Open ~~((April))~~ March 1 through ((September)) April 15.

~~((#))~~ (q) Quilcene Bay - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed except those tidelands on the west side of the bay defined by boundary markers and a sign at the beach are open April 1 through ~~((June))~~ September 30, daily from official sunrise to official sunset, only.

~~((#))~~ (r) Scenic Beach State Park: Open April 16 through ~~((June))~~ July 15.

~~((#))~~ (s) Triton Cove State Park: Open April 1 through June 30.

~~((#))~~ (t) West Dewatto: DNR Beach 44A is open January 1 through March 15.

(u) Willapa Bay: State-owned tidelands east of the department Willapa Bay Field Station and the Nahcotta Tidelands Interpretive Site are open only between boundary markers and posted signs.

~~((#))~~ (v) Wolfe Property State Park~~((--))~~: Open January 1 through ~~((May-15))~~ April 30.

(2) 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 Order 99-02, filed 1/13/99, effective 2/13/99)

**WAC 232-12-001 Definition of terms.** Definitions used in rules of the commission are defined in RCW 77.08.010. In addition, unless otherwise provided:

(1) "Snagging" means an effort to take fish with a hook and line in a manner such that the fish does not take the hook voluntarily in its mouth.

(2) "Gaffing" means an effort to take fish by impaling the fish with a hook attached directly to a pole or other device.

(3) "Spearing" and "spear fishing" means an effort to take fish by impaling the fish on a shaft, arrow, or other device.

(4) A "valid" license, permit, tag, stamp or catch record card means a license, permit, tag, stamp, or catch record card that was issued to the bearer for the current season and is required to hunt, fish or possess wildlife and has not been altered except as provided by rule of the commission.

(5) "Hook" means one single, double, or treble hook. A "single hook" means a hook having a single point; a "double hook" means a hook having two points on a common shank; and a "treble hook" means a hook having three points on a common shank. "Barbless hook" means a hook on which all barbs have been deleted when manufactured, filed off, or pinched down.

- (6) "Falconry" means possession, control, or use of a raptor for the purpose of hunting and free flight training.
- (7) "Anadromous game fish" means:
  - (a) Steelhead trout, *Oncorhynchus mykiss*, defined as any searun rainbow trout over twenty inches in length
  - (b) Searun cutthroat, *Oncorhynchus clarkii*
  - (c) Searun Dolly Varden, *Salvelinus malma*
- (8) "Handgun" means any pistol, revolver or short fire-arm with a barrel length of less than sixteen inches and does not have a shoulder stock.
- (9) "Lure" means a manufactured article constructed of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber or plastic which does not use scent and/or flavoring to attract fish. "Nonbuoyant lure" means a lure, complete with hooks, swivels or other attachments, that does not float in freshwater.
- (10) "Bait" means any substance which attracts fish or wildlife by scent and/or flavor. Bait includes any device made of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber or plastic which uses scent and/or flavoring to attract fish or wildlife.
- (11) "Possession limit" means the number of daily limits allowed to be retained in the field or in transit.
- (12) "Daily limit" means the maximum number of game fish which a person may legally retain in a single day.
- (13) "Boat fishing" means fishing while in or on a boat, raft, or any other floating device.
- (14) "Catch-and-release" means a type of angling where none of the fish caught are retained by the angler.
- (15) "Fish in possession" means any fish retained, secure from escape, whether dead or alive. Bass or Walleye may be caught, retained, and released alive from a livewell until a daily limit is in possession.
- (16) "Mouth" of stream, river, or slough means those waters upstream of a line projected between the outermost uplands at the mouth. Outermost uplands means those lands are not covered by water during an ordinary high water.
- (17) Fish length means the length of a fish measured from snout to tip of tail not fork.
- (18) Slough means any swamp, marsh, bog, pond, side-channel, or backwater connected to a river by water. Many waters commonly called sloughs are not connected to a river and, therefore, are considered lakes.
- (19) "In the field or in transit" means any place other than at the ordinary residence of the harvester. An ordinary residence is a residential dwelling where a person normally lives, with associated features such as address, telephone number, utility account, etc. A motorhome or camper parked at a campsite or a vessel are not considered to be an ordinary residence.
- (20) "Seasonal wild steelhead limit" means the maximum number of wild steelhead trout any one angler may retain from May 1, 1998, through April 30, 1999; May 1, 1999, through March 31, 2000; and thereafter April 1st through the following March 31st.
- (21) "Wild steelhead" means a steelhead trout that does not have the adipose or a ventral fin removed and a healed scar at the removal site.
- (22) "Fresh" means game fish that are refrigerated, iced, salted, or surface glazed.

- (23) "Frozen" means a game fish that is hard frozen throughout.
- (24) "Processed" means a game fish that has been processed by heat for human consumption as kippered, smoked, boiled or canned.
- (25) "Juvenile" means a person under fifteen years old.
- (26) "Wild" when used to describe the difference between a hatchery fish and a nonhatchery fish means a fish with all fins intact.
- (27) "Hatchery" when used to describe the difference between a hatchery fish and a nonhatchery fish means a fish missing an adipose fin or a ventral fin with a healed scar at the location of the missing fin (~~is not a wild fish~~).

AMENDATORY SECTION (Amending Order 97-50, filed 3/19/97, effective 5/1/97)

**WAC 232-12-018 Definitions—Landlocked chinook and coho.** Chinook and coho taken from the following waters are defined as landlocked. A (~~game fish~~) freshwater license is required to fish for these species, and a (~~food fish license~~) catch record card is not required. Season, daily limit, and size restriction rules for landlocked chinook and coho are the same as trout rules (except Lake Chelan). The angler's combined catch of landlocked salmon and trout applies toward the trout limit.

- (1) Big Lake (Skagit County).
- (2) Clear Lake (Pierce County).
- (3) Cushman Reservoir (Mason County).
- (4) Mayfield Lake (reservoir) (Lewis County).
- (5) McMurray Lake (Skagit County).
- (6) (~~Merwin (Lake) Reservoir (Clark/Cowlitz County)~~); Riffe (Lake) Reservoir (Lewis County).
- (~~(8)~~) (7) Scanewa Lake (Cowlitz Falls Reservoir) (Lewis County).
- (~~(9)~~) (8) Wilderness Lake (King County).
- (~~(10)~~) (9) Wynoochee Reservoir (Grays Harbor County).
- (~~(11)~~) (10) Chelan, Lake (Chelan County).
- (~~(12)~~) (11) Roosevelt, Lake (Columbia River) (Stevens County).
- (~~(13)~~) (12) Spokane River (Spokane County).
- (~~(14)~~) (13) Tarboo Lake (Jefferson County).

AMENDATORY SECTION (Amending Order 99-02, filed 1/13/99, effective 2/13/99)

**WAC 232-12-619 Permanent Washington state-wide game fish regulations.** The following state-wide regulations apply to all waters unless modified under regional regulation exceptions.

- (1) Fishing seasons open at 12:01 a.m. on the first day and close at 11:59 p.m. on the last day.
- (2) It is unlawful to:
  - (a) Use a gaff hook to land game fish.
  - (b) Take bullfrogs except by angling, hand dip netting, spearing (gigging) or with bow and arrow. (~~A hunting license is required to take bullfrogs.~~)
  - (c) Feed or use any substance to attract game fish unless specifically authorized by special regulations.

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(d) Fish for game fish with a bow and arrow or spear.

(e) Possess fish which are under the minimum size or over the maximum size as shown in general or special regional regulations.

(f)(i) It is unlawful to possess Dolly Varden/bull trout or sturgeon in the field in such condition that the total length cannot be determined.

(ii) It is unlawful to possess salmon or steelhead in the field in such condition that the total length and presence or absence of all fins cannot be determined.

(iii) It is unlawful to possess gamefish, food fish, or shellfish in the field in such condition that the size, weight or sex cannot be determined if a size, weight or sex restriction applies to the species. This subsection does not apply to gamefish, food fish, or shellfish if the fisher has stopped fishing for the day after the catch has been brought ashore, or if the catch is in the process of being prepared for immediate consumption. Dolly Varden/bull trout and sturgeon must comply with subsection (1) of this section at all times when in the field.

(3) Seasonal wild steelhead limit - steelhead trout only: Each angler who possesses a valid steelhead catch record card may not retain more than thirty steelhead over twenty inches in length May 1, 1998, through April 30, 1999; May 1, 1999, through March 31, 2000; and thereafter April 1st through the following March 31st.

(4) Military personnel, regardless of the length of time in the state of Washington, who are permanently stationed at a military installation within the state, are entitled to purchase a resident license. Military personnel must have a license to fish for game fish anywhere in the state. Dependents must establish a ninety-day residency.

(5) Selective gear rules: In waters designated as being under selective gear rules, only artificial flies with a barbless single hook or lures with a barbless single hook are lawful. It is unlawful to use bait. Fish may be released until the daily limit is retained. It is unlawful to fish from any floating device equipped with a motor, unless specifically allowed under special rules for individual waters.

(6) Night closure: In waters designated as having a night closure, it is unlawful to fish from one hour after official sunset to one hour before official sunrise.

(7) Wild cutthroat release: In waters requiring a wild cutthroat release, it is unlawful to possess any cutthroat that does not have a missing adipose fin and a healed scar in the location of the missing fin.

(8) Wild steelhead release: In waters requiring wild steelhead release, it is unlawful to possess any steelhead trout that does not have a missing adipose or ventral fin and a healed scar at the location of the missing fin.

(9) Free fishing weekend((s)): ~~The ((weekends corresponding with National Fishing Week have been))~~ first full weekend in June is declared as ((family)) free fishing weekend((s)) in Washington. On ((these)) this weekend((s)) a fishing license is not required for any person, regardless of residency or age, to fish for or possess game fish and a fish and wildlife lands vehicle use permit is not required to utilize department parking facilities, except that it is unlawful to fish for or possess steelhead trout without the required ((license and)) catch record card. During free fishing weekend((s))

only the licensing requirement is affected, and all other rules remain in effect.

(10) Trout taken with bait: When fishing with bait, all trout equal to or greater than the minimum size are counted as part of the daily limit, whether kept or released, except steelhead trout may be caught and released while using bait until the daily limit is retained.

(11) Fish taken with artificial flies and lures: Where use of bait is prohibited, or where artificial flies or lures are used voluntarily, fish may be released until the daily limit is retained. If any fish has swallowed the hook or is hooked in the gill, eye or tongue, it should be kept if legal to do so.

(12) Burbot taken with set line: Where use of a set line is allowed for burbot, a single set line identified with the fisher's name and address and a maximum of ten hooks may be used.

(13) Rainbow trout taken from landlocked lakes: Rainbow trout taken from landlocked lakes shall not be considered steelhead and no catch record card is required.

(14) OPEN SEASONS:

LAKES, PONDS, AND RESERVOIRS: YEAR AROUND, unless specified otherwise under exceptions to state-wide rules.

RIVERS, STREAMS AND BEAVER PONDS: JUNE 1 THROUGH OCTOBER 31, unless specified otherwise under exceptions to state-wide rules.

Note: The date set for "traditional" April openers for Lakes, Ponds, and Reservoirs for this year and future years is the last Saturday in April.

(15) Daily limits and minimum sizes:

GAME FISH SPECIES	DAILY LIMIT	MINIMUM SIZE LIMIT
BASS	Five - not more than three over fifteen inches Bass may be caught, retained, and released alive from a livewell until a daily limit is in possession.	None

GRASS CARP.... It is unlawful to fish for or retain grass carp.

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GAME FISH SPECIES	DAILY LIMIT	MINIMUM SIZE LIMIT
TROUT (except Eastern Brook trout)	A total of five trout, of which no more than two may be from Rivers, Streams, and Beaver Ponds.	None in Lakes, Ponds, and Reservoirs.
	No more than two of the trout daily catch limit of 5 may be Steelhead.	Eight inches in Rivers, Streams, and Beaver Ponds.
EASTERN BROOK TROUT (Salvelinus fontinalis)	Five - to be considered part of the trout daily catch limit.	None
BURBOT	Five	None
CHANNEL CATFISH	Five if taken from lakes, ponds or reservoirs.	Twelve inches if taken in lakes, ponds or reservoirs with no more than one greater than 24 inches in length.

Walleye may be caught, retained, and released alive from a livewell until a daily limit is in possession.

WHITEFISH	Fifteen	None
ALL OTHER GAME FISH	No Limit	None
BULLFROGS	No Limit	None

(16) Seasonal wild steelhead limits.  
 (a) It is unlawful for any person to retain more than two wild steelhead from the following watersheds:  
 (i) Clearwater River - mouth to Snahapish River.  
 (ii) Hoh River - mainstem, south fork and tributaries thereto.  
 (b) It is unlawful for any person to retain more than five wild steelhead from all of the following rivers and tributaries thereto:  
 (i) Bogachiel River.  
 (ii) Calawah River.  
 (iii) Dickey River.  
 (iv) Sol Duc River.  
 (v) Quillayute River.

(17) Possession limit. Except as otherwise provided, the possession limit is two daily limits in fresh, frozen or processed form.

(18) River mouths. The following river mouth definitions are exceptions to the general river mouth definition:

Abernathy Creek	Highway 4 Bridge.
Bear River	Highway 101 Bridge.
Bone River	Highway 101 Bridge.
Chehalis River	Highway 101 Bridge in Aberdeen.
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.

(a) The following game fish species are managed as trout:

- Eastern brook trout
- Brown trout
- Cutthroat trout
- Dolly Varden/Bull trout
- Golden trout
- Kokanee/Silver trout
- Lake trout
- Landlocked Atlantic salmon
- Rainbow trout/Steelhead
- Landlocked chinook and coho

(b) Wild steelhead release is required year-round.

(c) All waters, state-wide, are CLOSED YEAR AROUND to fishing for or retaining Dolly Varden/Bull Trout.

Where exceptions to the above closure for Dolly Varden/Bull Trout occur under individual listings in the exceptions to state-wide rules, Dolly Varden/Bull Trout count as part of the combined trout daily limit of five.

WALLEYE	Five, not more than one over twenty-four inches	Eighteen inches
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Deschutes River	A line projected across the river 400 feet below the lower Tumwater Falls fish ladder.	Skagit River	A line projected from the terminus of the jetty with McGlinn 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.
Drano Lake	Highway 14 Bridge.		
Duwamish River	First Avenue South Bridge.		Highway 4 Bridge.
Elk River	Highway 105 Bridge.		A line 400 yards below the old railroad bridge.
Entiat River	Highway 97 Bridge.		Burlington Northern Railway Bridges crossing main river and sloughs.
Hoquiam River	Highway 101 Bridge.		Lynn Point 117 degrees true to the opposite shore.
Humtulpis River	Mouth of Jessie Slough.		State Route 25 Bridge.
Johns River	Highway 105 Bridge.		State Highway 261 Bridge.
Kalama River	Boundary markers located at the mouth.	Skamokawa Creek	The furthest downstream rail road bridge.
Kennedy Creek	An arc 500 yards east of the midpoint of the northbound Highway 101 Bridge.	Skookum Creek	A straight line projected from the James River pump house southeasterly across the Washougal River to the east end of Highway 14 Bridge at the upper end of Lady Island.
		Snohomish River	
Kettle River	Barstow Bridge.		
Lake Washington Ship Canal	A line 400 feet west of the fish ladder at the Chittenden Locks.	South Nemah River	A line projected approximately 14 degrees true from the flashing light to the southwesterly end of the Port of Bellingham North Terminal to the southernmost point of the dike surrounding the Georgia Pacific treatment pond.
Lewis River	Boundary markers at the mouth.		Markers downstream of the Burlington Northern Railroad Bridge.
Little White Salmon River	At boundary markers on the river bank downstream from the Little White Salmon National Fish Hatchery.	Spokane River	
		Tucannon Creek	
Methow River	Highway 97 Bridge.	Wallace River	
Naselle River	Highway 101 Bridge.	Washougal River	
North Nemah River	Highway 101 Bridge.		
Niawiakum River	Highway 101 Bridge.		
North River	Highway 105 Bridge.		
Palix River	Highway 101 Bridge.		
Puyallup River	11th Street Bridge.	Whatcom Creek	
Samish River	Samish Island Bridge (Bayview-Edison Road).		
Sammamish River	68th Ave. N.E. Bridge.	White Salmon River	

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Wind River	Boundary line/markers at mouth.
Willapa River	South Bend boat launch.
Yakima River	Highway 240 Bridge.

(19) Nonbuoyant lure and night closure restriction: In the following waters and during the periods shown, it is unlawful to use a nonbuoyant lure that has more than one single hook or has a hook measuring more than 3/4 inch point to shank and a night closure is in effect:

Area	Time Period
Naselle River (including all forks)	
Hwy 101 Bridge to Hwy 4 Bridge	July 1 - January 31
Hwy 4 Bridge to Big Hill Bridge	October 16 - January 31
Willapa River Mouth to Hwy 6 Bridge	October 1 - November 30
Hwy 6 Bridge to Fork Creek	October 16 - January 31
Humptulips River	September 1 - November 30
Satsop River (including all forks)	September 1 - November 30
Nemah River - North Fork	October 1 - November 30
Nemah River - Middle Fork	September 1 - November 30
Dungeness and Gray Wolf Rivers	August 1 - October 15
Kennedy Creek	October 1 - December 31
Nooksack River - South Fork mouth to Skookum Creek	August 1 - October 31
Upstream from Skookum Creek	June 1 - September 30
Big Quilcene River	August 1 - December 31
Samish River	August 1 - December 31
Stillaquamish River (including all forks)	August 1 - November 30
Whatcom Creek	August 1 - December 31
Cowlitz River From Mill Creek to BarrierDam	August 1 - October 31
Kalama River From mouth to temporary rack	September 1 - October 31
Lewis River - North Fork From lower Cedar Creek Boat Ramp to Colvin Creek	August 1 - December 31

Area	Time Period
Washougal River Downstream of Salmon Falls Bridge	September 1 - October 31
Icicle River From Leavenworth Federal Fish Hatchery to mouth	May 8 - June 30
Wenatchee River From mouth of Icicle River to Highway 2 Bridge	May 8 - June 15
Skagit River (and tributaries) Upstream of Gilligan Creek	July 1 - November 30
Tokol Creek From mouth to posted cable markers	December 1 - March 31
Capitol Lake	August 1 - November 30
Deschutes River	August 1 - November 30
Elochoman River	September 1 - November 30
Grays River	September 1 - November 30
Green/Duwamish River mouth to Highway 164 Bridge	August 1 - November 30
McAllister Creek	August 1 - November 30
Nisqually River	August 1 - November 30
Puyallup River mouth to Carbon River	August 1 - November 30
Skykomish River (including all forks)	August 1 - November 30
Snohomish River	August 1 - November 30
White/Stuck River	October 1 - November 30
Toutle River - North Fork	September 1 - October 31
Green River (Cowlitz Co.) mouth to 1,500 feet below hatchery rack	September 1 - October 31

(20) Freshwater fishing hours: It is unlawful to fish during a night closure. A night closure is in effect for all waters during the period of a nonbuoyant lure restriction.

AMENDATORY SECTION (Amending Order 98-122, filed 7/15/98, effective 8/15/98)

**WAC 232-28-619 Washington game fish—Exceptions to state-wide rules.** (1) County freshwater exceptions to state-wide rules:

(a) Adams and Grant counties: All seasons in specific freshwater exceptions to state-wide rules apply to inlet and outlet streams of named lakes in Grant and Adams counties.

PERMANENT

(b) Adams, Douglas, Franklin, Grant, and Okanogan counties, except Zosel Dam (Okanogan River): Lawful to fish to base of all dams.

(c) Benton County: Rivers, streams and beaver ponds open year around.

(d) Ferry and Lincoln counties: Except those tributaries listed under specific water exceptions to state-wide rules, all tributaries to Lake Roosevelt between Grand Coulee Dam and the State Highway 25 Bridge at Northport except Barnaby and Nancy creeks: Trout: Daily limit 5, no minimum size.

(e) Kitsap County and Mason County on Tahuya Peninsula west of Belfair-Bremerton Highway (S.R. 3): Beaver ponds: Last Saturday in April through October 31 season. Trout: No minimum length.

(2) Specific freshwater exceptions to state-wide rules:

Aberdeen Lake (Grays Harbor County): Last Saturday in April through October 31 season.

Abernathy Creek (Cowlitz County):

From mouth to a point five hundred feet downstream from salmon hatchery: June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cut-throat. Release all steelhead June 1 through October 31.

From Abernathy Falls to posted markers five hundred feet downstream from salmon hatchery: Closed waters.

Ahtanum Creek, including North and Middle Forks (Yakima County): Selective gear rules. North Fork from Grey Rock Trailhead Bridge crossing to Shellneck Creek: Closed waters.

Alder Creek (Cowlitz County): Closed waters.

Aldrich Lake (Mason County): Last Saturday in April through October 31 season.

Aldwell Lake (Clallam County): Last Saturday in April through October 31 season. Selective gear rules except fishing from a floating device equipped with a motor permitted. Trout: Daily limit two, minimum length twelve inches.

Aeneas Lake (Okanogan County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited.

Alexander Lake (Kitsap County): Closed waters.

Alkali Lake (Grant County): Crappie: Not more than five greater than eight inches in length. Bluegill: Not more than five greater than six inches in length.

Alta Lake (Okanogan County): Last Saturday in April through September 30 season.

Amber Lake (Spokane County): Last Saturday in April through September 30 season. Selective gear rules, except electric motors allowed. Trout: Daily limit two, minimum length fourteen inches; release rainbow trout missing adipose fin. Additional season October 1 through November 30. Selective gear rules. All species: Release all fish.

American Lake (Pierce County): Chumming permitted.

American River (Yakima County): Selective gear rules.

Anderson Lake (Jefferson County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. From September 1 through October 31, selective gear rules and all species: Release all fish.

Armstrong Lake (Snohomish County): Last Saturday in April through October 31 season.

Asotin Creek, mainstem and forks (Asotin County): Closed to fishing for steelhead.

From SR 129 Bridge upstream to the forks: Lawful to fish up to base of Headgate Dam.

North Fork from mouth upstream to USFS boundary: Selective gear rules.

North Fork from USFS boundary upstream and all other tributaries: Closed waters.

South Fork and tributaries: Closed waters.

B.C. Mill Pond (Stevens County): Last Saturday in April through October 31 season.

Bachelor Creek (Yakima County): Year around season. Trout: Daily limit five, no minimum length.

Badger Lake (Spokane County): Last Saturday in April through September 30 season.

Baker Lake (Whatcom County): Last Saturday in April through October 31 season, except closed waters in an area two hundred feet in radius around the pump discharge at the south end of the lake. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Baker River (Skagit County): From the mouth to Baker River fish barrier dam: Closed waters June 1 through August 31.

Ballinger Lake (Snohomish County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Barnaby Slough (Skagit County): Closed waters.

Battle Ground Lake (Clark County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout 20 inches or greater in length may be retained.

Bay Lake (Pierce County): Last Saturday in April through October 31 season.

Bayley Lake (Stevens County): Last Saturday in April through July 4 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one, minimum length fourteen inches. Additional season, July 5 through October 31. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish. Inlet stream: Closed waters.

Bear Creek (Yakima County), tributary to South Fork Tieton River: From the mouth to the falls (approximately 3/4 mile): Closed waters.

Bear Lake (Spokane County): Juveniles and holders of free licenses only.

Bear River (Pacific County): June 1 through last day in February season. All species: Release all fish. Single point barbless hooks required July 1 through January 31 downstream from the Lime Quarry Road. ~~((Trout: Minimum length fourteen inches.))~~ Upstream from the Lime Quarry Road: Selective gear rules.

Bearpaw Lake (Whatcom County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily and possession limit one, minimum length eighteen inches.

Beaver Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.

Beaver Creek (tributary to Elochoman River) (Wahkiakum County): Closed waters.

Beaver Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Beaver Lake (King County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Beda Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Beehive (Lake) Reservoir (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Bennington Lake (Mill Creek Reservoir) (Walla Walla County): Fishing from a floating device equipped with an internal combustion motor prohibited.

Benson Lake (Mason County): Last Saturday in April through October 31 season.

Berry Creek (tributary to Nisqually River) (Lewis County): Selective gear rules.

Big Bear Creek (tributary of Sammamish River) (Snohomish/King counties): Closed waters.

Big Beaver Creek (Whatcom County):  
From closed water markers on Ross Lake upstream one-quarter mile: Closed waters.

From one-quarter mile markers upstream, including tributary streams, and beaver ponds that are tributary to Big Beaver Creek: July 1 through October 31 season. Selective gear rules. All species: Release all fish.

Big Beef Creek (Kitsap County): June 1 through October 31 season. Trout: Release all cutthroat trout.

Big Four Lake (Columbia County): March 1 through October 31 season. Fly fishing only. Fishing from any floating device prohibited. Trout: Daily limit two.

Big Lake (Skagit County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Big Meadow Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Big River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild

steelhead may be retained December 1 through last day in February.

Big Twin Lake (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules except electric motors permitted. Trout: Daily limit one.

Bird Creek (Klickitat County): Trout: Daily limit five.

Black Lake (Lower Wheeler Reservoir) (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Black Lake (Okanogan County): Selective gear rules.

Black Lake (Pacific County): Last Saturday in April through October 31 season.

Black Lake (Stevens County): Last Saturday in April through October 31 season.

Black River (Thurston County), from mouth to Black Lake and including all tributaries west of Interstate Highway 5, including Waddell Creek, Mima Creek, Dempsey Creek: Selective gear rules. Trout: Minimum length ~~((twelve))~~ fourteen inches. ~~((Release wild cutthroat.))~~

Blockhouse Creek (Klickitat County): Trout: Daily limit five.

Bloodgood Creek (Klickitat County): Trout: Daily limit five.

Blooms Ditch (Thurston County): Selective gear rules. Trout: Minimum length twelve inches. Release wild cutthroat.

Blue Creek (Lewis County), from mouth to Spencer Road: Closed waters.

Blue Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Blue Lake (Cowlitz County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Blue Lake (Grant County): Last Saturday in April through September 30 season.

Blue Lake (near Sinlahekin) (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules, except electric motors allowed. Trout: Daily limit one.

Blue Lake (near Wannacut Lake) (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules, except electric motors allowed. Trout: Daily limit one.

Bobcat Creek and Ponds (Adams County): March 1 through September 30 season.

Bogachiel River (Clallam County), from mouth to National Park boundary: June 1 through April 30 season. December 1 through April 30, selective gear rules from Highway 101 to National Park boundary. Trout: Minimum length fourteen inches. December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained.

Bonaparte Lake (Okanogan County): Trout: No more than one over twenty inches in length may be retained.

Bosworth Lake (Snohomish County): Last Saturday in April through October 31 season.

Boundary Creek (Clallam County): Closed waters.

Bowman Creek (Klickitat County): Trout: Daily limit five.

Box Canyon Creek (Kittitas County), from mouth to bridge on USFS Road No. 4930: Closed waters.

Boxley Creek (North Bend) (King County), from its mouth to the falls located at approximately river mile 0.9: Closed waters.

Boyle Lake (King County): Last Saturday in April through October 31 season. The inlet and outlet streams to Boyle Lake are closed waters.

Bridges Lake (King County): Last Saturday in April through October 31 season. The inlet and outlet streams to Bridges Lake are closed waters.

Brookies Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Browns Lake and inlet streams (Pend Oreille County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with an internal combustion motor prohibited.

Buck Lake (Kitsap County): Last Saturday in April through October 31 season.

Buckskin Creek and tributaries (Yakima County), from mouth to the west boundary of Suntides Golf Course: Closed waters.

Bumping Lake (Reservoir) (Yakima County): Chumming permitted. Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Bumping River (Yakima County):

From mouth to Bumping Reservoir: Lawful to fish to base of Bumping Dam. Selective gear rules June 1 through October 31. Whitefish: Additional December 1 through March 31 season. Terminal gear limited to one single (~~barbless~~) hook. Release all fish other than whitefish.

Burbank Slough (Walla Walla County): Fishing from any floating device prohibited.

Burke Lake (Grant County): March 1 through July 31 season.

Burley Creek (Kitsap County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Butter Creek (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Buttermilk Creek, including East and West Forks (Okanogan County): Selective gear rules. Trout: Maximum length twenty inches.

Cady Lake (Mason County): (~~Last Saturday in April through October 31 season.~~) Fly fishing only. Fishing from a floating device equipped with an internal combustion motor prohibited. (~~Trout: Daily limit two.~~) All species: Release all fish.

Cain Lake (Whatcom County): Last Saturday in April through October 31 season.

Calawah River (Clallam County), from mouth to forks: June 1 through April 30 season. December 1 through April 30, selective gear rules from Highway 101 to forks. Trout: Minimum length fourteen inches. December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained.

Calawah River, South Fork (Clallam County) from mouth to National Park boundary: June 1 through last day in February season. December 1 through last day in February, selective gear rules. Trout: Minimum length fourteen inches.

Caldwell Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: Daily limit two, minimum length twelve inches.

Caliche Lakes, Lower, Upper and West (Grant County): March 1 through July 31 season.

Calispell Creek (Calispell River) (Pend Oreille County):

From mouth to Calispell Lake: Year around season.

From Calispell Lake upstream to source: Selective gear rules.

Calligan Lake (King County): June 1 through October 31 season. All tributary streams, and the upper third of the outlet are closed waters.

Campbell Creek (Mason County): Closed waters.

Campbell Lake (Okanogan County): September 1 through March 31 season.

Campbell Lake (Skagit County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Canyon Creek (Klickitat County): Trout: Daily limit five.

Canyon Creek (Mason County): Closed waters.

Canyon Creek (S.F. Stillaguamish River) (Snohomish County), mouth to forks: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Capitol Lake (Thurston County), from its outlet to a point four hundred feet below the lowest Tumwater Falls (Deschutes River) fish ladder: Closed waters: Percival Cove, west of a set of markers on the western shoreline of the south basin of Capitol Lake. June 1 through July 31 season. Trout: Daily limit five, minimum length eight inches. Additional August 1 through March 31 season. Trout: Daily limit two, minimum length fourteen inches.

Carbon River (Pierce County), from its mouth to the Highway 162 Bridge: June 1 through January 31 season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through January 31. Additional February 1 through March 31 season. Trout: Minimum length fourteen inches.

Carlisle Lake (Lewis County): Last Saturday in April through last day in February season. Fishing from a floating device equipped with an internal combustion motor prohibited. Bass: Minimum length fourteen inches.

Carl's Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Carney Lake (Pierce County): Last Saturday in April through June 30 and September 1 through October 31 seasons. Fishing from a floating device equipped with an internal combustion motor prohibited.

Carson Lake (Mason County): Last Saturday in April through October 31 season.

Cascade Lake (Grant County): March 1 through July 31 season.

Cascade Lake (San Juan County): Last Saturday in April through October 31 season.

Cascade River (Skagit County):

From the Rockport-Cascade Road Bridge upstream: June 1 through last day in February season. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

From the mouth to the Rockport-Cascade Road Bridge: October 1 through last day in February season. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

Cases Pond (Pacific County): Last Saturday in April through October 31 season. Juveniles only.

Cashmere Pond (Chelan County): Juveniles only.

Cassidy Lake (Snohomish County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Castle Lake (Cowlitz County): Selective gear rules. Trout: Daily limit one, minimum length sixteen inches.

Cattail Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Cavanaugh Lake (Skagit County): Chumming permitted.

Cedar Creek (tributary of N.F. Lewis) (Clark County), from mouth to junction of Chelatchie Creek: From the Grist Mill Bridge to 100 feet upstream of the falls: Closed waters. June

1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Cedar Creek (Jefferson County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Cedar Creek (Okanogan County), from mouth to Cedar Falls: Selective gear rules. Trout: Maximum length twenty inches.

Cedar Lake (Stevens County): Last Saturday in April through October 31 season.

Cedar River (King County): Closed waters.

Chambers Creek Estuary (downstream from markers 400 feet below the Boise-Cascade Dam to the Burlington Northern Railroad Bridge) (Pierce County): July 1 through November 15 season. Trout: Minimum length fourteen inches.

Chambers Lake (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules, except electric motors allowed. Trout: Release all trout.

Chaplain Lake (Snohomish County): Closed waters.

Chapman Lake (Spokane County): Last Saturday in April through October 31 season. Chumming permitted. Trout: Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Chehalis River (Grays Harbor County), from Union Pacific Railroad Bridge in Aberdeen to high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek): June 1 through April 15 season. Single point barbless hooks required October 1 through October 31 upstream from mouth to Porter Bridge and September 16 through October 31 from the Porter Bridge to the high bridge. Trout: Minimum length ~~((twelve))~~ fourteen inches. ~~((Release wild cutthroat.))~~

Chehalis River, South Fork (Lewis County), from mouth to Highway Bridge at Boistfort: June 1 through April 15 season. Trout: Minimum length fourteen inches.

Chehalis River Potholes (adjacent to the Chehalis River south of Highway 12 in Grays Harbor County, this does not include sloughs or beaver ponds): Last Saturday in April through October 31 season.

Chelan Lake (Chelan County): Year around season except closed April 1 through June 30 north of a line between Purple Point at Stehekin and Painted Rocks and April 1 through June 30 within 400 feet of the mouths of all tributaries north of Fields Point. Trout except kokanee: Daily limit two except south of Fields Point May 15 through September 30 daily limit 5, not more than two of which may be over 15 inches in length. Trout except kokanee minimum length 15 inches except south of Fields Point minimum length 8 inches May 15 through September 30. Kokanee not counted in daily trout limit. Kokanee daily limit five, no minimum length. Salmon: Minimum length 15 inches. Burbot: Set line gear allowed.

Chelan Lake Tributaries (Chelan County), from mouths upstream one mile except Stehekin River: July 1 through October 31 season. Selective gear rules.

Chelan River (Chelan County): Year around season. Selective gear rules. Trout, minimum length twelve inches, maximum length twenty inches.

Chewelah Creek, forks and tributaries (Stevens County): Selective gear rules.

Chewuch River (Chewack River) (Okanogan County), from mouth to Pasayten Wilderness boundary: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

Chimacum Creek (Jefferson County):

From mouth to Ness's Corner Road: June 1 through August 31 season. Trout: Minimum length fourteen inches.

From Ness's Corner Road to headwaters: Trout: Minimum length fourteen inches.

Chiwaukum Creek (Chelan County), from mouth to South Fork: Selective gear rules.

Chiwawa River (Chelan County): Selective gear rules. Trout: Maximum length twenty inches.

Chopaka Lake (Okanogan County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one.

Cispus River (Lewis County), from mouth to North Fork: Trout: Additional season November 1 through May 31, steelhead only. Release all fish other than steelhead.

Cispus River, North Fork (Lewis County): Trout: No more than one over twelve inches in length.

Clallam River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Clara Lake (Mason County): Last Saturday in April through October 31 season.

Clear Lake (Chelan County): Last Saturday in April through October 31 season. From July 5 through October 31, selective gear rules and all species: Release all fish.

Clear Lake (Pierce County): Chumming permitted.

Clear Lake (Spokane County): Last Saturday in April through October 31 season.

Clear Lake (Thurston County): Last Saturday in April through October 31 season.

Clearwater River (Jefferson County):

From mouth to Snahapish River: June 1 through April 15 season. Trout: Minimum length fourteen inches. December 1 through April 15, one wild steelhead per day may be retained.

From Snahapish River upstream: Trout, minimum length fourteen inches.

Cle Elum Lake (Reservoir) (Kittitas County): Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen, no minimum size. Burbot: Set line gear allowed.

Cle Elum River (Kittitas County), from mouth to Cle Elum Dam: Lawful to fish to base of Cle Elum Dam. Selective gear rules. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish. Terminal gear restricted to one single (~~barbless~~) hook.

Cliff Lake (Grant County): March 1 through July 31 season.

Cloquallum Creek (Grays Harbor County):

From mouth to second bridge on Cloquallum Road: June 1 through last day in February season. Trout: Minimum length (~~twelve~~) fourteen inches. (~~Release wild cutthroat.~~)

From mouth to Highway 8 Bridge: Additional March 1 through March 31 season. Trout: Minimum length (~~twelve~~) fourteen inches. (~~Release wild cutthroat.~~)

Clough Creek (North Bend) (King County): Closed waters.

Clover Creek (Pierce County), within the boundaries of McChord Air Force Base: Selective gear rules. Trout: Daily limit one, minimum length twelve inches.

Coal Creek (Cowlitz County), from mouth to four hundred feet below falls: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Coal Creek (tributary of Lake Washington) (King County): Closed waters.

Coal Creek (near Snoqualmie) (King County), from mouth to Highway I-90: Last Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Coffee Pot Lake (Lincoln County): March 1 through August 31 season. Selective gear rules except motors allowed. Trout: Daily limit two. Bass: Daily limit two, maximum length fourteen inches. Crappie: Daily limit ten.

Coldwater Lake (Cowlitz County): Selective gear rules except use of electric motors allowed. Trout: Daily limit one, minimum length sixteen inches.

Coldwater Lake inlet and outlet streams (Cowlitz County): Closed waters.

Colville River (Stevens County):

From mouth to bridge at Town of Valley: Year around season. Trout: Daily limit five fish, not more than two of which may be brown trout October 1 through November 30. Walleye: No minimum size. Daily limit eight fish not more than one of which may be longer than 20 inches. Release walleye 16 to 20 inches in length.

From bridge at Valley upstream and tributaries: Selective gear rules.

Columbia Park Lagoon (Benton County): Juveniles and licensed adults accompanied by a juvenile only.

Columbia River, including impoundments and all connecting sloughs, except Wells Ponds: Year-round season unless otherwise provided. General species provisions (unless otherwise provided for in this section): Bass: Daily limit five fish, not more than three of which may be over 15 inches. Trout: Daily limit two fish, minimum length 12 inches, except release all Dolly Varden/Bull Trout. Walleye: Daily limit five fish of which not more than one may be over 24 inches,

minimum length 18 inches. Whitefish: Daily limit 15 fish. All other gamefish: No daily limit, except release all grass carp.

In the Columbia River between Washington and Oregon, the license of either state is valid. Anglers must comply with the fishing regulations of the state in which they are fishing. This provision does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington.

Anglers fishing the Columbia River are restricted to one daily limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

From a true north-south line through Buoy 10 to the Megler-Astoria Bridge: Trout: Release wild cutthroat. Release all trout April 1 through July 31. Fishing from the north jetty is allowed during salmon season openings.

From the Megler-Astoria Bridge to the I-5 Bridge: Closed waters: September 1 through September 30 at mouth of Abernathy Creek from the Washington shore to a line between Abernathy Point light and a boundary marker east of the mouth of Abernathy Creek. Trout: Release wild cutthroat. Release all trout April 1 through May 15.

From the I-5 Bridge to the Highway 395 Bridge at Pasco, including Drano Lake: Closed waters: (1) From the upstream line of Bonneville Dam to boundary markers located six hundred feet below the fish ladder. (2) Waters from the upstream side of the Interstate Bridge at The Dalles to upper line of The Dalles Dam except that bank fishing is permitted up to four hundred feet below the fishway entrance on the Washington shore. (3) From John Day Dam downstream about three thousand feet except that bank fishing is permitted up to four hundred feet below the fishway entrance on the Washington shore. (4) From McNary Dam downstream to a line across the river from the red and white marker on the Oregon shore on a line that intersects the downstream end of the wing wall of the boat lock near the Washington shore. Trout: Release wild cutthroat from I-5 Bridge to Bonneville Dam and release all cutthroat in the waters of Drano Lake. Release all trout April 1 through June 15.

From the Highway 395 Bridge at Pasco to the old Hanford townsite (wooden towers) powerline crossing, in Sec. 30, T13N, R28E: Closed waters: Ringold Springs Creek (Hatchery Creek). Trout: Release all trout, except May 1 through August 15 in those waters from the Ringold Hatchery from WDFW markers 1/4 mile downstream from the Ringold wasteway outlet to WDFW markers 1/2 mile upstream from Spring Creek when fishing from the bank on the hatchery side of the river.

From the old Hanford townsite (wooden towers) powerline crossing in Sec. 30, T13N, R28E, to Vernita Bridge, (Highway 24): All species: February 1 through October 22 season. Trout: Release all trout.

From Vernita Bridge (Highway 24) to Priest Rapids Dam: Closed waters: (1) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam downstream to the boundary markers six hundred fifty feet below the fish ladders. (2) Jackson (Moran Creek or Priest Rapids Hatchery outlet) Creek - all waters of the Priest Rapids Hatchery system to the outlet on the Columbia River, extending to mid-stream Columbia between boundary markers located one

hundred feet upstream and four hundred feet downstream of the mouth. All species: June 1 through March 31 season. Trout: Release all trout.

From Priest Rapids Dam to Chief Joseph Dam, including up to base of Washburn Pond outlet structure: Closed waters: (1) Wanapum Dam - waters between the upstream line of Wanapum Dam to the boundary markers seven hundred fifty feet downstream of the east fish ladder and five hundred feet downstream of the west fish ladder. (2) Rock Island Dam to boundary markers four hundred feet downstream of the fish ladders. (3) Rocky Reach Dam - waters between the upstream line of Rocky Reach Dam to boundary markers four hundred feet downstream of the fish ladders. (4) Wells Dam - waters between the upstream line of Wells Dam to boundary markers four hundred feet downstream of the spawning channel discharge (Chelan County) and fish ladder (Douglas County). (5) Chief Joseph Dam - closed to fishing from the Okanogan County shore between the dam and the Highway 17 Bridge. Closed to boat fishing from the boundary marker to the Corps of Engineers safety zone marker. Trout: Release all trout.

Above Chief Joseph Dam: See Lake Roosevelt and Rufus Woods Lake.

Conconully Lake (Okanogan County): Last Saturday in April through October 31 season.

Conconully Reservoir (Okanogan County): Last Saturday in April through October 31 season.

Conger Pond (Pend Oreille County): Last Saturday in April through October 31 season.

Connelly Creek and tributaries (Lewis County), from four hundred feet below the city of Morton Dam to its source: Closed waters.

Conner Lake (Okanogan County): Last Saturday in April through October 31 season.

Coot Lake (Grant County): March 1 through July 31 season.

Copolis River (Grays Harbor County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Cottage Lake (King County): Last Saturday in April through October 31 season.

Cottonwood Creek (Lincoln County): Year around season.

Cougar Creek (tributary to Yale Reservoir) (Cowlitz County): June 1 through August 31 season.

Cougar Lake (near Winthrop) (Okanogan County): September 1 through March 31 season.

Coulter Creek (Kitsap/Mason counties): Trout: Minimum length fourteen inches.

County Line Ponds (Skagit County): Closed waters.

Cow Lake (Adams County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Coweeman River (Cowlitz County), from mouth to Mulholland Creek: June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Cowiche Creek (Yakima County): Selective gear rules.

Cowlitz Falls Reservoir (Lake Scanewa) (Lewis County): June 1 through last day in February season. The upstream boundary of the reservoir in the Cowlitz arm is the posted PUD sign on Peters Road. The upstream boundary of the reservoir in the Cispus arm is the posted markers at the Lewis County PUD kayak launch, approximately 1.5 miles upstream from the confluence of the Cowlitz and Cispus arms. Trout: Daily limit five, minimum length eight inches.

Cowlitz River (Lewis County):

From mouth to Mayfield Dam: Year around season. Lawful to fish up to four hundred feet or the posted deadline at barrier dam. From the barrier dam downstream to a line from the mouth of Mill Creek to a boundary marker on the opposite shore, it is unlawful to fish from any floating device. All species: Release all fish except steelhead April 1 through May 31. Trout: Daily limit five, minimum length twelve inches, no more than two over twenty inches. Release wild cutthroat. Below Barrier Dam release all steelhead missing right ventral fin.

From Mayfield Dam to mouth of Muddy Fork: Year around season.

Cowlitz River, Clear and Muddy Forks (Lewis County): Trout: Daily limit five, no more than one over twelve inches in length may be retained.

Coyote Creek and Ponds (Adams County): March 1 through September 30 season.

Crab Creek (Adams/Grant counties):

From Highway 26 to Morgan Lake Road in Section 36: March 1 through September 30 season.

From Morgan Lake Road in Section 36 to O'Sullivan Dam (including Marsh Unit I and II impoundments): Closed waters.

Crab Creek (Lincoln County) and tributaries: Year around season.

Crabapple Lake (Snohomish County): Last Saturday in April through October 31 season.

Cranberry Creek (Mason County), mouth to Lake Limerick: Closed waters.

Crawfish Lake (Okanogan County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Crescent Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Crystal Lake (Grant County): March 1 through July 31 season.

Cup Lake (Grant County): March 1 through July 31 season.

Curl Lake (Columbia County): (~~June 1~~) Last Saturday in April through October 31 season. Fishing from any floating device prohibited.

Curley Creek (Kitsap County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Damon Lake (Grays Harbor County): June 1 through October 31 season.

Davis Lake (Ferry County): Last Saturday in April through October 31 season.

Davis Lake (Lewis County): Last Saturday in April to last day in February season.

Davis Lake (Okanogan County): September 1 through March 31 season

Dayton Pond (Columbia County): Juveniles only.

Deadman Lake (Adams County): March 1 through September 30 season.

De Coursey Pond (Pierce County): Last Saturday in April through October 31 season. Juveniles only.

Deep Creek (Clallam County): Closed waters.

Deep Creek (tributary to Bumping Lake) (Yakima County): Mouth to second bridge crossing on USFS Rd. 1808 (approximately 3.7 miles from junction of USFS Rds. 1800 and 1808): Closed waters.

Deep Lake (Grant County): Last Saturday in April through September 30 season.

Deep Lake (Stevens County): Last Saturday in April through October 31 season.

Deep Lake (Thurston County): Last Saturday in April through October 31 season.

Deep River (Wahkiakum County): Year around season. Trout: Minimum length 14 inches.

Deer Creek (Mason County): Closed waters.

Deer Creek and Little Deer Creek (tributaries to North Fork Stillaguamish) (Skagit County): Closed waters.

Deer Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Deer Lake (Island County): Last Saturday in April through October 31 season.

Deer (Deer Springs) Lake (Lincoln County): Last Saturday in April through September 30 season.

Deer Lake (Mason County): Last Saturday in April through October 31 season.

Deer Lake (Stevens County): Last Saturday in April through October 31 season. Trout: No more than two over twenty inches in length may be retained.

Dempsey Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.

De Roux Creek (Yakima County): Selective gear rules.

Deschutes River (Thurston County), from old U.S. Highway 99 Bridge near Tumwater to Henderson Boulevard Bridge near Pioneer Park, except waters from Old Highway 99 Bridge to four hundred feet below lowest Tumwater Falls fish ladder are closed waters: June 1 through March 31 season. Trout: Minimum length fourteen inches.

From Henderson Boulevard Bridge upstream: June 1 through March 31 season. Selective gear rules. All species: Release all fish except trout greater than twenty inches in length.

Desire Lake (King County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Devereaux Lake (Mason County): Last Saturday in April through October 31 season.

Devil's Lake (Jefferson County): Last Saturday in April through October 31 season.

Dewatto River (Mason County): ~~((Trout, minimum length twelve inches. Wild cutthroat release.)) All species: Release all fish. From Dewatto-Holly Road Bridge upstream: Selective gear rules.~~

From mouth to bridge on Bear Creek-Dewatto Road, additional November 1 through last day in February season. ~~((Trout: Minimum length twelve inches. Release wild cutthroat.))~~

Diamond Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Dickey River (includes all forks) (Clallam County): June 1 through April 30 season. Trout: Minimum length fourteen inches. December 1 through April 30, one wild steelhead per day may be retained.

Dollar Lake (Grant County): March 1 through July 31 season.

Dosewallips River (Jefferson County), from mouth to Olympic National Park boundary about three-quarters mile downstream of falls: June 1 through last day in February season. ~~((Trout: Minimum length twelve inches. Release wild cutthroat.)) All species: Release all fish except that up to two hatchery steelhead per day may be retained.~~

Dot Lake (Grant County): March 1 through July 31 season.

Downs Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season.

Dry Falls Lake (Grant County): Last Saturday in April through November 30 season. Selective gear rules. Trout: Daily limit one.

Duck Lake (Grays Harbor County): Crappie: Daily limit ten.

Duckabush River (Jefferson County), from mouth to the Olympic National Park Boundary: June 1 through last day in February season. ~~((Trout: Minimum length twelve inches. Release wild cutthroat.)) All species: Release all fish except that up to two hatchery steelhead per day may be retained.~~

Dungeness River (Clallam County):

From mouth to junction of Gray Wolf and Dungeness River, October 16 through last day in February season. Trout: Minimum length fourteen inches.

From junction of Gray Wolf River upstream to Gold Creek - Closed waters.

From junction of Gold Creek upstream to headwaters: Trout: Minimum length fourteen inches.

Dusty Lake (Grant County): March 1 through July 31 season.

East Twin River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Ebey Lake (Little Lake) (Snohomish County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one, minimum length eighteen inches.

Eightmile Lake (Chelan County): Trout: Daily limit five, not more than two mackinaw may be retained.

Elbow Lake (Stevens County): Last Saturday in April through October 31 season.

Elk River (Grays Harbor County), from the Highway 105 Bridge upstream: June 1 through last day in February season. Trout: Minimum length ~~((twelve)) fourteen~~ inches. ~~((Release wild cutthroat.))~~

Ell Lake (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit one.

Ellen Lake (Ferry County): Last Saturday in April through October 31 season.

Elochoman River (Wahkiakum County): Closed waters: Waters from 100 feet above the upper hatchery rack downstream to the Elochoman Hatchery Bridge located 400 feet below the upper hatchery rack; waters from a point 50 feet above to 100 feet below the outlet pipes from the most downstream Elochoman Hatchery rearing pond and extending 30 feet out from the south bank of the river; waters between the department of fish and wildlife temporary rack downstream to Foster (Risk) Road Bridge while rack is installed in the river; mainstem waters from the confluence of the west fork to source.

From mouth to West Fork: June 1 through March 15 season. Trout: Daily limit five, minimum length twelve inches, no more than two over twenty inches. Release wild cutthroat.

Elwha River (Clallam County): Closed waters: From south spillway on Aldwell Lake Dam downstream two hundred feet and from approximately fifty yards upstream to fifty yards downstream of Elwha Tribal Hatchery outfall as posted.

From mouth to two hundred feet below the south spillway on the Aldwell Lake Dam: June 1 through last day in February season. Fishing from any floating device prohibited. Trout: Minimum length fourteen inches.

From Lake Aldwell upstream to four hundred feet below spillway at Lake Mills Dam, including all tributaries except

Indian Creek: Selective gear rules. Trout: Minimum length twelve inches.

Empire Lake (Ferry County): Last Saturday in April through October 31 season.

Enchantment Park Ponds (Chelan County): Juveniles only.

Entiat River (Chelan County), from mouth to Entiat Falls: June 1 through August 31 season. Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Whitefish: Additional season December 1 through March 31. Release all fish except whitefish. Selective gear rules.

Erie Lake (Skagit County): Last Saturday in April through October 31 season.

Failor Lake (Grays Harbor County): Last Saturday in April through October 31 season.

Fan Lake (Pend Oreille County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fazon Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15. Channel catfish: Daily and possession limit two. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Finnel Lake (Adams County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Fio Rito Lakes (Kittitas County): Fishing from a floating device equipped with an internal combustion engine prohibited.

Fish Lake (Chelan County): Trout: No more than two over fifteen inches in length may be retained.

Fish Lake (Ferry County): Last Saturday in April through October 31 season.

Fish Lake (Okanogan County): Last Saturday in April through October 31 season.

Fish Lake (Spokane County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fisher Slough (Snohomish County):

From mouth to Highway 530 Bridge: Year around season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Upstream from Highway 530 Bridge: Trout: Minimum length fourteen inches.

Fishhook Pond (Walla Walla County): Last Saturday in April through October 31 season. Fishing from any floating device prohibited.

Fishtrap Creek (Whatcom County): From Koh Road to Bender Road: June 1 through October 31 season. Juveniles only.

Fishtrap Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season.

Flowing Lake (Snohomish County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Forde Lake (Okanogan County): Last Saturday in April through October 31 season.

Fort Borst Park Lake (Lewis County): Last Saturday in April through last day in February season. Juveniles only.

Fortson Mill Pond # 2 (Snohomish County): Last Saturday in April through October 31 season. Juveniles only.

Fourth of July Lake (Adams/Lincoln counties): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than two over fourteen inches in length may be retained.

Franz Lake (Skamania County): Closed waters.

Frater Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Frenchman Hills Lake (Grant County): February 1 through September 30 season.

Gadwall Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Garfield Juvenile Pond (Whitman County): Juveniles only.

George Lake (Grant County): March 1 through July 31 season.

Geneva Lake (King County): Last Saturday in April through October 31 season.

Germany Creek (Cowlitz County), from mouth to end of Germany Creek Road (approximately five miles): June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat. Release all steelhead June 1 through October 31.

Gillette Lake (Stevens County): Last Saturday in April through October 31 season.

Gissberg Ponds (Snohomish County): Channel catfish: Daily limit 2, no minimum size.

Gobar Creek (tributary to Kalama River) (Cowlitz County): June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Gold Creek, Gold Creek Pond and Outlet Channel (tributary to Keechelus Lake) (Kittitas County): Closed waters.

Gold Creek (Okanogan County): From mouth to Foggy Dew Creek: Selective gear rules.

Goldsborough Creek (Mason County): June 1 through last day in February season. Trout: Minimum length ~~((twelve))~~ fourteen inches. ~~((Release wild cutthroat.))~~

Goodman Creek (Jefferson County) outside Olympic National Park: June 1 through last day in February season.

Trout, minimum length fourteen inches. December 1 through last day in February one wild steelhead per day may be retained.

Goodwin Lake (Snohomish County): Chumming permitted. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Goose Creek (Lincoln County), within the city limits of Wilbur: Year around season. Juveniles and holders of free licenses only.

Goose Lake, Lower (Adams County): Crappie: Not more than five over eight inches in length; Bluegill: Not more than five over six inches in length.

Gorst Creek (Kitsap County): Closed waters: From lower bridge on the old Belfair Highway upstream to source (including tributaries). From mouth upstream to lower bridge: Trout: Minimum length fourteen inches.

Gosnell Creek and tributaries (tributary to Lake Isabella) (Mason County): Trout: Minimum length fourteen inches.

Goss Lake (Island County): Last Saturday in April through October 31 season.

Grande Ronde River (Asotin County):

From mouth to County Road Bridge about two and one-half miles upstream: Year around season. Selective gear rules September 1 through May 31. Trout: Minimum length twelve inches, maximum length twenty inches.

From County Road Bridge upstream to Oregon state line and all tributaries: June 1 through August 31 season. Selective gear rules. Trout: Minimum length twelve inches. Additional season September 1 through April 15: Barbless hooks required. All tributaries: Closed waters. All species: Release all fish except steelhead with a missing adipose fin and a healed scar at the fin site.

Granite Creek and tributaries (Pend Oreille County): Closed waters.

Granite Lakes (near Marblemount) (Skagit County): Grayling: Release all grayling.

Gray Wolf River (Clallam County): From junction with Dungeness River to bridge at river mile 1.0 - Closed waters.

From bridge at river mile 1.0 upstream - selective gear rules. Trout: Minimum length fourteen inches.

Grays River (Wahkiakum County), from mouth to Highway 4 Bridge: November 15 through March 15 season; and from Highway 4 Bridge to mouth of South Fork: January 1 through March 15 season. All species: Release all fish except steelhead without an adipose fin and healed scar at the fin site. Trout: Minimum length twenty inches.

Grays River, East Fork (Wahkiakum County): Selective gear rules. Trout: Minimum length fourteen inches. Release cutthroat.

Grays River, West Fork (Wahkiakum County), downstream from Hatchery Road Bridge: June 1 - August 31 season. Trout: Additional January 1 through March 15 season down-

stream from Hatchery Road Bridge. Release all fish other than trout and all trout less than twenty inches in length.

Green Lake and Green Lake, Lower (Okanogan County): December 1 through March 31 season.

Green (Duwamish) River (King County):

From the First Avenue Bridge to Tacoma Headworks Dam: June 1 through last day in February season, except waters from the Auburn-Black Diamond Bridge downstream to the 8th St. N.E. Bridge in Auburn are closed September 1 through October 15 and waters from the Auburn-Black Diamond Bridge downstream to the Highway 18 Bridge are closed September 1 through October 31. Fishing from any floating device prohibited November 1 through last day in February. Trout: Minimum length fourteen inches. Wild steelhead may be retained July 1 through the last day in February.

From the SR 167 Freeway Bridge to the Tacoma Headworks Dam: Additional March 1 through March 15 season. Fishing from any floating device prohibited. Trout, minimum length fourteen inches.

Green River (Cowlitz County): Closed waters: All tributaries.

From mouth to 2800 Bridge: June 1 through November 30 season except closed from the water intake at the upper end of the hatchery grounds downstream to a point 1500 feet below the salmon hatchery rack during the period September 1 through November 30. All species: Release all fish except steelhead. Trout: Minimum length twenty inches.

From 2800 Bridge to source: Closed waters.

Greenwater River (King County), from mouth to Greenwater Lakes: Selective gear rules. Trout: Minimum length twelve inches.

Grimes Lake (Douglas County): June 1 through August 31 season. Selective gear rules, except fishing from a floating device equipped with an electric motor allowed. Trout: Daily limit one.

Grizzly Lake (Skamania County): Closed waters.

Halfmoon Lake (Adams County): March 1 through September 30 season.

Halfmoon Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Hallin Lake (Adams County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Hamilton Creek (Skamania County): June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat. All tributaries downstream from the Highway 14 Bridge: Closed waters.

Hamma Hamma River (Mason County):

From mouth to four hundred feet below falls: June 1 through last day in February season. (~~Trout: Minimum length fourteen inches.~~) Selective gear rules. All species: Release all fish.

Hammersley Inlet Freshwater Tributaries (Mason County), except Mill Creek: Closed waters.

Hampton Lakes, Lower and Upper (Grant County): March 1 through July 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Hancock Lake (King County): June 1 through October 31 season. All tributary streams and the upper third of the outlet are closed waters.

Harrison Pond (Skagit County): Closed waters.

Hart Lake (Pierce County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Harvey Creek (tributary to Sullivan Lake) (Pend Oreille County):

From mouth to Bridge 4830 on county road (about one and one-half miles): Closed waters.

From Bridge 4830 upstream: Selective gear rules.

Harvey Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Hatch Lake (Stevens County): December 1 through March 31 season.

Hatchery Lake (Mason County): Last Saturday in April through October 31 season.

Haven Lake (Mason County): Last Saturday in April through October 31 season.

Hawk Creek and tributaries (Lincoln County): Year around season.

Hays Creek and Ponds (Adams County): March 1 through September 30 season.

Headgate Pond (Asotin County): Last Saturday in April through October 31 season. Juveniles and holders of free licenses only.

Heart Lake (near Anacortes) (Skagit County): Last Saturday in April through October 31 season.

Heins Lake (Kitsap County): Closed waters.

Hemlock Lake (Trout Creek Reservoir) (Skamania County): Closed waters.

Heritage Lake (Stevens County): Last Saturday in April through October 31 season.

Hicks Lake (Thurston County): Last Saturday in April through October 31 season.

Hog Canyon Lake (Spokane County): December 1 through March 31 season. Trout: No more than two over fourteen inches in length may be retained.

Hoh River (Jefferson County), from mouth to mouth of South Fork: June 1 through April 15 season. December 1 through April 15, from Highway 101 to mouth of south fork, selective gear rules. Trout: Minimum length fourteen inches. December 1 through April 15, from mouth to Highway 101 one wild steelhead per day may be retained.

Hoh River South Fork (Jefferson County), outside Olympic National Park boundary: June 1 through April 15 season. December 1 through April 15, selective gear rules. Trout: Minimum length fourteen inches.

Hoko River (Clallam County): Trout, minimum length fourteen inches. Release wild cutthroat upstream from upper Hoko Bridge (cement bridge on Lake Ozette Highway).

From mouth to upper Hoko Bridge: Additional November 1 through March 15 season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through March 15.

From upper Hoko Bridge to Ellis Creek Bridge (river mile 18.5): Additional November 1 through March 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Release wild cutthroat.

Homestead Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Hoquiam River, including all forks (Grays Harbor County): June 1 through March 31 season. Trout: Minimum length ~~((twelve))~~ fourteen inches. ~~((Release wild cutthroat.))~~

Horseshoe Lake (Clark/Cowlitz counties): Trout: No more than 2 trout 20 inches or greater in length may be retained.

Horseshoe Lake (Jefferson County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit 1.

Horseshoe Lake (Kitsap County): Last Saturday in April through October 31 season.

Horseshoe Lake (Pend Oreille County): Last Saturday in April through October 31 season. Chumming permitted. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Horsethief Lake (Klickitat County): Last Saturday in April through October 31 season.

Hourglass Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Howard Lake (Snohomish County): Last Saturday in April through October 31 season.

Howell Lake (Mason County): Last Saturday in April through October 31 season.

Hozomeen Lake (Whatcom County): July 1 through October 31 season.

Huff Lake (Pend Oreille County): Closed waters.

Humtulpis River (Grays Harbor County), from mouth to forks: June 1 through March 31 season. Single point barbless hooks required September 16 through October 31. Trout: Minimum length fourteen inches.

Humtulpis River, East Fork (Grays Harbor County), from mouth to concrete bridge on Forest Service Road between Humtulpis Guard Station and Grisdale: Trout: Minimum length fourteen inches.

Humtulpis River, West Fork (Grays Harbor County): Trout: Minimum length fourteen inches. Mouth to Donkey Creek Road Bridge: Additional November 1 through March 31 season. Trout: Minimum length fourteen inches.

Hutchinson Lake (Adams County): March 1 through September 30 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

I-82 Ponds, 1 and 2 (Yakima County): Walleye: Unlawful to retain walleye.

I-82 Ponds, 1 through 7 (Yakima County): Fishing from vessels equipped with internal combustion engines prohibited.

Icehouse Lake (Skamania County): Trout: No more than 2 trout 20 inches or greater in length may be retained.

Icicle River (Creek) (Chelan County):

From mouth to four hundred feet below Leavenworth National Fish Hatchery rack: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. From Rock Island Bridge upstream to Leland Creek: Selective gear rules.

Indian Creek (tributary to Elwha River) (Clallam County), from mouth upstream to first Highway 101 crossing: Selective gear rules. Trout: Minimum length twelve inches.

Indian Creek (Yakima County): Closed waters.

Indian Heaven Wilderness Lakes (Skamania County): Trout: Daily limit three.

Issaquah Creek (King County): Closed waters.

Jameson Lake (Douglas County): Last Saturday in April through July 4 and October 1 through October 31 seasons.

Jasmine Creek (Okanogan County): Year-round season. Juveniles only.

Jefferson Park Pond (Walla Walla County): Juveniles only.

Jennings Park Pond (Snohomish County): Last Saturday in April through October 31 season. Juveniles only.

Jewitt Creek (Klickitat County): Juveniles only. Trout: Daily limit five, no minimum length.

Jimmy-Come-Lately Creek (Clallam County): June 1 through August 31 season. Trout: Minimum length fourteen inches.

Joe Creek (Grays Harbor County): June 1 through November 30 season. Trout: Minimum length fourteen inches.

John's Creek (Mason County): Closed waters.

Johns River, including North and South Forks (Grays Harbor County): June 1 through last day in February season. Trout: Minimum length ((~~twelve~~) fourteen inches. ((~~Release wild cutthroat.~~))

Johnson Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Johnson Creek (Whatcom County), from Northern Pacific Railroad tracks to the Lawson Street footbridge in Sumas: Juveniles only.

Jump-Off Joe Lake (Stevens County): Last Saturday in April through October 31 season.

Kachess Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen. Burbot: Set line gear allowed.

Kachess River (Kittitas County): Lawful to fish to base of Kachess Dam. Selective gear rules. From Kachess Lake (Reservoir) upstream to Mineral Creek: Closed waters.

Kalaloch Creek (Jefferson County), outside Olympic National Park: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Kalama River (Cowlitz County): Trout, minimum length 14 inches. Release wild cutthroat.

From mouth upstream to one thousand feet below fishway at upper salmon hatchery: Year around season except during the period the temporary fish rack is installed. Waters from two hundred feet above to one thousand five hundred feet below the rack are closed waters. Fishing from a floating device equipped with a motor prohibited upstream of Morrow Bridge. Fly fishing only from the pipeline crossing to the posted deadline at the intake to the lower salmon hatchery. September 1 through October 31.

From one thousand feet below to one thousand feet above the fishway at upper salmon hatchery: Closed waters.

From one thousand feet above the fishway at the upper salmon hatchery to Summers Creek: Year around season. Selective gear rules.

From Summers Creek upstream to the 6420 Road at about one mile above the gate at the end of the county road: June 1 through March 31 season. Fly fishing only.

From 6420 Road to Kalama Falls: Closed waters.

Kalispell Creek and tributaries (Pend Oreille County): Last Saturday in April through October 31 season. Selective gear rules.

Kapowsin Lake (Pierce County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Kathleen Lake (King County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Keechelus Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches, additionally up to sixteen kokanee may be retained. Burbot: Set line gear allowed.

Kelsey Creek (tributary of Lake Washington) (King County): Closed waters.

Kennedy Creek (Thurston County), from mouth to four hundred feet below falls: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Kennedy Creek Pond (Thurston County): Last Saturday in April through October 31 season.

Kettle River (Stevens County):

June 1 through October 31 season. Trout: Selective gear rules, minimum length 12 inches.

Additional season: November 1 through May 31. All species except whitefish: Selective gear rules and release all fish. Whitefish: Single hook only.

Ki Lake (Snohomish County): Last Saturday in April through October 31 season. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Kidney Lake (Skamania County): Last Saturday in April through last day in February season.

Kimball Creek (near Snoqualmie) (King County): Last Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Kings Lake and tributaries (Pend Oreille County): Closed waters.

Kings Lake Bog (King County): Closed waters.

Klaus Lake (King County): Last Saturday in April through October 31 season, except the inlet and outlet to first Weyerhaeuser spur are closed waters.

Klickitat River (Klickitat County):

From mouth to Fisher Hill Bridge: June 1 through November 30 season. Trout: Minimum length twelve inches.

From Fisher Hill Bridge to four hundred feet above # 5 fishway: Closed waters.

From four hundred feet above # 5 fishway to the Yakama Indian Reservation boundary: June 1 through November 30 season, except waters from boundary markers above Klickitat salmon hatchery to boundary markers below hatchery are closed waters. Trout: Minimum length twelve inches. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

From the Yakama Indian Reservation boundary upstream to source, including all tributaries: Closed waters.

Klineline Ponds (Clark County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Koeneman Lake (Fern Lake) (Kitsap County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Kress Lake (Cowlitz County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout 20 inches in length or greater may be retained. Bass: Only bass less than twelve inches or over eighteen inches in length may be retained.

Lacamas Creek (Clark County): Lawful to fish upstream to the base of Lacamas Lake Dam.

Lacamas Creek, tributary of Cowlitz River (Lewis County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Release cutthroat.

Lake Creek, mouth to Three Prong Creek (Okanogan County): Selective gear rules. Trout: Maximum length twenty inches.

Langlois Lake (King County): Last Saturday in April through October 31 season.

Latah (Hangman) Creek (Spokane County): Year around season.

Lawrence Lake (Thurston County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Leader Lake (Okanogan County): Last Saturday in April through September 30 season.

Ledbetter Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Ledking Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Leech Lake (White Pass area) (Yakima County): Fly fishing only. Fishing prohibited from floating devices equipped with motors. Trout: No more than two over twelve inches in length.

Lemna Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Lenice Lake (Grant County): March 1 through October 31 season. Selective gear rules. Trout: Daily limit one.

Lena Lake, Lower (Jefferson County): Closed waters: Inlet stream from mouth upstream to footbridge (about one hundred feet).

Lenore Lake (Grant County): Closed waters: Area within two hundred yard radius of trash rack leading to the irrigation pumping station (south end of lake) and area approximately one hundred yards beyond the mouth of inlet stream to State Highway 17. March 1 through May 31 season: Selective gear rules, except fishing from a floating device equipped with an electric motor permitted. All species: Release all fish. Additional season June 1 through November 30: Selective gear rules, except fishing from a floating device equipped with an electric motor permitted. Trout: Daily limit one.

Leo Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Lewis River (Clark County), from mouth to forks: Year around season. Trout: Minimum length twelve inches. Release wild cutthroat.

Lewis River, North Fork (Clark/Skamania counties):

From mouth to Johnson Creek: Year around season. Trout: Minimum length twelve inches. Release wild cutthroat.

From Johnson Creek to Colvin Creek: June 16 through August 15 and November 16 through April 30 seasons except those waters shoreward of the cable buoy and corkline at the

mouth of the Lewis River Salmon Hatchery fish ladder are closed waters. Trout: Minimum length twelve inches. Release wild cutthroat.

From mouth of Colvin Creek to overhead powerlines at Merwin Dam: December 16 through September 30 season. Trout: Minimum length twelve inches. Release wild cutthroat.

From overhead powerlines at Merwin Dam to Merwin Dam: Closed waters.

From the cable crossing 1,300 feet below Yale Dam to Yale Dam: Closed waters.

Within Lewis River Power Canal and old Lewis River streambed between Swift No. 1 powerhouse and Swift No. 2 powerhouse: Last Saturday in April through October 31 season. Fishing from any floating device prohibited.

From Eagle Cliff Bridge to lower falls including all tributaries: Selective gear rules. All species: Release all fish.

Lewis River, East Fork (south) (Clark/Skamania counties): Closed waters: From the posted markers four hundred feet below to one hundred feet above Lucia Falls; from four hundred feet below to four hundred feet above Molton Falls; from four hundred feet below Horseshoe Falls to one hundred feet above Sunset Falls.

From mouth to four hundred feet below Horseshoe Falls: June 1 through March 15 season. Trout: Minimum length fourteen inches. Release cutthroat.

From one hundred feet above Sunset Falls to source: June 1 through December 31 season. Trout: Minimum length fourteen inches. Release cutthroat.

Mouth to posted markers at top boat ramp at Lewisville Park: Trout: Additional April 16 through May 31 season. Release all fish other than steelhead with a missing adipose fin and a healed scar at the fin site.

Liberty Lake (Spokane County): Last Saturday in April through September 30 season.

Lilliwaup River (Mason County): Mouth to 200 feet below falls: June 1 through August 31 season. Selective gear rules. All species: Release all fish.

Lilly Lake (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Lincoln Pond (Clallam County): Juveniles only.

Little Ash Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Little Bear Creek (tributary of Sammamish River) (Snohomish/King counties): Closed waters.

Little Holco River (Clallam County): Selective gear rules. All species: Release all fish.

Little Klickitat River (Klickitat County), within Goldendale city limits: Last Saturday in April through October 31 season. Juveniles only. Trout: Daily limit five, no minimum length.

Little Lost Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Little Naches River (Yakima County): Selective gear rules.

Little Nisqually River (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Little Quilcene River (Jefferson County), from mouth to the Little Quilcene River Bridge on Penny Creek Road, June 1 through last day in February season: (~~Trout: Minimum length fourteen inches.~~) Selective gear rules. All species: Release all fish.

Little Spokane River (Spokane County):

From mouth to SR 291 Bridge: Year around season.

From SR 291 Bridge upstream to the West Branch: April 30 through October 31 season. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

Little Twin Lake (Okanogan County): December 1 through March 31 season.

Little Twin Lake (Stevens County): Last Saturday in April through October 31.

Little Wenatchee River (Chelan County), from Lake Wenatchee to the falls below U.S. Forest Service Road 6700 Bridge at Riverside Campground: Selective gear rules. Trout: Maximum length twenty inches.

Little White Salmon River (Skamania County): Closed waters: From markers at federal fish hatchery a distance of one thousand five hundred feet upstream to fishway. Trout: Daily limit five.

Long Lake (Ferry County): Last Saturday in April through October 31 season. Fly fishing only. Unlawful to fish from floating devices equipped with motors.

Long Lake (Kitsap County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Long Lake (Okanogan County): Last Saturday in April through September 30 season.

Long Lake (Spokane River Reservoir) (Spokane County): Bass: Release all bass May 1 through June 30.

Long Lake (Thurston County): Last Saturday in April through October 31 season.

Long's Pond (Thurston County): Juveniles only.

Loomis Lake (Pacific County): Last Saturday in April through October 31 season.

Loomis Pond (Grays Harbor County): Closed waters.

Loon Lake (Stevens County): Last Saturday in April through October 31 season. Trout except kokanee: Daily limit five, except no more than two over twenty inches in length may be retained. Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Lost Lake (Okanogan County): Unlawful to fish from a floating device equipped with an internal combustion engine.

Lost River (Okanogan County):

From one-quarter mile above bridge to mouth of Monument Creek: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches.

From mouth of Monument Creek to outlet of Cougar Lake: Selective gear rules. Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit. Dolly Varden/Bull Trout daily limit two, minimum length fourteen inches.

Love Lake (Clark County): Closed waters.

Lucas Slough (Skagit County): Closed waters.

Ludlow Lake (Jefferson County): Last Saturday in April to October 31 season.

Lyons Park Pond (at College Place) (Walla Walla County): Juveniles only.

Lyre River (Clallam County):

From mouth to falls near river mile 3: June 1 through last day in February season. Trout: Minimum length fourteen inches. From falls to source: Selective gear rules. All species: Release all fish.

Mad River (Chelan County), from mouth upstream to Jimmy Creek: Closed waters.

Maggie Lake (Mason County): Last Saturday in April through October 31 season.

Marie Lake (Hampton Sloughs) (Grant County): March 1 through July 31 season.

Margaret Lake (King County): Last Saturday in April through October 31 season.

Marshal Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Martha Lake (Grant County): March 1 through July 31 season.

Martha Lake (Snohomish County): Last Saturday in April through October 31 season.

May Creek (tributary of Lake Washington) (King County): Closed waters.

McAllister Creek (Thurston County): Trout: Minimum length fourteen inches.

McCabe Pond (Kittitas County): Fishing from any floating device prohibited. All species: Five fish daily limit for all species combined.

McDonald Creek (Clallam County): Trout: Minimum length fourteen inches.

McDowell Lake (Stevens County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish.

McIntosh Lake (Thurston County): Last Saturday in April through October 31 season.

McLane Creek (Thurston County), from the south bridge on Highway 101 upstream: Trout: Minimum length fourteen inches.

McLane Creek Ponds (Thurston County): Last Saturday in April through October 31 season.

McMurray Lake (Skagit County): Last Saturday in April through October 31.

Medical Lake (Spokane County): Last Saturday in April through September 30 season. Selective gear rules. Trout: Daily limit two, minimum length fourteen inches.

Medical Lake, West (Spokane County): Last Saturday in April through September 30 season.

Melaney Creek (Mason County): Closed waters.

Melbourne Lake (Mason County): Last Saturday in April through October 31 season.

Mercer Creek (Kittitas County), that portion within Ellensburg city limits: Juveniles only. Trout: Daily limit five, no minimum length.

Mercer Slough (tributary of Lake Washington) (King County): Closed waters.

Merrill Lake (Cowlitz County): Fly fishing only. Unlawful to fish from a floating device equipped with an internal combustion engine. Trout: Daily limit two, maximum length twelve inches.

Merritt Lake (Chelan County): Trout: Daily limit sixteen.

Merry Lake (Grant County): March 1 through October 31 season. Selective gear rules. Trout: Daily limit one.

Methow River (Okanogan County):

From mouth upstream to the falls above Brush Creek: June 1 through August 31 season. Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Whitefish: Additional season December 1 through March 31. Release all fish except whitefish. Selective gear rules.

Methow River tributaries except Chewuck, Lost and Twisp Rivers: Selective gear rules. Trout: Maximum length twenty inches.

Middle Nemah Pond (Pacific County): June 1 through October 31 season.

Mill Creek (Chelan County): Closed waters.

Mill Creek (Cowlitz County): Closed waters.

Mill Creek (Mason County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Mill Creek (Walla Walla County):

From mouth to 9th St. Bridge: June 1 through April 15 season. All species: Barbless hooks required and release all fish except steelhead with a missing adipose fin and a healed scar at the fin site September 1 through April 15.

From 9th St. Bridge to Roosevelt St. Bridge, within city limits of Walla Walla: Closed waters.

From Roosevelt St. Bridge to Bennington Lake flood diversion dam: Trout: Daily limit five.

From Bennington Lake flood diversion dam upstream, including all tributaries: All tributaries: Closed waters. Selective gear rules. Trout: Maximum length twenty inches.

Mill Creek Pond (Grays Harbor County): Juveniles only.

Mill Pond (Auburn) (King County): Last Saturday in April through October 31 season. Juveniles only.

Mill Pond (Pend Oreille County): Last Saturday in April through October 31 season.

Mima Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.

Mineral Creek (tributary to upper Kachess River) (Kittitas County), from mouth to Wilderness Boundary: Closed waters.

Mineral Creek (tributary to Nisqually River), and Mineral Creek, North Fork (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Mineral Lake (Lewis County): Last Saturday in April through September 30 season.

Minter Creek (Pierce/Kitsap counties): Closed waters: Area from department intake dam downstream to mouth. Trout: Minimum length fourteen inches.

Mirror Lake (Grant County): Last Saturday in April through September 30 season.

Mission Lake (Kitsap County): Last Saturday in April through October 31 season.

Moclips River (Grays Harbor County), from mouth to outside the Quinault Indian Reservation: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Monte Christo Lake (Snohomish County): June 1 through October 31 season. Selective gear rules.

Moses Pond (Pacific County): June 1 through October 31 season.

Moran Slough (including inlet and outlet streams) (Grant County): Closed waters.

Morgan Lake (Adams County): March 1 through September 30 season.

Morse Creek (Clallam County), from mouth to Port Angeles Dam: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Moses Lake (Grant County): Crappie: Daily limit five, only crappie more than ten inches in length may be retained. Bluegill: Daily limit five, only bluegill more than eight inches in length may be retained.

Mosquito Creek (Jefferson County) outside Olympic National Park: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Muck Creek and tributaries (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules. Trout: Release all trout.

Mud Lake (Mason County): Last Saturday in April through October 31 season.

Mud Lake (Yakima County): Selective gear rules. Trout: Daily limit two.

Mudget Lake (Stevens County): Last Saturday in April through October 31 season.

Munn Lake (Thurston County): Last Saturday in April through October 31 season.

Muskegon Lake (Pend Oreille County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two.

Myron Lake (Yakima County): Selective gear rules. Trout: Daily limit two.

Mystic Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Naches River (Yakima/Kittitas counties):

From the mouth to Little Naches River: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish. Terminal gear restricted to one single (~~barbless~~) hook.

From Little Naches River upstream: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches.

Naneum Creek (Kittitas County): Selective gear rules.

Naneum Pond (Kittitas County): Juveniles only.

Naselle River (Pacific/Wahkiakum counties), from Highway 101 Bridge upstream including all forks: Closed waters: Area from four hundred feet below falls in Sec. 6, T10N, R8W (Wahkiakum County) to falls, and September 1 through January 31, waters within four hundred feet both upstream and downstream of the entrance to the Naselle Salmon Hatchery.

Mainstem: Single point barbless hooks required July 1 through January 31 upstream from Highway 101 Bridge to Highway 4 Bridge and October 16 through January 31 upstream from Highway 4 Bridge to Crown Main Line (Salme) Bridge. ~~((Trout: Minimum length fourteen inches.))~~ All species: Release all fish except up to two hatchery steelhead per day may be retained.

From Highway 101 Bridge to mouth of North Fork: Additional November 1 through March 31 season. ~~((Trout: Minimum length fourteen inches.))~~ All species: Release all fish except up to two hatchery steelhead per day may be retained.

South Fork, from mouth to Bean Creek: Selective gear rules. All species: Release all fish. Additional November 1 through last day in February season. ~~((Trout: Minimum length fourteen inches.))~~

North Fork: Selective gear rules. All species: Release all fish.

Nason Creek (Chelan County): Selective gear rules. From the mouth upstream to the downstream end of the Cascade Tunnel: Trout: Maximum length twenty inches.

From the downstream end of the Cascade Tunnel upstream to Smith Brook: Closed waters.

From Smith Brook to Stevens Creek: Selective gear rules.

Nason Creek Fish Pond (Chelan County): Juveniles and disabled persons only.

Negro Creek (Lincoln County): Year-round season from mouth at Sprague Lake to town of Sprague.

Negro Creek (Whitman County): Last Saturday in April through July 15 season.

Nemah River, North, Middle, and South: June 1 through last day in February season. Single point barbless hooks required on North Nemah upstream to the lower bridge on dead end lower Nemah Road October 1 through January 31, on Middle Nemah upstream to the Department of Natural Resources Bridge on Middle Nemah A-line Road July 1 through January 31, and on South Nemah upstream to confluence with Middle Nemah July 1 through January 31. (~~Trout: Minimum length fourteen inches.~~) Selective gear rules on Middle Nemah above DNR Bridge and on South Nemah above confluence with Middle Nemah. All species: Release all fish except up to two hatchery steelhead per day may be retained in the North Nemah.

Newhalem Ponds (Whatcom County): Closed waters.

Newaukum River, main river and South Fork (Lewis County): June 1 through March 31 season. Trout: Minimum length fourteen inches mouth to Highway 508 Bridge near Kearny Creek.

Newaukum River, Middle Fork, mouth to Taucher Road Bridge (Lewis County): June 1 to March 31 season. Trout: Minimum length fourteen inches.

Newaukum River, North Fork (Lewis County):

From mouth to four hundred feet below Chehalis city water intake: June 1 through March 31 season. Trout: Minimum length fourteen inches.

From Chehalis city water intake upstream: Closed waters.

Niawiakum River (Pacific County): All species: Release all fish.

Nile Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Nisqually River (Pierce County), from mouth to four hundred feet below LaGrande Powerhouse: June 1 through November 30 season. Trout: Minimum length fourteen inches.

Nooksack River (Whatcom County), from mouth to forks, Middle Fork to Dam and North Fork to Nooksack Falls: June 1 through March 15 season. Fishing from floating devices equipped with motors prohibited on the North and Middle

Forks November 1 through March 15. Trout: Minimum length fourteen inches.

Nooksack River, South Fork (Skagit/Whatcom counties) From mouth to Skookum Creek: June 1 through March 15 season. Selective gear rules. Trout: Minimum length fourteen inches.

From Skookum Creek upstream: Closed waters.

No Name Lake (Pend Oreille County): Last Saturday in April through October 31 season.

North Creek (tributary of Sammamish River) (Snohomish/King counties): Closed waters.

North Elton Ponds (Yakima County): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Trout: Daily limit two.

North Lake (King County): Last Saturday in April through October 31 season.

North Potholes Reserve Ponds (Grant County): February 1 through the day before opening of waterfowl season. Fishing from any floating device prohibited, except float tubes permitted.

North River (Grays Harbor/Pacific counties), from Highway 105 Bridge upstream to Falls River: All species: Release all fish except up to two hatchery steelhead per day may be retained. Single point barbless hooks required July 1 through October 31 upstream to Salmon Creek. (~~Trout: Minimum length fourteen inches.~~)

From Highway 105 Bridge to Falls River: Additional November 1 through last day in February season. Single point barbless hooks required November 1 through January 31 upstream to Salmon Creek. (~~Trout: Minimum length fourteen inches.~~) All species: Release all fish except that up to two hatchery steelhead per day may be retained.

Upstream from Falls River: Selective gear rules. All species: Release all fish.

Northern State Hospital Pond (Skagit County): Last Saturday in April through October 31 season. Juveniles only.

Northwestern Reservoir (Klickitat/Skamania counties): Last Saturday in April through last day in February season.

Nunnally Lake (Grant County): March 1 through October 31 season. Closed waters: Outlet stream of Nunnally Lake. Selective gear rules. Trout: Daily limit one.

Oakland Bay freshwater tributaries (Mason County), except Goldsborough Creek (including Shelton Creek, Canyon Creek, Uncle John Creek, Campbell Creek, Melaney Creek, Deer Creek, John's Creek, and Cranberry Creek to Lake Limerrick): Closed waters.

Ohanapeosh Creek (tributary to Cowlitz River) (Lewis/Pierce counties): Selective gear rules. Trout: Minimum length twelve inches.

Ohop Lake (Pierce County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Okanogan River (Okanogan County):

From the mouth to the highway bridge at Malott: Year around season. Trout: Release all trout. Selective gear rules. Trout: Maximum length twenty inches.

Closed waters: From the highway bridge at Malott upstream: From Zosel Dam downstream to one-quarter mile below the railroad trestle.

Old Fishing Hole Pond (Kent) (King County): Last Saturday in April through October 31 season. Juveniles only.

Olequa Creek (Lewis County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Release cutthroat.

Osborne Lake (Mason County): Last Saturday in April through October 31 season.

Outlet Creek (Klickitat County): Trout: Daily limit five.

Owens Pond (Pacific County): June 1 through October 31 season.

Ozette River (Clallam County), outside Olympic National Park: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Packwood Lake (Lewis County): Closed waters: All inlet streams and outlet from log boom to dam. Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit five, minimum length ten inches.

Padden Lake (Whatcom County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Palix River, including all forks (Pacific County): June 1 through last day in February season. All species: Release all fish. Single point barbless hooks required July 1 through January 31 upstream to the confluence of the south and middle forks. ~~((Trout: Minimum length fourteen inches.))~~ Above the confluence of the south and middle forks: Selective gear rules.

Palouse River and tributaries (Whitman County): Year around season.

Palmer Lake (Okanogan County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained. Burbot: Set line gear allowed.

Pampa Pond (Whitman County): Last Saturday in April through September 30 season. Fishing from any floating device prohibited.

Panhandle Lake (Mason County): Last Saturday in April through October 31 season.

Panther Creek (Chelan County): Closed waters.

Panther Creek (tributary to Wind River) (Skamania County): Closed waters.

Panther Lake (Kitsap/Mason counties): Last Saturday in April through October 31 season.

Para-Juvenile Lake (Adams/Grant counties): March 1 through July 31 season. Juveniles only.

Park Lake (Grant County): Last Saturday in April through September 30 season.

Parker Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Pass Lake (Skagit County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish.

Pataha Creek (Garfield County):

Within the city limits of Pomeroy: Juveniles only.

From city limits of Pomeroy upstream: Selective gear rules.

Patterson Lake (Okanogan County): Last Saturday in April through October 31 season.

Pattison Lake (Thurston County): Last Saturday in April through October 31 season.

Peabody Creek (Clallam County): Last Saturday in April through October 31 season. Juveniles only.

Pearrygin Lake (Okanogan County): Last Saturday in April through September 30 season.

Pend Oreille River (Pend Oreille County): Year around season. All sloughs within the boundaries of the Kalispell Reservation except Calispell Slough: Closed waters.

Perch Lake (Grant County): Last Saturday in April through September 30 season.

Percival Creek (Thurston County): Trout: Minimum length fourteen inches.

Petit Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Phalon Lake (Stevens County): Closed waters.

Phantom Lake (King County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Pheasant Lake (Jefferson County): Last Saturday in April to October 31 season.

Philippa Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Phillips Lake (Stevens County): Last Saturday in April through October 31 season.

Pilchuck Creek (Snohomish County), mouth to Highway 9 Bridge: June 1 through November 30 season. Selective fishing regulations. Trout: Minimum length fourteen inches. Additional December 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained.

## Pilchuck River (Snohomish County)

From its mouth to five hundred feet downstream from the Snohomish City diversion dam: December 1 through last day in February season. Fishing from any floating device prohibited. Trout: Minimum length fourteen inches. Wild steelhead may be retained.

From 500 feet below diversion dam to diversion dam: Closed waters.

Pillar Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Pine Lake (King County): Last Saturday in April through October 31 season.

Pine Lake (Mason County): Last Saturday in April through October 31 season.

Pioneer Ponds (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Pipers (Carkeek) Creek (King County), from its mouth to its source, including tributaries: Closed waters.

Pleasant Lake (Clallam County): Trout: Kokanee minimum length eight inches, maximum length twenty inches.

Plummer Lake (Lewis County): Last Saturday in April through last day in February season.

Poacher Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Portage Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Potholes Reservoir (Grant County): Crappie and bluegill: Combined daily limit twenty-five fish.

Potter's Pond (Stevens County): Last Saturday in April through October 31 season.

Pratt River (tributary to Middle Fork Snoqualmie) (King County): Selective gear rules. All species: Release all fish.

Prices Lake (Mason County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Promised Land Pond (Grays Harbor County): June 1 through October 31 season.

Purdy Creek (Mason County): June 1 through August 15 season. ~~((Trout: Minimum length fourteen inches.))~~ Selective gear rules. All species: Release all fish.

Pysht River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Pysht River South Fork (Clallam County): Trout: Minimum length fourteen inches.

Puyallup River (Pierce County):

From mouth to the Electron power plant outlet: June 1 through January 31 season. Trout: Minimum length fourteen

inches. Wild steelhead may be retained December 1 through January 31.

From mouth to the Soldier's Home Bridge in Ortig  
Additional February 1 through March 31 season. Trout: Minimum length fourteen inches.

Quail Lake (Adams County): Fly fishing only. Fishing from any floating device equipped with a motor prohibited. All species: Release all fish.

Quarry Pond (Walla Walla County): Fishing from any floating device prohibited.

Quilcene River (Jefferson County):

From mouth to upper boundary of Falls View Campground June 1 through last day in February season: ~~((Trout: Minimum length fourteen inches.))~~ Selective gear rules. All species: Release all fish.

From Highway 101 Bridge upstream to the electric weir at the Quilcene National Fish Hatchery: Closed waters.

Quillayute River (Clallam County): June 1 through April 30 season. Trout: Minimum length fourteen inches. December 1 through April 30, one wild steelhead per day may be retained.

Quinault River, Upper (Jefferson County), from mouth at upper end of Quinault Lake to the National Park boundary: June 1 through March 31 season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through March 31.

Quincy Lake (Grant County): March 1 through July 31 season.

Raging River (King County), from its mouth to the Highway 18 Bridge: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Rainbow Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Rapjohn Lake (Pierce County): Last Saturday in April through October 31 season. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Rat Lake (Okanogan County): December 1 through March 31 season.

Rattlesnake Creek (Yakima County): Selective gear rules. All species: Release all fish.

Rattlesnake Lake (King County): Last Saturday in April through October 31 season. Selective gear rules, except fishing from a floating device equipped with an electric motor allowed.

Ravensdale Lake (King County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length twelve inches.

Reflection Pond (Okanogan County): Last Saturday in April through October 31 season.

Renner Lake (Ferry County): Last Saturday in April through October 31 season.

Ridley Lake (Whatcom County): July 1 through October 31 season. Selective gear rules. Trout: Daily and possession limit one, minimum length eighteen inches.

Riffe Lake (Reservoir) (Lewis County): Lawful to fish up to the base of Swofford Pond Dam.

Rigley Lake (Stevens County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length fourteen inches.

Riley Lake (Snohomish County): Last Saturday in April through October 31 season.

Rimrock Lake (Reservoir) (Yakima County): Chumming permitted. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Ringold Springs Creek (Hatchery Creek) (Franklin County): Closed waters.

Robbins Lake (Mason County): Last Saturday in April through October 31 season.

Rock Creek (below Landsburg) (King County): Closed waters.

Rock Creek (Skamania County): June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Rocky Ford Creek and Ponds (Grant County): Fly fishing only. Fishing from bank only (no wading). All species: Release all fish.

Rocky Lake (Stevens County): Last Saturday in April through October 31 season. June 1 through October 31 selective gear rules and all species: Release all fish.

Roosevelt Lake (Ferry/Lincoln/Stevens counties): All species: Closed February 1 through May 31 in San Poil arm upstream from mouth of Manilla Creek, and April 1 through May 31 in Kettle arm upstream to Barstow Bridge. Trout: No more than two over twenty inches in length. Only kokanee with a missing adipose fin and healed scar at the fin site may be retained. Walleye: No minimum size. Daily limit 8 fish not more than one of which may be longer than 20 inches. Release walleye 16 to 20 inches in length.

Rose Lake (Mason County): Last Saturday in April through October 31 season.

Ross Lake (Reservoir) (Whatcom County): July 1 through October 31 season. Selective gear rules, except fishing from a floating device equipped with a motor allowed. Trout: Daily limit three, possession limit six, minimum length thirteen inches.

Ross Lake tributary streams (Whatcom County), except Big Beaver Creek and Ruby Creek: Closed waters: From closed water markers near mouth upstream for one mile. Above closed water marker in tributaries not listed as closed: July 1 through October 31 season.

Round Lake (Okanogan County): Last Saturday in April through September 30 season.

Rowland Lakes (Klickitat County): Last Saturday in April through last day in February season.

Royal Lake (Adams County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Royal Slough (including Marsh Unit IV impoundments) (Adams County): Closed waters.

Ruby Creek (tributary to Ross Lake) (Whatcom County): Closed waters.

Rufus Woods Lake (Douglas County): Trout: Daily limit two.

Sacheen Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Saddle Mountain Lake (Grant County): Closed waters.

Sago Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Salmon Creek (Clark County), from mouth to 72nd Avenue N.E.: June 1 through October 31 season. Trout: Minimum length twelve inches. Release all steelhead and wild cutthroat. Additional season: November 1 through March 15. (~~Trout: Minimum length twelve inches. Release wild cutthroat.~~) Selective gear rules. All species; Release all fish.

Salmon Creek, including all forks (Jefferson County): Closed waters.

Salmon Creek, North Fork and West Fork from mouth to South Fork (Okanogan County): Selective gear rules.

Salmon Creek (tributary of Naselle River) (Pacific County): June 1 through last day in February season. (~~Trout: Minimum length fourteen inches.~~) Selective gear rules. All species; Release all fish.

Salmon Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.

Salmon River (Jefferson County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained November 1 through last day in February.

Salt Creek (Clallam County): Trout: Minimum length fourteen inches.

From mouth to bridge on Highway 112: Additional November 1 through last day in February season. Trout: Minimum length fourteen inches.

Samish Lake (Whatcom County): Trout: Cutthroat trout daily limit two, minimum length fourteen inches.

Samish River (Whatcom County):

From its mouth to the old Highway 99 Bridge and from the department rack to the Hickson Bridge: June 1 through March 15 season. Trout: Minimum length fourteen inches.

From Highway 99 Bridge to department salmon rack: Closed waters.

Sammamish Lake (King County): Trout: No more than two over fourteen inches in length. Release all kokanee. Kokanee/

sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon. December 1 through June 30: Release all steelhead and rainbow trout over twenty inches in length.

Sammamish River (Slough) (King County), from the 68th Avenue N.E. Bridge to Lake Sammamish: Closed waters: All tributaries. June 1 through August 31 season. Selective gear rules. Trout: Release all trout.

Sandyshore Lake (Jefferson County): Last Saturday in April to October 31 season.

Sarge Hubbard Park Pond (Yakima County): Juveniles and holders of disability licenses only.

Satsop Lakes (Grays Harbor County): Last Saturday in April through October 31 season.

Satsop River, including all forks (Grays Harbor County): Selective gear rules on East Fork upstream from mouth of Bingham Creek. All open periods: Trout: Minimum length twelve inches. Release wild cutthroat, except on east fork above Bingham Creek.

From mouth to bridge at Schafer Park: Additional November 1 through March 31 season. Single point barbless hooks required September 16 through October 31.

Middle Fork (Turnow Branch), from mouth to Cougar-Smith Road: Additional November 1 through last day in February season. West Fork, from mouth to Cougar-Smith Road: Additional November 1 through last day in February season.

Sauk River (Skagit/Snohomish counties):

From mouth to the mouth of the White Chuck River: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

From the mouth of the White Chuck River to headwaters, including North and South Forks: Selective gear rules. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

From mouth to the Darrington Bridge: Additional March 1 through April 30 season. Selective gear rules. All species: Release all fish.

Sawyer, Lake (King County): Chumming permitted.

Scabrock Lake (Grant County): March 1 through July 31 season.

Schaefer Lake (Chelan County): Trout: Daily limit sixteen.

Sekiu River (Clallam County): All open periods: Trout: Minimum length fourteen inches.

From mouth to forks: Additional November 1 through last day in February season.

Shady Lake (King County): June 1 through October 31 season. Trout: No more than one over fourteen inches in length.

Shannon, Lake (Skagit County): Last Saturday in April through October 31 season. Chumming permitted. Trout:

Minimum length six inches and maximum length eighteen inches.

Shellneck Creek (Yakima County): Closed waters.

Shelton Creek (Mason County): Closed waters.

Sherman Creek (Ferry County):

From the mouth at Lake Roosevelt upstream to four hundred feet above the water diversion dam for the hatchery: Closed waters, except December 1 through August 31 season from the mouth upstream to the hatchery boat dock.

Sherry Lake (Stevens County): Last Saturday in April through October 31 season.

Sherwood Creek (Mason County): Trout: Minimum length fourteen inches.

Sherwood Creek Mill Pond (Mason County): June 1 through October 31 season. Trout: Minimum length 14 inches, daily limit 2 fish.

Shiner Lake (Adams County): March 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Shoe Lake (Mason County): Last Saturday in April through October 31 season.

Shoecraft Lake (Snohomish County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Shoveler Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Shye Lake (Grays Harbor County): June 1 through October 31 season.

Sidley Lake (Okanogan County): Trout: Daily limit two.

Siebert Creek (Clallam County): Trout: Minimum length fourteen inches.

Silent Lake (Jefferson County): Last Saturday in April through October 31 season.

Silver Creek (tributary to Cowlitz River) (Lewis County), mouth to USFS Road 4778: Selective gear rules. Trout: Minimum length twelve inches.

Silver Lake (Cowlitz County): Use of water dogs or salamanders for fishing prohibited. Bass: Minimum length fourteen inches.

Silver Lake (Pierce County): Last Saturday in April through October 31 season. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Silver Lake (Whatcom County): Last Saturday in April through October 31 season.

Similkameen River (Okanogan County):

From mouth to Enloe Dam: June 1 through August 31 season. Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Additional season

December 1 through March 31. Selective gear rules. Trout: Release all trout.

From Enloe Dam to Canadian border: Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

Sinlahekin Creek (Okanogan County), from Palmer Lake to Cecile Creek bridge: June 1 through August 31 season. Selective gear rules. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

Sixteen Lake (Skagit County): Last Saturday in April through October 31 season.

Skagit River (Skagit/Whatcom counties):

From mouth to the Memorial Highway Bridge (Highway 536 at Mt. Vernon): Year around season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Release steelhead March 1 through May 31. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to pipeline crossing at Sedro Woolley: June 1 through March 31 season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

From pipeline crossing at Sedro Woolley to Bacon Creek: June 1 through March 15 season except closed June 1 through August 31 between a line 200 feet above the east bank of the Baker River to a line 200 feet below the west bank of the Baker River. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

From Bacon Creek to Gorge Powerhouse: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

From the Gorge Powerhouse to Gorge Dam: Closed waters.

From the Dalles Bridge at Concrete to the mouth of Bacon Creek: Additional March 16 through April 30 season. Selective gear rules, except lawful to fish from a floating device equipped with a motor but not while under power. All species: Release all fish.

Skamakawa Creek (Wahkiakum County), mouth to forks just below Oatfield and Middle Valley Road: November 1 through March 15 season. All species: Release all fish other than steelhead. Trout: Minimum length twenty inches.

Skate Creek (tributary to Cowlitz River) (Lewis County): Trout: Daily limit five, no more than one over twelve inches in length.

Skokomish River (Mason County), mouth to forks: June 1 through last day in February season. (~~Trout: Minimum length twelve inches. Release wild cutthroat.~~) All species: Release all fish except that up to two hatchery steelhead per day may be retained.

Skokomish River, South Fork (Mason County):

From mouth to mouth of Church Creek: June 1 through last day in February season. (~~Trout: Minimum length twelve inches. Release wild cutthroat.~~) All species: Release all fish except up to two hatchery steelhead per day may be retained.

From mouth of Church Creek to headwaters: Selective gear rules. Trout: Minimum length twelve inches.

Skokomish River, North Fork (Mason County):

From mouth to lower dam: June 1 through last day in February season. (~~Trout: Minimum length twelve inches. Release wild cutthroat.~~) All species: Release all fish except up to two hatchery steelhead per day may be retained.

Above Lake Cushman, mouth to Olympic National Park boundary: June 1 through August 31 season. Selective gear rules. Trout: Release all fish.

Skookum Creek (Mason County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Skookum Lakes, North and South (Pend Oreille County): Last Saturday in April through October 31 season.

Skookumchuck Reservoir (Thurston County): June 1 through October 31 season. Trout: Daily limit two, minimum length twelve inches.

Skookumchuck River (Thurston County):

From mouth to four hundred feet below the outlet of the PP&L/WDFW steelhead rearing pond located at the base of the Skookumchuck Dam: Single point barbless hooks required October 16 through November 15. June 1 through April 30 season. Trout: Minimum length ~~((twelve))~~ fourteen inches. (~~Release wild cutthroat.~~)

From Skookumchuck Reservoir upstream and all tributaries: Selective gear rules. Trout: Minimum length twelve inches.

Skykomish River (Snohomish County):

From mouth to mouth of Sultan River: June 1 through last day in February season. Fishing from any floating device prohibited November 1 through last day in February from the boat ramp below Lewis Street Bridge at Monroe downstream two thousand five hundred feet. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February. Additional March 1 through April 30 season: Selective gear rules. Fishing from any floating device prohibited from the boat ramp below Lewis Street Bridge at Monroe downstream two thousand five hundred feet. All species: Release all fish.

From the mouth of the Sultan River to the forks: June 1 through March 31 season, except closed June 1 to 8:00 a.m. August 1 in those waters one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Skykomish Rearing Ponds. Fishing from any floating device

prohibited in the area one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Skykomish Rearing Ponds. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

Skykomish River, North Fork (Snohomish County):

From mouth to one thousand feet downstream from Bear Creek Falls: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From one thousand feet below Bear Creek Falls to Deer Falls: Closed waters.

Skykomish River, South Fork (King/Snohomish counties):

From mouth to six hundred feet downstream from the Sunset Falls Fishway: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From a point six hundred feet downstream of the Sunset Falls Fishway to the Sunset Falls Fishway: Closed waters.

From Sunset Falls to source: June 1 through November 30 season. Selective gear rules. Trout: Minimum length fourteen inches. Whitefish: Additional December 1 through last day in February season. Release all fish other than whitefish.

Smith Creek (near North River) (Pacific County): June 1 through last day in February season. Single point barbless hooks required July 1 through January 31 upstream to the Highway 101 Bridge. Trout: Minimum length fourteen inches. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Snake River: Year around season. Closed to the taking of all trout April 1 through June 15. Trout: Daily limit six, minimum length ten inches, no more than two over twenty inches. Release all steelhead June 16 through August 31. Barbless hooks required when fishing for steelhead.

Closed waters: Within four hundred feet of the base of any dam and within a four hundred foot radius around the fish ladder entrance at Lyons Ferry Hatchery, within a two hundred foot radius upstream of the fish ladder exit above Lower Granite Dam, and within an area one thousand two hundred feet downstream from the base of the west lock gate at Little Goose Dam on the south bank of the Snake River and one hundred feet out into the river from said river bank.

Snipe Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Snohomish River (Snohomish County), including all channels, sloughs, and interconnected waterways, but excluding all tributaries: June 1 through March 31 season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

Snoqualmie River (King County):

From mouth to the falls: June 1 through March 31 season, except waters within the Puget Power tunnel at the falls and within fifty feet of any point on Puget Power's lower Plant # 2 building (north bank) are closed waters. June 1 through November 30 selective gear rules, except fishing from a floating device equipped with a motor allowed. Fishing from any floating device prohibited November 1 through March 31 from the mouth of Tokul Creek downstream to the boat ramp at Plumb access, about one-quarter mile. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From Snoqualmie Falls, including the North and South Forks: Selective gear rules. Trout: Minimum length ten inches. Additional November 1 through May 31 season. Selective gear rules. All species: Release all fish.

Snoqualmie Middle Fork from mouth to source including all tributaries: June 1 through May 31 season. Selective gear rules. All species: Release all fish.

Snow Creek (Jefferson County), including all tributaries except Crocker Lake: Closed waters.

Sol Duc River (Clallam County): June 1 through April 30 season. November 1 through April 30, selective gear rules from the concrete pump station at the Soleduck Hatchery to the Highway 101 Bridge downstream from Snider Creek. Trout: Minimum length fourteen inches. December 1 through April 30, from mouth to the concrete pump station at the Soleduck Hatchery, one wild steelhead per day may be retained.

Sooes River (Suez River) (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Soos Creek (King County), from mouth to salmon hatchery rack: June 1 through October 31 season. Trout: Minimum length fourteen inches.

South Bend Mill Pond (Pacific County): Juveniles only.

South Prairie Creek (Pierce County), mouth to Page Creek: Closed waters.

Spada Lake (Reservoir) (Snohomish County): Last Saturday in April through October 31 season. Selective gear rules except fishing from a floating device equipped with an electric motor permitted. Trout: Minimum length twelve inches.

Spada Lake (Reservoir) tributaries (Snohomish County): Closed waters.

Spanaway Lake outlet downstream to the dam (approximately 800 feet) (Pierce County): Year around season.

Spearfish Lake (Klickitat County): Last Saturday in April through last day in February season.

Spectacle Lake (Kittitas County): Trout: Daily limit sixteen.

Spectacle Lake (Okanogan County): March 1 through July 31 season.

Spirit Lake (Skamania County): Closed waters.

**Spokane River (Spokane County):**

From SR 25 Bridge upstream to the Seven Mile Bridge, except Long Lake, formed by Long Lake Dam (see also Long Lake): Year around season except walleye. Trout: Daily limit five, no more than two over twenty inches in length. Walleye: Daily limit eight, no more than one over twenty inches in length. Release walleye sixteen inches to twenty inches in length, and April 1 through May 31 release all walleye.

From Seven Mile Bridge upstream to the Monroe Street Dam: Year around season. Selective gear rules. Trout: Daily limit one. Release wild trout.

From Monroe Street Dam upstream to Upriver Dam: Year around season.

From Upriver Dam upstream to the Idaho/Washington state line: Selective gear rules, except fishing from a floating device equipped with a motor permitted. Trout: Daily limit one, minimum length 12 inches.

Sportsman's Lake (San Juan County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

**Sprague Lake (Adams/Lincoln counties):**

Waters northeast of the lakeside edge of the reeds to Danekas Road: Closed waters: Inlet stream (Negro Creek), April 1 through June 15. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Waters southeast of the lakeside edge of the reeds to Danekas Road: July 1 through September 15 season. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Spring Creek (Klickitat County): Trout: Daily limit five.

Spring Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Spring Lake (King County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Spring Lakes (Grant County): March 1 through July 31 season.

Squalicum Lake (Whatcom County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit two.

Starvation Lake (Stevens County): Last Saturday in April through May 31 season. Additional June 1 through October 31 season. Selective gear rules. All species: Release all fish.

Steel Lake (King County): Last Saturday in April through October 31 season.

Stehekin River (Chelan County), from the mouth to Agnes Creek: July 1 through October 31 season. Selective gear rules. Trout: Minimum length fifteen inches. Additional March 1 through June 30 season. Selective gear rules. All species: Release all fish.

Stettall Creek (Whatcom County), from its mouth to mouth of Bucket Creek (one and one-half miles upstream): Closed waters.

Stevens Creek (Grays Harbor County), mouth to Highway 101 Bridge: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Stevens, Lake (Snohomish County): Chumming permitted. Bass: Daily limit one, minimum length eighteen inches.

Stevens Lake (Mason County): Last Saturday in April through October 31 season.

**Stillaguamish River (Snohomish County):**

From mouth to Warm Beach-Stanwood Highway, including all sloughs: Year around season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From Warm Beach-Stanwood Highway to the forks, except from the barrier dam (downstream of I-5) downstream two hundred feet which is closed waters: June 1 through last day in February season. Selective gear rules June 1 through November 30. Trout: Minimum length twenty inches June 1 through November 30. Release all fish except trout with a missing adipose fin and a healed scar at the fin site. Minimum length fourteen inches December 1 through last day in February and wild steelhead may be retained.

Stillaguamish River, North Fork (Snohomish County), from mouth to Swede Heaven Bridge: March 1 through November 30 all species: Fly fishing only and release all fish other than trout greater than twenty inches in length that are missing the adipose fin and have a healed scar at the fin site. Fishing from any floating device prohibited upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge). December 1 through last day in February: Trout: Minimum length fourteen inches and wild steelhead may be retained. Fishing from any floating device prohibited upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge).

**Stillaguamish River, South Fork (Snohomish County):**

From mouth to four hundred feet downstream of the outlet to fishway at Granite Falls: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From four hundred feet below the outlet of the end of the fishway to Mt. Loop Highway bridge above Granite Falls: Closed waters.

From Mt. Loop Highway Bridge above Granite Falls to source: June 1 through November 30 season.

Storm Lake (Snohomish County): Last Saturday in April through October 31 season.

Stratford/Brook Lake (Grant County): February 1 through September 30 season.

Stump Lake (Mason County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Suiattle River (Skagit County): Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Sullivan Creek (Pend Oreille County), from Mill Pond upstream: Selective gear rules.

PERMANENT

Sultan River (Snohomish County), from its mouth to a point four hundred feet downstream from the diversion dam at river mile 9.7: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

Sultan River, North and South Forks (Snohomish County): Closed waters.

Summit Lake (Stevens County): Last Saturday in April through October 31 season.

Summit Lake (Thurston County): Last Saturday in April through October 31 season.

Sunday Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Sutherland Lake (Clallam County): Chumming permitted.

Swamp Creek (tributary to Sammamish River) (Snohomish/King counties): Closed waters.

Swan Lake (Ferry County): Last Saturday in April through October 31 season.

Swan's Mill Pond (Stossel Creek) (King County): June 1 through October 31 season.

Swauk Creek (Kittitas County): Selective gear rules.

Swift Reservoir (Skamania County): Last Saturday in April through October 31 season.

Swofford Pond (Lewis County): Fishing from a floating device equipped with an internal combustion motor prohibited. Bass: Daily and possession limit two. Only bass less than twelve inches or over eighteen inches in length may be retained. Channel catfish: Minimum length twenty inches.

Tahuya River (Mason County): ~~((Trout: Minimum length twelve inches. Release wild cutthroat.))~~ All species: Release all fish. From marker one mile above North Shore Bridge upstream: Selective gear rules.

From mouth to Bear Creek-Dewatto Road crossing, additional November 1 through last day in February season. ~~((Trout: Minimum length twelve inches. Release wild cutthroat.))~~

Taneum Creek (Kittitas County): Selective gear rules.

Tanwax Lake (Pierce County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Tapps Lake (Reservoir) intake canal (Pierce County), to within four hundred feet of the screen at Dingle Basin: Year around season.

Tarboo Lake (Jefferson County): Last Saturday in April through October 31 season.

Tate Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Taylor River (tributary to the Middle Fork Snoqualmie) (King County): Selective gear rules. All species: Release all fish.

Teal Lake (Jefferson County): Last Saturday in April to October 31 season.

Teaway River, including North Fork (Kittitas County): Selective gear rules.

Tenas Lake (Mason County): Last Saturday in April through October 31 season.

Tennant Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15.

Terrell, Lake (Whatcom County): Fishing from any floating device prohibited the first Saturday after Labor Day through the following Friday and from October 1 through January 15 except fishing from floating dock permitted. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Thomas Lake (Stevens County): Last Saturday in April through October 31 season.

Thornton Creek (tributary to Lake Washington) (King County): Closed waters.

Tibbetts Creek (tributary to Lake Sammamish) (King County): Closed waters.

Tieton River (Yakima County): Lawful to fish to base of Tieton (Rimrock) Dam. Trout: Daily limit five, no minimum length. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

Tieton River, North Fork (Yakima County), upstream from Rimrock Lake: Closed waters: Spillway channel. June 1 through August 15 season.

Tieton River, South Fork (Yakima County): From mouth to bridge on USFS Rd. 1070 (approximately 12.5 miles): Closed waters.

Tiger Lake (Kitsap/Mason counties): Last Saturday in April through October 31 season.

Tilton River (Lewis County), from mouth to West Fork: June 1 through March 31 season. Trout: Daily limit five, no more than one over twelve inches in length.

Tilton River, East, North, South and West Forks (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Toad Lake (Whatcom County): Last Saturday in April through October 31 season.

Tokol Creek (King County):

From mouth to the posted cable boundary marker located approximately seven hundred feet upstream of the mouth: December 1 through March 31 season, closed 5:00 p.m. to 7:00 a.m. daily. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From the posted cable boundary marker located approximately seven hundred feet upstream of the mouth to the railroad trestle: Closed waters.

**Tolt River (King County):**

From mouth to the USGS trolley cable near the confluence of the North and South Forks: June 1 through last day in February season. June 1 through November 30, selective gear rules. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

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.

From mouth of Yellow Creek upstream on North Fork: Year-round season. Trout: Selective gear rules and release all trout.

From dam upstream on South Fork: Selective gear rules. Trout: Minimum length ten inches.

**Totem Lakes 1 and 2 (Whatcom County):** Bass: Only bass less than twelve inches or over fifteen inches in length may be retained. Daily limit may not contain more than three bass over fifteen inches in length.

**Touchet River (Columbia/Walla Walla counties):**

From mouth to confluence of north and south forks: June 1 through October 31 season. Trout: Daily limit five. Additional season: November 1 through April 15. Barbless hooks required. All species: Release all fish except steelhead and brown trout. From confluence of north and south forks upstream, including Wolf Fork: June 1 through October 31 season. Selective gear rules. Release all steelhead. Tributaries other than Wolf Fork: Closed waters.

**Toutle River (Cowlitz County):**

From mouth to forks, and North Fork from the mouth to the posted deadline below the fish collection facility: June 1 through November 30 season. All species: Release all fish except steelhead with a missing adipose fin and a healed scar at the fin site. Trout: Minimum length twenty inches.

From the posted deadline below the fish collection facility upstream to the headwaters, including all tributaries, but excepting Castle and Coldwater Lakes: Closed waters.

**Toutle River, South Fork (Cowlitz County), mouth to source:** Closed waters: All tributaries. June 1 through November 30 season. All species: Release all fish except steelhead with a missing adipose fin and a healed scar at the fin site. Trout: Minimum length twenty inches. Mouth to 4100 Road Bridge: Additional December 1 through March 31 season. Selective gear rules. All species: Release all fish except steelhead with a missing adipose fin and a healed scar at the fin site.

**Tradition Lake (King County):** Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

**Trapper Lake (Chelan County):** Trout: Daily limit two.

**Trout Creek (tributary to Wind River) (Skamania County):** Closed waters.

**Trout Lake (Ferry County):** Last Saturday in April through October 31 season.

**Trout Lake (tributary to Big White Salmon River) (Klickitat County):** June 1 through October 31 season.

**Tucannon River (Columbia/Walla Walla counties):** Closed waters: All tributaries.

From the Highway 261 Bridge upstream to Turner Road Bridge: Trout: Daily limit five, no more than two of which may be steelhead. Additional November 1 through April 15 season. Barbless hooks required. All species: Release all fish except steelhead and whitefish.

From the Turner Road Bridge upstream to the Cummings Creek Bridge: Selective gear rules June 1 through October 31. Additional season November 1 through April 15. Barbless hooks required. All species: Release all fish except steelhead and whitefish.

From the Cummings Creek Bridge upstream to a sign referencing Deer Lake about 3/4 mile upstream of the Tucannon hatchery: Closed waters.

From a sign referencing Deer Lake to the Panjab Creek Bridge: Selective gear rules. ~~((Trout: Legal to retain Dolly Varden/Bull Trout in the daily trout limit, minimum length twenty-four inches.))~~

From the Panjab Creek Bridge upstream: Closed waters.

**Tucannon River tributaries (Columbia/Walla Walla counties):** Closed waters.

**Tunnel Lake (Skamania County):** Trout: No more than 2 trout 20 inches in length or greater may be retained.

**Twin Lake (Jefferson County):** Last Saturday in April through October 31 season.

**Twin Lakes (Chelan County) and tributaries and outlet stream to junction with the Napeequa River:** Closed waters.

**Twisp River (Okanogan County), from mouth to South Fork Twisp River:** Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches.

**Tye River (King County):** Foss River to Alpine Falls June 1 through October 31 season: Selective gear rules. Trout: Minimum length fourteen inches. Whitefish: Additional November 1 through last day in February season. Release all fish other than whitefish. From Alpine falls upstream: Trout: Minimum size ten inches.

**U Lake (Mason County):** Last Saturday in April through October 31 season.

**Umtanum Creek (Kittitas County):** Selective gear rules.

**Uncle John Creek (Mason County):** Closed waters.

**Union Creek (Yakima County):** From mouth upstream to falls (approximately 1/4 mile): Closed waters.

**Union River (Mason County):**

~~((From mouth to watershed boundary: Trout: Minimum length fourteen inches.))~~ All species: Release all fish. From lower bridge on the Old Belfair Highway upstream: Selective gear rules.

From mouth to lower bridge on the Old Belfair Highway, additional November 1 through last day in February season. (~~Trout: Minimum length fourteen inches.~~)

From watershed boundary to source, including all tributaries: Closed waters.

Upper Wheeler Reservoir (Chelan County): Closed waters.

Valley Creek (Clallam County): Last Saturday in April through October 31 season. Juveniles only.

Vance Creek (Mason County): Trout: Minimum length fourteen inches.

Vance Creek/Elma Ponds (Grays Harbor County): Pond One: Last Saturday in April through October 31 season. Juveniles, holders of a senior license and holders of a department disability license only. Pond Two: Last Saturday in April through October 31 season.

Vancouver Lake and all other waters west of Burlington-Northern Railroad from Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County): Trout: Daily limit two, minimum length twelve inches.

Vanes Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Vic Meyers (Rainbow) Lake (Grant County): Last Saturday in April through September 30 season.

Voight's Creek (Pierce County): From mouth to Highway 162 Bridge: Closed waters.

Waddell Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.

Wagners Lake (Snohomish County): Last Saturday in April through October 31 season.

Waitts Lake (Stevens County): Last Saturday in April through last day in February season.

Walker Lake (King County): Last Saturday in April through October 31 season.

Wallace River (Snohomish County):

From its mouth to the first Burlington-Northern Railroad bridge downstream of the Highway 2 Bridge: June 1 through September 1 season. Closed waters: From the first Burlington-Northern Railroad bridge (below Highway 2) to a point two hundred feet upstream of the water intake of the salmon hatchery. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

From the mouth to mouth of Olney Creek: Additional November 1 through last day in February season. Fishing from any floating device prohibited. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

Walla Walla River (Walla Walla County):

From mouth to the Touchet River: Year around season. Trout: Barbless hooks required when fishing for steelhead. Release trout April 1 through May 31.

From the Touchet River upstream to state line: Trout: All tributaries except Mill Creek, maximum length twenty inches. Additional season November 1 through April 15. All species: Barbless hooks required and release all fish except steelhead.

Walupt Lake (Lewis County): Closed waters: All inlet streams. Last Saturday in April through October 31 season. Selective gear rules except fishing from devices equipped with motors permitted. Trout: Minimum length ten inches.

Wannacut Lake (Okanogan County): Last Saturday in April through October 31 season.

Wapato Lake (Chelan County): Last Saturday in April through October 31 season. From August 1 through October 31: Selective gear rules except fishing from a device equipped with an internal combustion engine permitted. Trout: Release all trout.

Wapato Lake (Pierce County): Juveniles only.

Ward Lake (Ferry County): Last Saturday in April through October 31 season.

Ward Lake (Thurston County): Last Saturday in April through October 31 season.

Warden Lake and Warden Lake, South (Grant County): March 1 through July 31 season.

Washburn Island Pond (Okanogan County): April 1 through September 30 season. Bass: Only bass less than 12 inches or over fifteen inches in length may be retained. Fishing from a floating device equipped with an internal combustion motor prohibited.

Washington, Lake, including that portion of the Sammamish River from the 68th Avenue N.E. Bridge downstream (King County): Fishing from floating device prohibited one hundred yards either side of the floating bridges. Chumming permitted. Trout: December 1 through last day in February: Release all steelhead and rainbow trout over twenty inches in length. March 1 through June 30: Minimum length twelve inches, and release all steelhead and rainbow trout over twenty inches in length. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon.

Washington, Lake, Ship Canal (King County) (waters east of a north-south line 400 feet west of the fish ladder at the Chittenden Locks and west of a north-south line at the eastern ends of the concrete abutments east of the Montlake Bridge): West of Fremont Bridge: Fishing from floating device prohibited. East of Fremont Bridge: Chumming permitted.

From west boundary to a north-south line 400 feet east of the eastern end of the northern wing wall of Chittenden Locks: Closed waters.

From 400 feet east of the eastern end of the northern wing wall of Chittenden Locks to the east boundary: Open year around. Trout: December 1 through last day in February

daily limit five, no minimum length. Release steelhead and rainbow trout over twenty inches in length. March 1 through June 30, daily limit five, minimum length twelve inches. Release steelhead and rainbow trout over twenty inches in length. July 1 through November 30, daily limit five, no minimum length. Kokanee/sockeye less than fifteen inches in length are kokanee and fifteen inches and over in length are sockeye salmon.

#### Washougal River (Clark County):

From mouth to bridge at Salmon Falls: June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat. Release steelhead August 16 through October 15.

From mouth to Mt. Norway Bridge: Additional April 16 through May 31 season. All species: Release all fish except steelhead with a missing adipose fin and a healed scar at the fin site.

From bridge at Salmon Falls to its source: Closed waters.

#### Washougal River, West (North) Fork (Clark/Skamania counties):

From mouth to the water intake at the department hatchery: Closed waters.

From intake at department hatchery to source: June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

#### Watson Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

#### Wenas Lake (Yakima County): Trout: Daily limit five, of which not more than two may be brown trout.

Wenatchee Lake (Chelan County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen. Kokanee/sockeye under sixteen inches will be considered kokanee while those sixteen inches and over will be considered sockeye salmon.

#### Wenatchee River (Chelan County):

From mouth to Lake Wenatchee: June 1 through August 31 season. Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Whitefish: Additional season December 1 through March 31. Release all fish except whitefish. Selective gear rules.

#### West Twin River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

#### Whatcom Creek (Whatcom County):

From mouth to stone bridge at Whatcom Falls Park: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From stone bridge at Whatcom Falls Park upstream to Lake Whatcom: Last Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Whatcom, Lake (Whatcom County): Last Saturday in April through October 31 season, except those waters between the Electric Avenue Bridge and the outlet dam are closed waters:

Trout: Daily limit may contain no more than one cutthroat trout, minimum cutthroat length eighteen inches.

Whatcom, Lake, tributaries (Whatcom County): Closed waters.

White River (Chelan County), from mouth upstream to White River Falls: Selective gear rules. Trout: Maximum length twenty inches.

#### White (Stuck) River (Pierce County):

From mouth to R Street Bridge in Auburn: June 1 through September 30: Closed waters. October 1 through last day in February season: Trout: Minimum length fourteen inches.

From R Street Bridge to Highway 410 Bridge at Buckley, except waters of Puget Power canal, including the screen bypass channel, above the screen at Dingle Basin are closed waters: October 1 through October 31 season only. Trout: 14 inch minimum size.

From the Weyerhaeuser 6000 Road Bridge (Bridge Camp) to its source: Whitefish: Additional November 1 through January 31 season. Release all fish except whitefish.

Whitechuck River (Snohomish County): Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

#### White Salmon River (Klickitat/Skamania counties):

From mouth to powerhouse: Year around season. Trout: Minimum length fourteen inches.

From powerhouse to within four hundred feet of Northwestern Dam: November 16 to June 15 season. Trout: Minimum length fourteen inches.

From gas pipeline crossing above Northwestern Lake to Gilmer Creek: Selective gear rules. Trout: Minimum length twelve inches.

Whitestone Lake (Okanogan County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Wide Hollow Creek (Yakima County): Trout: Daily limit five, no minimum length.

Widgeon Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Wildberry Lake (Mason County): Last Saturday in April through October 31 season.

Wildcat Lake (Kitsap County): Last Saturday in April through October 31 season.

Wilderness Lake (King County): Last Saturday in April through October 31 season.

Willame Lake (Lewis County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length fifteen inches.

Willapa River (Pacific County), including all forks: Closed waters: Four hundred feet below falls on South Fork to falls.

All species: Release all fish except that up to two hatchery steelhead per day may be retained, from mouth to Forks Creek and in South Fork. From department boat launch in

South Bend upstream to Forks Creek: Single point barbless hooks required July 1 through October 31 upstream to Forks Creek. (~~Trout: Minimum length fourteen inches.~~) Upstream from Forks Creek: Selective gear rules.

From department boat launch in South Bend to Forks Creek: Additional November 1 through March 31 season. Fishing from any floating device prohibited from the bridge on Willapa Road (Camp One Bridge) to Forks Creek. Single point barbless hooks required November 1 through January 31. (~~Trout: Minimum length fourteen inches.~~)

South Fork: Additional November 1 through last day of February season. (~~Trout: Minimum length fourteen inches.~~) Selective gear rules.

Williams Creek (Pacific County): June 1 through last day in February season. (~~Trout: Minimum length fourteen inches.~~) Selective gear rules. All species: Release all fish.

Williams Lake (Spokane County): Last Saturday in April through September 30 season.

Williams Lake (Stevens County): December 1 through March 31 season.

Willow Lake (Whatcom County): July 1 through October 31 season. Selective gear rules. Trout: Daily and possession limit one, minimum length eighteen inches.

Wilson Creek (two branches within Ellensburg city limits) (Kittitas County): Juveniles only. Trout: Daily limit five, no minimum length.

Winchester Wasteway (Grant County): Within Winchester Game Reserve: February 1 through September 30 season.

Wind River (Skamania County):

Mouth to four hundred feet below Shipherd Falls: June 1 through March 15 season. Trout: Minimum length fourteen inches.

From four hundred feet below to one hundred feet above Shipherd Falls fish ladder: Closed waters.

From one hundred feet above Shipherd Falls to source: June 1 through November 30 except closed from an upper boundary sign along Carson National Fish Hatchery grounds to a lower boundary marker 800 yards downstream June 1 through August 31. All species: Selective gear rules.

Tyee Springs: Closed waters.

From one hundred feet above Shipherd Falls fish ladder to source, including all tributaries: June 1 through November 30 season. Trout: Minimum length fourteen inches.

Winston Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Wiser Lake (Whatcom County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Wishkah River (Grays Harbor County), including all forks: Closed waters: Mainstem from four hundred feet below outlet of dam at Wishkah Rearing Ponds (formerly Mayr Bros.) to dam. Trout: Minimum length twelve inches. Release wild cutthroat.

From the mouth to four hundred feet below outlet: Additional November 1 through March 31 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Wood Lake (Mason County): Last Saturday in April through October 31 season.

Woodland Creek (Thurston County): Trout: Minimum length fourteen inches.

Wooten Lake: Last Saturday in April through October 31 season.

Wynoochee River (Grays Harbor County): Single point barbless hooks required September 16 through October 31 upstream to 7400 line bridge above mouth of Schafer Creek. Trout: Minimum length twelve inches. Release wild cutthroat.

From mouth to 7400 line bridge above mouth of Schafer Creek: Additional November 1 through March 31 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Wynoochee Reservoir (Grays Harbor County): June 1 through October 31 season. Trout: Daily limit two, minimum length twelve inches.

Yakima River (Yakima County): Release all steelhead in mainstem and tributaries.

From mouth to four hundred feet below Roza Dam: Year around season. Trout: Minimum length twelve inches and maximum length twenty inches. Release all trout April 1 through May 31.

From Roza Dam to four hundred feet below Easton Dam: Year around season. Fishing from floating devices equipped with motors allowed only from the U.S. Bureau of Reclamation restricted area signs at Roza Dam upstream to the boat launch ramp on the Roza Access Area (approximately one-half mile). Trout: Selective gear rules, and release all trout. Whitefish: Bait and one single-pointed, barbless hook only may be used for whitefish December 1 through last day in February.

From Lake Easton to Keechelus Dam: Selective gear rules.

Yakima Sportsmen's Park Ponds (Yakima County): Juveniles only.

Yale Reservoir (Cowlitz County): Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Yellowjacket Creek (tributary to Cispus River) (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Yellowjacket Ponds (Lewis County): Last Saturday in April through last day in February season. Trout: No more than one over twelve inches in length.

Yokum Lake (Pend Oreille County): Last Saturday in April through October 31 season.

(3) Specific marine water exceptions to state-wide rules:

(a) Marine water area codes and boundaries:

(i) Area 1 (Ilwaco): Waters west of the Buoy 10 Line and north to Leadbetter Point.

(ii) Area 2 (Westport-Ocean Shores): From Leadbetter Point north to the Queets River. Area 2 excludes waters of Willapa Bay and Grays Harbor.

(iii) 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.

(iv) Area 2-2: Grays Harbor east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty.

(v) Area 3 (La Push): From the Queets River north to Cape Alava.

(vi) Area 4 (Neah Bay): From Cape Alava north and inside Juan de Fuca Strait to the Sekiu River.

(vii) Area 5 (Sekiu and Pillar Point): From mouth of Sekiu River east to Low Point, mouth of the Lyre River.

(viii) 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)) Vessel Traffic Separation Buoy ((BW)) "R" - Smith Island - the most northeasterly of the Lawson Reef lighted buoys (RB 1 QK Fl Bell) - Northwest Island - the Initiative 77 marker on Fidalgo Island.

(ix) Area 7 (San Juan Islands): All marine waters north of the line described under Area 6 to the United States-Canadian boundary.

(x) 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.

(xi) 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 (F1 red 4 sec.).

(xii) 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 (F1 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.

(xiii) 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.

(xiv) 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.

(xv) Area 11 (Tacoma-Vashon Island): From the northern tip of Vashon Island to the Tacoma Narrows Bridge.

(xvi) 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.

(xvii) Area 13 (South Puget Sound): All contiguous waters south of the Tacoma Narrows Bridge.

(b) Marine waters regulations: These regulations apply to all marine waters contained within the boundaries of Washington state, within Puget Sound, Hood Canal, the Strait of Juan de Fuca, the San Juan Islands, the Strait of Georgia, and the Pacific Ocean, including estuaries (river mouths) from salt water upstream to a line between the outermost headlands measured at the highest high tide (usually the debris line furthest inshore on surrounding beaches), unless otherwise described under area regulations (see individual areas, below):

(i) Fishing hours: Twenty-four hours per day year around, except those waters of Area 10 west of the Lake Washington Ship Canal to a north-south line 175 feet west of the Burlington-Northern Railroad Bridge are closed waters.

(ii) License requirements: A valid current Washington state department of fish and wildlife (~~(game fish)~~) saltwater license, and, if appropriate, a steelhead license, is required to fish for game fish including steelhead in marine waters. All steelhead taken from marine areas shall be entered on the steelhead catch record card using the words Marine Area and followed by the appropriate marine area code number.

(iii) Gear restrictions: Angling gear only, and in those waters of Area 10 downstream of the First Avenue South Bridge to an east-west line through southwest Hanford Street on Harbor Island and parallel to southwest Spokane Street where it crosses Harbor Island, nonbuoyant lure restriction July 1 through November 30. In all areas, underwater spearfishing, spearing, gaffing, clubbing, netting, or trapping game fish is unlawful.

(iv) (~~Trout: Daily limit two fish, minimum length fourteen inches, except release Dolly Varden/Bull Trout in all areas, release wild cutthroat in Marine Areas 12 and 13, and release all trout November 1 through May 31 in Chambers Bay and that portion of Marine Area 13 inside a line from Gordan Point to the dock at Pioneer gravel pit (second gravel pit approximately 1.2 miles north of Chambers Bay).)~~) All species: Release all fish except up to two hatchery steelhead may be retained per day.

**WSR 99-08-031**  
**PERMANENT RULES**  
**PARKS AND RECREATION**  
**COMMISSION**

[Filed March 30, 1999, 5:03 p.m., effective May 1, 1999]

Date of Adoption: March 19, 1999.

Purpose: The purpose of this modification is to improve the process for public reservation of accommodations at Fort Worden State Park. Once the changes become official, Fort Worden State Park will be able to book campsites and other overnight accommodations through the use of credit cards via the internet, facsimile, and telephone in addition to in-person and by mail. The WAC directs the public to contact Fort Worden for the specific instructions for making reservations and to obtain reservation policies.

Citation of Existing Rules Affected by this Order: Repealing WAC 352-32-25002; and amending WAC 352-32-25001.

Statutory Authority for Adoption: RCW 43.51.040.

Adopted under notice filed as WSR 99-04-118 on February 3, 1999.

Changes Other than Editing from Proposed to Adopted Version: During the public hearing, the Parks and Recreation Commission added two methods for making reservations at Fort Worden State Park by including internet and facsimile reservations. These additions are intended to provide better public access and service.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 1.

Effective Date of Rule: May 1, 1999.

March 30, 1999

Jim French

Senior Policy Analyst

**AMENDATORY SECTION** (Amending WSR 98-04-065, filed 2/2/98, effective 3/5/98)

**WAC 352-32-25001** (~~Recreational and conference center housing fees and meeting room fees charged.~~) **Fort Worden reservations and fees.** (~~Recreation and conference center housing and meeting room fees for Fort Worden State Park are reviewed and modified as necessary by the commission each year. A fee schedule listing these fees is available by contacting Fort Worden State Park, 200 Battery Way, Port Townsend, Washington 98368. In reservation of facilities at Fort Worden State Park, certain deposits and cancellation fees apply. Consult the annual fee schedule for reservation, deposit and cancellation rules and information. Consistent with the Fort Worden State Park Master Facility Use Plan, conference groups may also reserve campsites in advance as their sole overnight accommodation. Provided, That there will be a twenty-site minimum for any individual reservation. During the months of May through September only the upper campground may be reserved by such conference groups. During the months of October through April, all of the upper campground and twenty sites in the beach level campground may be reserved by conference groups.~~) Reservations, use policies and fee schedules for facilities at Fort Worden State Park, including recreational housing, conference center housing, meeting rooms, campsites, and rally areas are available by contacting Fort Worden State Park, 200 Battery Way, Port Townsend, Washington 98368. Reservations are accepted at Fort Worden by telephone, by mail, by internet, by facsimile or in person. Certain deposits, reservation and cancellation

fees apply as set forth in the fee schedule published by state parks.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 352-32-25002

Campsite and rally area reservations—Fort Worden State Park.

**WSR 99-08-033**

**PERMANENT RULES**

**DEPARTMENT OF REVENUE**

[Filed March 31, 1999, 11:14 a.m.]

Date of Adoption: March 31, 1999.

Purpose: The rule provides guidance to veterinarians and others who provide services to live animals relative to the appropriate manner for collecting and/or paying the business and occupation, retail sales, and use taxes.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-222 Veterinarians.

Statutory Authority for Adoption: RCW 82.32.300.

Adopted under notice filed as WSR 99-04-015 on January 22, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

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

March 29, 1999

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

**AMENDATORY SECTION** (Amending Order ET 83-1, filed 3/30/83)

**WAC 458-20-222 Veterinarians.** (~~Veterinarians are primarily engaged in the business of rendering professional services, although many veterinarians, in addition to such services, also sell medicines and supplies for use in the care of animals.~~

### **Business and Occupation Tax**

Taxable under the retailing classification upon gross sales of medicine and supplies when such articles are sold for a specific charge and not used by the veterinarian in the rendition of services.

Taxable under the service and other business activities classification upon gross income derived from the rendition of professional services and from the boarding and training of animals.

### **Retail Sales Tax**

Veterinarians purchase medicines, bandages, splints and other supplies primarily for use by them in rendering professional services. Sales of such articles to veterinarians are retail sales and the retail sales tax applies thereto.

However, veterinarians are required to collect the retail sales tax when such articles are sold by them for a specific charge and not in connection with the rendition of a professional service.

Sales of semen for use in the artificial insemination of livestock are exempt from sales tax.

(See WAC 458-20-102 on resale certificates, particularly that portion under the heading purchases for dual purpose.)) (1) **Introduction.** This rule explains Washington's business and occupation (B&O), retail sales, and use tax applications to sales and services provided by veterinarians. It explains the tax liability resulting from the performance of professional services and the sale of medicines and supplies for use in the care of animals. This rule also explains the tax liability of persons who provide other services for live animals including grooming, boarding, training, artificial insemination, and stud services.

(2) **Business and occupation tax.** Persons providing services for live animals are subject to the B&O tax as follows:

(a) **Service and other activities.** The service and other activities B&O tax applies to the gross income derived from veterinary services. For purposes of this rule, "veterinary services" includes the diagnosis, cure, mitigation, treatment, or prevention of disease, deformity, defect, wounds, or injuries of animals. It also includes the administration of any drug, medicine, method or practice, or performance of any operation, or manipulation, or application of any apparatus or appliance for the diagnosis, cure, mitigation, treatment, or prevention of any animal disease, deformity, defect, wound, or injury. "Veterinary services" does not include the therapeutic use of an item of personal property opened and partly administered by the veterinarian or by an assistant under his or her direction, and taken by the customer for further administration by the customer to the animal, provided the charge for the item is separately stated on the invoice.

(i) The gross income derived from veterinary services includes the amount paid by a customer for any drug, medicine, apparatus, appliance, or supply administered by the veterinarian or by an assistant under his or her direction, even when the charge is separately stated on the invoice from charges for other veterinary services.

(ii) The service and other activities B&O tax applies to the gross income derived from grooming, boarding, training,

artificial insemination, stud services, or other services provided to live animals. However, if the person providing these services also sells tangible personal property to a consumer for a separate and distinct charge, the charge made for the tangible personal property is subject to the retailing classification of B&O tax.

(b) **Retailing.** The retailing classification of B&O tax applies to the gross income from the sale of drugs, medicines, or other substances or items of personal property to consumers when the sale is not part of veterinary services. The retailing classification applies only when the veterinarian does not administer, or only administers part of the drug, medicine, or other substance or item of personal property to the animal with further administration to be completed by the customer. Adequate records must be kept by the veterinarian to distinguish drugs, medicines, or other substances or items of personal property that are administered as part of veterinary services from those that are sold at retail. The retailing classification also applies to gross income from the sale of tangible personal property for which there is a separate and distinct charge, when sold by persons providing grooming, boarding, training, artificial insemination, stud services, or other services for live animals.

(3) **Retail sales tax.** The retail sales tax applies to all the retail sales identified under subsection (2) of this rule, unless a specific exemption applies.

(a) **Sales to veterinarians and others who provide services to live animals.** Sales of tangible personal property to veterinarians for use or consumption by them in performing veterinary services are retail sales upon which the retail sales tax must be collected. Such sales include, among others, sales of medicines, bandages, splints and other supplies primarily for use by veterinarians in performing their professional services. Sales of tangible personal property to persons who provide grooming, boarding, training, artificial insemination, stud services, or other services for live animals for use or consumption by those persons in performing their services are also retail sales upon which the retail sales tax must be collected.

Sales to veterinarians and others who purchase tangible personal property for the purpose of resale in the regular course of business without intervening use by the buyer are sales at wholesale and not subject to the retail sales tax, provided the buyer presents the seller with a resale certificate. Refer to WAC 458-20-102 (Resale certificates) for more information regarding the use of resale certificates, and particularly the subsection of that rule regarding purchases for dual purposes.

(b) **Sales to consumers.** Tangible personal property sold by a veterinarian to a consumer that is carried away by or left with the consumer is a retail sale and the retail sales tax must be collected. Items of personal property include those that the veterinarian may have opened and used for therapy but were taken by the consumer to complete the therapy. The tax applies whether the tangible personal property was sold at the time the professional services were performed or was sold subsequently, provided the charge for the item is separately stated. Sales to a consumer of tangible personal property by a person who provides other than veterinary services to live

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animals and who separately states the charges, are subject to retail sales tax and the retail sales tax must be collected. (See WAC 458-20-122 for additional information regarding sales of feed to farmers.)

(c) **Exemptions.** A retail sales tax exemption is available for sales of feed for purebred livestock used for breeding purposes, provided the seller obtains a completed purebred livestock exemption certificate from the buyer. Also exempt are sales of semen for use in the artificial insemination of livestock. These sales remain subject to the retailing B&O tax.

(4) **Use tax.** The use tax complements the retail sales tax by imposing a tax of like amount upon the use within this state as a consumer of any tangible personal property purchased at retail, where the user has not paid retail sales tax with respect to the purchase of the property used. (See also WAC 458-20-178.) If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the retail sales or use tax directly to the department unless the purchase and/or use is exempt from tax. Complementary use tax exemptions are available for the use of those items identified in subsection (3)(c) of this rule. Veterinarians and others who provide services to live animals are required to pay use tax on any samples that they acquire or give away unless retail sales tax or use tax has been previously paid on these samples.

(5) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of other situations must be determined after a review of all of the facts and circumstances.

(a) A dog owner brings her dog to a veterinarian for professional services. The dog has multiple wounds and a broken leg. The veterinarian sets the broken bone and uses a cast and other appropriate therapeutic medicines on the dog in the course of treatment. The veterinarian also applies some salve to the wounds and gives the remainder of the salve to the dog's owner for application over the next few days. The veterinarian segregates the charges for the veterinary services, including the cast materials, and the medicines. The charge for the salve is also separately stated on the billing invoice. The gross income for the veterinary services is subject to the service and other activities B&O tax classification. This includes the charges for the cast materials and the medicines. The charge for the salve is considered a retail sale, and subject to the retailing B&O and retail sales taxes. If the veterinarian had previously paid sales or use tax on the salve, he or she is allowed a tax paid at source deduction (see also the discussion of tax paid at source deductions in WAC 458-20-102).

(b) AB boards other person's horses for a fee. When AB bills the customer, AB separately lists the charges for the boarding services and the feed. The gross income received by AB for boarding services is subject to B&O tax under the service classification. The charges for the feed are subject to the retailing B&O and retail sales taxes. However, a retail sales tax exemption is available for any sales of feed for purebred livestock, if the livestock is used for breeding purposes and AB obtains a completed purebred livestock exemption certificate from the customer.

(c) CD trains and boards dogs for various lengths of time. CD bills the customer a lump sum amount for the training and boarding, including feed for the dogs. The gross income received by CD is subject to B&O tax under the service classification. CD must pay retail sales tax or use tax on the feed it purchases for the dogs.

(d) EF is a farrier and shoes horses for others. When EF performs this service, he lists a separate charge on the invoice for the horseshoes. The charge for the horseshoeing service is subject to B&O tax under the service classification, and the separate charge for the horseshoes is subject to the retailing B&O and retail sales taxes. EF's purchases of the horseshoes are purchases for resale and not subject to the retail sales tax.

**WSR 99-08-034**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**

[Filed March 31, 1999, 11:17 a.m.]

Date of Adoption: March 31, 1999.

Purpose: To explain the circumstances under which a person is considered a successor to a person quitting business. Successors are liable for the payment of any outstanding tax liability incurred by the person to whom the successor succeeds.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-216 Successors, quitting business.

Statutory Authority for Adoption: RCW 82.32.300.

Adopted under notice filed as WSR 99-04-014 on January 22, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

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

March 29, 1999

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

**AMENDATORY SECTION** (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

**WAC 458-20-216 Successors, quitting business. (1) Introduction.** RCW 82.32.140 requires a taxpayer to remit any outstanding tax liability to the department of revenue

(department) within ten days of quitting business. If this tax is not paid by the taxpayer, any successor to the taxpayer becomes liable for the outstanding tax. This rule explains under what circumstances a person is considered a successor to a person quitting business. It explains the successor's responsibility for payment of an outstanding tax liability incurred by the person quitting business. This rule also provides examples illustrating when successorship does or does not apply.

(2) **"Successor" defined.** For purposes of this rule, the term "successor" means:

(a) Any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, a major part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer. RCW 82.04.180. Persons acquiring only intangible assets such as copyrights and trademarks are not "successors."

(i) A person is a successor if he or she acquires a major part of the taxpayer's materials, supplies, merchandise, inventory, fixtures, or equipment in bulk, whether he or she operates the business or not. A person acquires a "major part" of the materials, supplies, merchandise, inventory, fixtures, or equipment if he or she acquires more than fifty percent of the fair market value of any such property at the time of conveyance.

(ii) However, persons who acquire a major part of a taxpayer's materials, supplies, merchandise, inventory, fixtures, or equipment through insolvency proceedings or regular legal proceedings to enforce a lien, security interest, or judgment, or by repossession under a security agreement are not successors.

(b) Any person obligated to fulfill the terms of a contract as a guarantor of a defaulting contractor is deemed a successor to that contract. RCW 82.04.180.

(3) **Responsibility for outstanding tax liability.** Whenever ~~(any)~~ a taxpayer quits business, sells out, exchanges or otherwise disposes of his or her business ~~((or his stock of goods))~~, any tax ~~((payable hereunder))~~ administered by the department and which the taxpayer is liable for shall become immediately due and payable ~~((, and such))~~. The taxpayer shall, within ten days ~~((thereafter, make a))~~ of quitting, selling out, exchanging, or otherwise disposing of the business, complete a tax return and pay the tax due. ~~((Any person who becomes a successor to such business shall become liable for the full amount of the tax and))~~ RCW 82.32.140.

(a) A successor shall withhold from the purchase price a sum sufficient to pay any tax due from the taxpayer until ~~((such time as))~~ the taxpayer ~~((shall))~~ produces a ~~((receipt))~~ statement of tax status from the department ~~((of revenue))~~ showing either no tax is due or payment in full of any tax due ~~((or a certificate that no tax is due))~~. If the tax is not paid by the taxpayer within ten days from the date of sale, exchange, or disposal of the business, the ~~((purchaser or))~~ successor shall become liable for the payment of the full amount of tax. RCW 82.32.140.

(b) The payment ~~((thereof))~~ of the seller's tax liability by the ~~((purchaser or))~~ successor shall ~~((, to the extent thereof,))~~ be deemed a payment upon the purchase price. If ~~((such))~~ the

sum of the payment to the department plus any payments made, directly or indirectly, to the seller is greater in amount than the purchase price, the amount of the difference shall become a debt due the ~~((purchaser or))~~ successor from the taxpayer. RCW 82.32.140.

~~((A successor shall not be liable for any tax due from the person from whom he has acquired a business or stock of goods, if he gives written notice to the department of such acquisition and no assessment is issued by the department within six months of receipt of such notice against the former operators of the business and a copy thereof mailed to such successors:))~~

The word "successor" means any person who shall, through direct or mesne conveyance, purchase or succeed to the business, or portion thereof, or the whole or any part of the stock of goods, wares, merchandise or fixtures or any interest therein of a taxpayer quitting, selling out, exchanging or otherwise disposing of his business. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

The work "successor" includes all persons who acquire the taxpayer's equipment or merchandise in bulk, whether they operate the business or not, unless the property is acquired through insolvency proceedings or regular legal proceedings to enforce a lien, security interest, judgment, or repossession under a security agreement. ~~((c))~~ A successor is not liable for any tax due from the taxpayer if:

(i) The successor provides written notice of the acquisition to the department; and

(ii) Within six months of receiving the written notice, the department has not issued a tax assessment against the taxpayer and mailed a copy of a notice of tax due to the successor. RCW 82.32.140.

(d) Written notice of the acquisition must be sent either to Department of Revenue, Taxpayer Account Administration, P.O. Box 47476, Olympia, Washington 98504-7476 or to one of the department's field offices. The six-month period begins upon the department's receipt of the written notice. The written notice must contain the following information:

(i) The taxpayer's name, business name, address, and UBI number if known;

(ii) The date of the acquisition;

(iii) A statement that the successor acquired assets of the taxpayer who was quitting business; and

(iv) A description of the assets acquired.

(4) **Examples.** The following factual situations illustrate the application of ~~((the foregoing))~~ successorship. These factual situations should be used only as a general guide. The successorship status of each situation depends on all the facts and circumstances.

~~((1))~~ (a) Taxpayer ~~((sells))~~ quits business and ~~((stock of goods))~~ sells all equipment, fixtures, and inventory to one purchaser. The taxpayer may be either solvent or insolvent at the time of sale. The purchaser is ~~((the))~~ a successor.

~~((2))~~ Taxpayer sells stock of goods in bulk. Purchaser is the successor, even though taxpayer continues in business through purchase of new stock.

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~~(3)) (b) Taxpayer quits business, selling only intangible assets consisting of customer lists and a covenant not to compete. The purchaser is not a successor.~~

~~(c) Taxpayer sells business, including all fixtures (good will, etc.) and equipment to (one party) Purchaser A, and (his stock of goods) all inventory to (another) Purchaser B. Both purchasers are successors.~~

~~((4) Taxpayer sells one branch of the business and stock of goods, and continues to carry on his business at other locations. Purchaser is successor to the portion of the business purchased and liable for any tax incurred in the operation of that business.~~

~~(5)) (d) Taxpayer sells business, including all fixtures, equipment, and inventory in the following percentages of fair market value to three purchasers:~~

PURCHASER A	PURCHASER B	PURCHASER C
55% of fixtures	25% of fixtures	20% of fixtures
30% of equipment	30% of equipment	40% of equipment
30% of inventory	55% of inventory	15% of inventory

~~Purchaser A is a successor because it has acquired a major part, 55% of the fair market value, of the fixtures of the taxpayer. Purchaser B is a successor because it has acquired a major part, 55% of the fair market value, of the inventory of the taxpayer. Purchaser C is not a successor because it has not acquired a major part of any of the categories of assets sold by the taxpayer.~~

~~(e) Taxpayer obtains a loan from a financial institution to purchase equipment, fixtures, and inventory. The financial institution secures the loan by taking a security interest in the equipment, fixtures, and inventory. Taxpayer quits business, leaving the equipment, fixtures, and inventory behind. The financial institution repossesses these items. The financial institution is not a successor.~~

~~(f) Taxpayer purchases all equipment and inventory under a line of credit extended by a bank and guaranteed by a third party. The third party perfects a security interest in the equipment and inventory. Taxpayer quits business, surrendering the equipment and inventory to the third party guarantor. The third party guarantor is not a successor.~~

~~(g) Taxpayer leaves business, including fixtures (and stock of goods), materials and inventory, which (his) the landlord holds for unpaid rent. The landlord (will be a successor unless he proceeds to foreclose his landlord's lien by posting notice and holding a sale by the sheriff.~~

~~(a) If the landlord, instead of foreclosing his lien, takes a bill of sale to all of the taxpayer's interest in the business or stock of goods in satisfaction of rent, he is a successor.~~

~~(b) If the landlord fails to foreclose his lien and sells the fixtures or stock of goods and the purchaser continues the business or a similar business, the purchaser is a successor.~~

~~(c) If the taxpayer does not leave any fixtures or stock of goods and the landlord engages in a like business in the same location or rents to a third person, neither the landlord nor the third person is a successor.~~

~~(6)) forecloses the landlord's lien using the summary foreclosure provisions of RCW 60.10.030, or holds a foreclosure sale by the sheriff, or accepts a bill of sale in satisfaction~~

~~of the landlord's lien for rent created by RCW 60.72.010. The landlord is not a successor.~~

~~(h) Taxpayer purchases (business) all equipment (stock of goods) and inventory under a security agreement (and).~~

~~(i) If the property is repossessed by the vendor, the vendor is not a successor.~~

~~((a) If the vendor sells to a third person who continues the business, the third person is not a successor.~~

~~(b)) (ii) If the taxpayer sells his or her equity under the security agreement to a third person, the third person is a successor.~~

~~((e)) (iii) If the (property) equipment and inventory is not repossessed and the vendor buys back the interest of the taxpayer without following the summary foreclosure provisions of RCW 60.10.030, the vendor is a successor (and any third person who purchases the same from such vendor and continues the business is also a successor).~~

~~((7)) (i) Taxpayer dies or becomes bankrupt, goes into receivership, or makes an assignment for the benefit of creditors. ((a)) The executor, administrator, trustee, receiver, or assignee is not a successor but stands in the place of the taxpayer and is responsible for payment of tax out of the proceeds derived upon disposition of the assets. ((b)) A purchaser from the executor, administrator, trustee, receiver, or assignee is not a successor, unless under the terms of the purchase agreement (he) the purchaser assumes and agrees to pay taxes and/or lien claims.~~

~~((8)) (j) Taxpayer is a contractor and is required to post a bond to insure completion of the contract. Taxpayer defaults on the contract and the bonding company completes it. The bonding company is a successor to the contractor to the extent of the contractor's liability for that particular contract and is also liable for taxes incurred in the completion of the contract.~~

~~(Bulk transfers. Under chapter 62A.6 RCW persons whose principal business is the sale of merchandise from stock (including manufacturers) who transfer~~

~~(1) A major part of the materials, supplies, merchandise or other inventory of the business; or~~

~~(2) All or substantially all of the equipment of the business are required to furnish to the transferee a sworn list of all creditors, showing their names, addresses, and amounts owed. The parties (both the transferor and transferee) are then required to prepare a schedule of property being transferred, the schedule to be sworn to by the transferor. The list of creditors and schedule of property must be~~

~~(a) Preserved by the transferee for 6 months available for inspection and copying by any creditor;~~

~~(b) Filed by the transferee with the county auditor, and~~

~~(c) Served by the transferee on the department of revenue.~~

~~In addition to the foregoing, the transferee must, at least 10 days prior to taking possession of the goods or making payment for them, give notice of the transfer to~~

~~(1) All persons shown on the list of creditors;~~

~~(2) Any other persons known to hold or assert claims against the transferor, and~~

~~(3) The department of revenue.~~

The notice to creditors must also be filed with the county auditor and shall state

- (1) That a bulk transfer is about to be made;
- (2) Names and business addresses of the transferor and transferee;
- (3) Whether debts of the transferor will be paid in full as they fall due and if so (a) the location and general description of the property to be transferred, (b) the estimated total of the transferor's debts, and (c) certain other information specified by RCW 62A.6-107.

Revised June 1, 1970.)

**WSR 99-08-035**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**

[Filed March 31, 1999, 11:20 a.m.]

Date of Adoption: March 31, 1999.

Purpose: This is a new rule, WAC 458-20-261 Exemptions and credits for ride sharing, public transportation, and nonmotorized commuting. Its purpose is to explain the circumstances under which persons may claim tax exemptions and credits related to ride sharing, public transportation, and nonmotorized commuting. It explains how persons may claim credits and how the Department of Revenue computes the credit when the state-wide credit limit is reached.

Statutory Authority for Adoption: RCW 82.32.300, 82.04.4453, and 82.16.048.

Adopted under notice filed as WSR 99-04-022 on January 22, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

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

March 29, 1999

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

**NEW SECTION**

**WAC 458-20-261 Exemptions and credits for ride sharing, public transportation, and nonmotorized commuting.** (1) **Introduction.** This section explains the various tax credits and exemptions which apply in connection with

ride sharing, public transportation, and nonmotorized commuting.

(2) **Definitions.** For purposes of this section, the following definitions apply, unless otherwise required by the context.

(a) "Ride sharing" and "commuter ride sharing" mean a car pool or van pool arrangement whereby one or more fixed groups not exceeding fifteen persons each including the drivers, and (i) not fewer than five persons including the drivers, or (ii) not fewer than four persons including the drivers where at least two of those persons are confined to wheelchairs when riding, are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment. The transportation must be between their places of abode or termini near such places, and their places of employment or educational or other institutions, each group in a single daily round trip where the drivers are also on the way to or from their places of employment or educational or other institution. The terms include ride sharing on Washington state ferries.

(b) "Ride sharing for persons with special transportation needs" means an arrangement whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider as defined in RCW 81.66.010(3) in a passenger motor vehicle as defined by the department of licensing to include small buses, cutaways, and modified vans not more than twenty-eight feet long. The driver need not be a person with special transportation needs.

(c) "Persons with special transportation needs" means those persons, including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase appropriate transportation.

(d) "Public transportation" means the transportation of passengers by means other than chartered or sightseeing bus, together with necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people moving systems. It includes passenger services of the Washington state ferries.

(e) "Nonmotorized commuting" means commuting to and from the workplace by an employee by walking or running or by riding a bicycle or other device not powered by a motor. It does not include teleworking.

(3) **Business and occupation tax and public utility tax exemptions.** Amounts received from providing commuter ride sharing and ride sharing for persons with special transportation needs are exempt from the business and occupation tax and from the public utility tax. RCW 82.04.355 and 82.16.047.

(4) **Retail sales tax exemption.** RCW 82.08.0287 provides a retail sales tax exemption for sales of passenger motor vehicles as ride-sharing vehicles.

(a) Sales tax does not apply to sales of passenger motor vehicles used for commuter ride sharing or ride sharing for persons with special transportation needs if the vehicles are exempt from motor vehicle excise tax under RCW 82.44.015 for thirty-six consecutive months beginning within thirty days of application for exemption from sales tax. If the vehicle is used as a ride-sharing vehicle for less than thirty-six

consecutive months, the registered owner must notify the department of revenue and pay the tax.

(b) Vehicles with five or six passengers, including driver, used for commuter ride sharing must be operated within a county having a commute trip reduction plan under chapter 70.94 RCW in order to be purchased without payment of sales tax. In addition, for the exemption to apply at least one of the following conditions must apply:

(i) The vehicle must be operated by a public transportation agency for the general public;

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.

(5) **Use tax exemption.** RCW 82.12.0282 provides a use tax exemption for the use of passenger motor vehicles as ride-sharing vehicles.

(a) Use tax does not apply to the use of passenger motor vehicles used for commuter ride sharing or ride sharing for persons with special transportation needs if the vehicles are exempt from motor vehicle excise tax under RCW 82.44.015 for thirty-six consecutive months beginning within thirty days of application for exemption from use tax. If the vehicle is used as a ride-sharing vehicle for less than thirty-six consecutive months, the registered owner must notify the department of revenue and pay the tax.

(b) Vehicles with five or six passengers, including driver, used for commuter ride sharing must be operated within a county having a commute trip reduction plan under chapter 70.94 RCW in order to be purchased without payment of sales tax. In addition, for the exemption to apply at least one of the following conditions must apply:

(i) The vehicle must be operated by a public transportation agency for the general public;

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.

(6) **Business and occupation tax and public utility tax credit.** Employers in Washington are allowed a credit against their business and occupation tax and public utility tax liability for amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, using public transportation, or using nonmotorized commuting. RCW 82.04.4453 and 82.16.048. Employers must provide incentives before June 30, 2000, to be eligible for the credit. The credit program expires December 31, 2000.

(a) In most cases, the amount of the credit is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per year. However, for ride sharing in vehicles carrying two persons, the credit is equal to the amount paid to or on behalf

of each employee multiplied by thirty percent, but may not exceed sixty dollars per employee per year. The credit is based upon amounts paid to or on behalf of individual employees, and may not be based upon an average of amounts paid to or on behalf of employees for qualifying purposes.

(b) The credit may not exceed the amount of business and occupation tax or public utility tax that would otherwise be due for the same calendar year after all other credits are applied.

(c) An employer may not receive credit for amounts paid to or on behalf of the same employee under both the business and occupation tax and the public utility tax.

(d) The total credit received by an employer against both the business and occupation tax and the public utility tax may not exceed one hundred thousand dollars for a calendar year.

(e) The total credit granted to all employers under both the business and occupation tax and the public utility tax may not exceed one million five hundred thousand dollars for a calendar year.

(f) No credit or portion of a credit denied because of exceeding the limitations in (d) or (e) of this subsection may be used against tax liability for other calendar years.

(7) **Credit procedures.** This subsection explains the procedures used in the credit program described in subsection (6) of this rule.

(a) Persons apply for the credit by completing a ride share credit reporting schedule and filing it with the combined excise tax return covering the period for which the credit is claimed. The ride share credit reporting schedule is available upon request from the department of revenue.

(b) Persons may not apply for the credit more frequently than once per quarter nor less frequently than once per year against taxes due for the same calendar year in which the amounts for which credit is claimed were paid to or on behalf of employees.

(c) Credit must be claimed by the due date of the last tax return for the calendar year in which the payment to or on behalf of employees was made.

(i) Credit not previously claimed may not be claimed for the first time on supplemental or amended tax returns filed after the due date of the last tax return for the calendar year in which the payment to or on behalf of employees was made.

(ii) If the department of revenue has granted an extension of the due date for the last tax return for the calendar year in which the payment to or on behalf of employees was made, the credit must be claimed by the extended due date.

(d) The department of revenue tabulates the amount of credit taken by all employers on a quarterly basis. If the annual maximum of one million five hundred thousand dollars in credit is exceeded in a given quarter, no further credit will be allowed in succeeding quarters in the same calendar year. For the quarter in which the maximum is exceeded, the department of revenue calculates the amount of credit available at the beginning of the quarter and determines the proportional share of that amount for every employer who has claimed a credit in the quarter. Employers are billed for the difference between the amount of credit they claimed and the prorated amount of credit for which they are eligible.

(8) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(a) An employer pays one hundred eighty dollars for a yearly bus pass for one employee. For another employee, the employer buys a bicycle helmet and bicycle lock for a total of fifty dollars. This is the total expenditure during a calendar year of amounts paid to or on behalf of employees in support of ride sharing, using public transportation, and using non-motorized commuting. The employer may claim a credit of sixty dollars for the amount spent for the employee using the bus pass. Fifty percent of one hundred eighty dollars is ninety dollars, but the credit is limited to sixty dollars per employee. The employer may claim a credit of twenty-five dollars (fifty percent of fifty dollars) for the amount spent for the employee who bicycles to work. Even though fifty percent of two hundred thirty dollars, the amount spent on both employees, works out to be less than sixty dollars per employee, the credit is computed by looking at actual spending for each employee and not by averaging the spending for both employees.

(b) An employer provides parking spaces for the exclusive use of ride-sharing vehicles. Amounts spent for signs, painting, or other costs related to the parking spaces do not qualify for the credit. This is because the credit is for financial incentives paid to or on behalf of employees. While the parking spaces support the use of ride-sharing vehicles, they are not financial incentives and do not involve amounts paid to or on behalf of employees.

(c) As part of its commute trip reduction program, an employer pays the cab fare for an employee who has an emergency and must leave the workplace but has no vehicle available because he or she commutes by ride-sharing vehicle. The cab fare qualifies for the credit, if it does not cause the sixty dollar limitation to be exceeded, because it is an amount paid on behalf of a specific employee.

### WSR 99-08-037

#### PERMANENT RULES

#### DEPARTMENT OF AGRICULTURE

[Filed March 31, 1999, 1:52 p.m.]

Date of Adoption: March 31, 1999.

Purpose: The proposed language requires the disclosure of a maximum application rate on fertilizer registration application forms for all commercial fertilizers that contain application rates on their labels so that the department can clearly determine if the commercial fertilizer meets the Washington standards for metals.

Citation of Existing Rules Affected by this Order: Amending WAC 16-200-695, 16-200-705, and 16-200-7061.

Statutory Authority for Adoption: RCW 15.54.325 and 15.54.800.

Adopted under notice filed as WSR 99-04-093 on February 3, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

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

March 31, 1999

Mary A. Martin Toohey

Acting for James M. Jesernig

Director

**AMENDATORY SECTION** (Amending WSR 99-02-035, filed 12/30/98, effective 1/31/99 [1/30/99])

**WAC 16-200-695 Definitions.** The definitions set forth in this section shall apply throughout this chapter unless context otherwise requires:

(1) "Organic" means a material containing carbon and one or more elements (other than hydrogen and oxygen) essential for plant growth. When the term "organic" is utilized in the label or labeling of any commercial fertilizer, it shall be qualified as either "synthetic organic" or "natural organic," with the percentage of each specified.

(2) "Natural organic" means a material derived from either plant or animal products containing carbon and one or more elements (other than hydrogen and oxygen) essential for plant growth.

(3) "Synthetic organic" means a material that is manufactured chemically (by synthesis) from its elements and other chemicals, containing carbon and one or more elements (other than hydrogen and oxygen) essential for plant growth.

(4) "Unit" means one percent (by weight) of a ton.

(5) "AOAC" means the association of official analytical chemists.

(6) "Commercial fertilizer" means a substance containing one or more recognized plant nutrients and that is used for its plant nutrient content or that is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum, and manipulated animal and vegetable manures. It does not include unmanipulated animal and vegetable manures, organic waste-derived material, and other products exempted by the department by rule.

(7) "Fertigation" means a method of applying commercial fertilizers with irrigation water to fertilize land or plants.

(8) "Fertilizer component" means a commercial fertilizer ingredient containing one or more recognized plant nutrients which is incorporated in the commercial fertilizer for its plant nutrient value.

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(9) "Maximum acceptable cumulative metals additions to soil" means the amount of total metals that can be added to soil over a forty-five-year period of time without exceeding the Canadian standards which have been adopted in RCW 15.54.800(3) as Washington standards for metals.

(10) "Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings, and other vegetative wastes, uncontaminated wood waste from logging and milling operations, food wastes, food processing wastes, and materials derived from these wastes through composting. "Organic waste-derived material" does not include products that include biosolids.

(11) "Maximum application rate" means the maximum amount of commercial fertilizer expressed by weight (such as: pounds, ounces, kilograms, or milligrams) or volume (such as: gallons, quarts, fluid ounces, liters, or milliliters) to be applied to an area of a specified size (such as: acres, square feet, hectares, or square meters) in a period of time stated in years.

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

**AMENDATORY SECTION** (Amending WSR 99-02-035, filed 12/30/98, effective 1/31/99 [1/30/99])

**WAC 16-200-705 Purpose.** The following sections concerning the protection of ground water, labeling requirements and examination of fertilizer minerals and limes (WAC 16-200-708 through 16-200-742) are established in this chapter under the authority of the Commercial Fertilizer Act, chapter 15.54 RCW.

This chapter also describes the requirements for registration of commercial fertilizers, including the information which must be submitted as part of the registration application, the sample preparation and analysis methods which must be used, the maximum application use rates the department will use to determine whether a commercial fertilizer may be registered, the Washington standards for metals (in pounds per acre per year), and the acts which are unlawful under this chapter.

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

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

**AMENDATORY SECTION** (Amending WSR 99-02-035, filed 12/30/98, effective 1/31/99 [1/30/99])

**WAC 16-200-7061 What information must I include with my registration application concerning total metals and application rates?** (1) You are required to submit the following metals information with your registration application:

(a) Total concentration of each metal in each commercial fertilizer reported in parts per million (PPM) which is equivalent to milligrams of metal per kilogram of fertilizer (mg/kg), or micrograms per gram;

(b) Copy of the laboratory report on total metals analysis;

(c) Method of analysis;

(d) Method of sample preparation; and

(e) Minimum detection limits for each method used.

(2) The department may request quality assurance and quality control documentation for analytical procedures and/or for the laboratory which performed the analyses.

(3) The analytical data and maximum application rate will be used to determine if a commercial fertilizer meets or exceeds the Washington standards for metals.

(4) For all commercial fertilizers that have application rates on their labels, the maximum application rate shall be disclosed for each commercial fertilizer on the registration application form.

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

## WSR 99-08-039

### PERMANENT RULES

#### DEPARTMENT OF AGRICULTURE

[Filed March 31, 1999, 3:19 p.m.]

Date of Adoption: March 23, 1999.

Purpose: RCW 43.05.020 mandates departments to compile and maintain lists of those who provide technical assistance. This rule describes how the lists of technical assistance providers will be organized for the Department of Agriculture.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-05-005, 16-05-015, 16-05-020, 16-05-025, 16-05-030, 16-05-035 and 16-05-045; and amending WAC 16-05-010 and 16-05-040.

Statutory Authority for Adoption: RCW 43.05.020.

Adopted under notice filed as WSR 99-05-022 on February 9, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 7.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 7.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

March 24, 1999

James M. Jesernig

Director

**AMENDATORY SECTION** (Amending Order 5098, filed 6/18/96, effective 7/19/96)

**WAC 16-05-010 What does an organization, company or individual have to do to get on the applicable list?** ((An organization, company or individual must write to the Washington state department of agriculture, provide the name of the organization, company or individual, address and telephone number, unified business identifier (UBI) number, authorized agent, a brief description of the type of technical assistance provided, and identify the department program. The document must include the signature of the person requesting his/her name be put on the list or the signature of the authorized agent of the company or organization who requests listing-)) Should an organization, company or individual wish to be included or removed from a technical assistance list of the department, a request must be made to the department via telephone, facsimile transmission, e-mail or address and request that their organization, company or individual name and pertinent information be added.

Requests may be directed to the department at the main department address and telephone number: Department of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560. Telephone: (360) 902-1800. Anyone contacting the department is encouraged to refer to the applicable division and program, by using the following organization description, by division and program as a guide.

**(1) Director's office:**

Legislative affairs.

Internal program review.

Policy development and review.

**(2) Agency operations division:**

Accounting, budget, payroll, forms and records, adjudicative proceedings, public disclosure, Washington Administrative Code filings, personnel office, information technology services, information office, international marketing and commodity commission and fairs commission activities.

**(3) Commodity inspection division:**

Fruit and vegetable inspection program for quality, grade, condition, size and pack.

State-wide grain inspection.

**(4) Consumer and producer protection division:**

Commission merchants program.

Livestock identification, brand registration and inspection.

Establishment of livestock markets.

Grain warehouse audit.

Weights and measures program.

Seed program regulates the quality and labeling of various crop seeds in Washington.

**(5) Food safety and animal health division:**

Dairy inspection program.

Food processing program.

Organic food program.

Egg inspection program.

Animal health program.

**(6) Laboratory services division:**

Performs chemical and micro-biological analyses in support of the food safety and pesticide management programs.

Administers hop inspection and analyses.

Pest management program is responsible for nonnative insect detection and control, and plant pest and disease identification; develops and enforces plant quarantines.

Apiary program provides education and registration for Washington apiarists.

Nursery program certifies nursery stock and issues phytosanitary certificates for materials moving out-of-state.

**(7) Pesticide management division:**

Administers the regulations of pesticides, animal feeds and fertilizer laws, and waste disposal program broken down into three units of the division.

The compliance unit enforces state and federal pesticide laws, animal feed laws and fertilizer laws; investigates complaints of pesticide misuse.

The registration unit registers pesticides, fertilizers and animal feeds sold and used in the state.

The program development and certification unit conducts the waste pesticide disposal program; provides inter-agency coordination on pesticide-related issues; provides safety training on the use of pesticides, which includes public outreach and new program development; licenses pesticide application equipment, pesticide dealers, and commercial, public and private pesticide applicators, operators and consultants; approves recertification courses and tracks educational credits on pesticide licensees.

**AMENDATORY SECTION** (Amending Order 5098, filed 6/18/96, effective 7/19/96)

**WAC 16-05-040 The department of agriculture is completely held harmless and not liable.** (1) The department will not perform any testing or background checks on requestors for inclusion on a department technical assistance list. The department will exercise reasonable care to include or delete names upon request ((if received by the department by May 15 of each year. The list will be published annually on or around July 1st of each year)). The department is not responsible for errors on ((the)) a technical assistance list. In addition, the inclusion of a name of an individual, company or organization on ((the)) a list should not be construed as an endorsement by the department. Customers using a technical assistance list for referral are encouraged to contact the better business bureau or the office of the attorney general, consumer protection unit, to determine whether a name selected is the subject of a complaint. Customers are also encouraged to check references of those on a list before they select an organization, company or individual to perform technical assistance.

(2) Any person who is on ((the)) a technical assistance list is prohibited from holding themselves out as an employee or agent of the Washington state department of agriculture or suggesting that the department endorses the services provided.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 16-05-005

How will the lists be developed?

- WAC 16-05-015 Will the department of agriculture approve organizations, companies or individuals who request listing?
- WAC 16-05-020 How often are lists changed or updated?
- WAC 16-05-025 Does an applicant have to reapply each year to stay on the list?
- WAC 16-05-030 How do I take my name off the list?
- WAC 16-05-035 Each list will include consumer information.
- WAC 16-05-045 Who to contact for inclusion, exclusion and copies of the list within the department.

**WSR 99-08-049**  
**PERMANENT RULES**  
**BOARD OF BOILER RULES**

[Filed April 1, 1999, 8:33 a.m.]

Date of Adoption: April 1, 1999.

Purpose: To comply with actions taken by the Board of Boiler Rules amending fee schedules to ensure revenue is sufficient to support program expenses. To delete WAC 296-104-285.

Citation of Existing Rules Affected by this Order: Repealing WAC 296-104-285; and amending WAC 296-104-700.

Statutory Authority for Adoption: RCW 70.79.030 and 70.79.040.

Adopted under notice filed as WSR 99-04-036 on January 27, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 1.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 1.

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

April 1, 1999

Frank G. Sanchez  
Chairman

**AMENDATORY SECTION** (Amending WSR 98-09-064, filed 4/20/98, effective 5/21/98)

**WAC 296-104-700 Inspection fees—Certification fees—Expenses.** The following fees shall be paid by, or on behalf of, the owner or user upon the completion of the inspection. The inspection fees apply to inspections made by inspectors employed by the state.

Heating boilers:	Internal	External
Cast iron—All sizes	(( <del>26.00</del> ))	(( <del>20.80</del> ))
	<u>27.05</u>	<u>21.65</u>
All other boilers less than 500 sq. ft.	(( <del>31.20</del> ))	(( <del>20.80</del> ))
	<u>32.50</u>	<u>21.65</u>
500 sq. ft. to 2500 sq. ft.	(( <del>52.00</del> ))	(( <del>26.00</del> ))
	<u>54.15</u>	<u>27.05</u>
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	(( <del>20.80</del> ))	(( <del>10.40</del> ))
	<u>21.65</u>	<u>10.80</u>
 Power boilers:	 Internal	 External
Less than 100 sq. ft.	(( <del>26.00</del> ))	(( <del>20.80</del> ))
	<u>27.05</u>	<u>21.65</u>
100 sq. ft. to less than 500 sq. ft.	(( <del>31.20</del> ))	(( <del>20.80</del> ))
	<u>32.50</u>	<u>21.65</u>
500 sq. ft. to 2500 sq. ft.	(( <del>52.00</del> ))	(( <del>26.00</del> ))
	<u>54.15</u>	<u>27.05</u>
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	(( <del>20.80</del> ))	(( <del>10.40</del> ))
	<u>21.65</u>	<u>10.80</u>
 Pressure vessels:		
Automatic utility hot water supply heaters per RCW 70.79.090		(( <del>5.20</del> ))
		<u>5.40</u>
All other pressure vessels: Square feet shall be determined by multiplying the length of the shell by its diameter.		
	Internal	External
Less than 15 sq. ft.	(( <del>20.80</del> ))	(( <del>15.60</del> ))
	<u>21.65</u>	<u>16.25</u>
15 sq. ft. to less than 50 sq. ft.	(( <del>31.20</del> ))	(( <del>15.60</del> ))
	<u>32.50</u>	<u>16.25</u>
50 sq. ft. to 100 sq. ft.	(( <del>36.40</del> ))	(( <del>20.80</del> ))
	<u>37.90</u>	<u>21.65</u>

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For each additional 100 sq. ft. or any portion thereof ~~((10.40))~~ ~~((36.40))~~  
10.80 37.90

Certificate of inspection fees: For objects inspected, the certificate of inspection fee is \$ ~~((15.60))~~ 16.25 per object.

Nonnuclear shop inspections, field construction inspections, and special inspection services:

For each hour or part of an hour up to 8 hours ~~((31.20))~~ 32.50

For each hour or part of an hour in excess of 8 hours ~~((46.80))~~ 48.75

Nuclear shop inspections, nuclear field construction inspections, and nuclear triennial shop survey and audit:

For each hour or part of an hour up to 8 hours ~~((46.80))~~ 48.75

For each hour or part of an hour in excess of 8 hours ~~((72.80))~~ 75.80

Nonnuclear triennial shop survey and audit:  
 When state is authorized inspection agency:

For each hour or part of an hour up to 8 hours ~~((31.20))~~ 32.50

For each hour or part of an hour in excess of 8 hours ~~((46.80))~~ 48.75  
 When insurance company is authorized inspection agency:

For each hour or part of an hour up to 8 hours ~~((46.80))~~ 48.75

For each hour or part of an hour in excess of 8 hours ~~((72.80))~~ 75.80

Expenses shall include:

Travel time and mileage: The department shall charge for its inspectors' travel time from their offices to the inspection sites and return. The travel time shall be charged for at the same rate as that for the inspection, audit, or survey. The department shall also charge the current Washington office of financial management accepted mileage cost fees or the actual cost of purchased transportation. Hotel and meals: Actual cost not to exceed the office of financial management approved rate.

Reinspection fee: Same as the fee for the previous inspection during which discrepancies were reported. The fee will be charged only if the discrepancies are not corrected

before the reinspection. The fee shall not exceed \$ 26.00. Washington state specials: For each vessel to be considered by the board for a Washington state special certificate, a fee of \$300.00 must be paid to the department before the board meets to consider the vessel. The board may, at its discretion, prorate the fee when a number of vessels that are essentially the same are to be considered.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-104-285 Unfired pressure vessels in places of public assembly.

**WSR 99-08-050**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 [Filed April 1, 1999, 9:17 a.m.]

Date of Adoption: April 1, 1999.

Purpose: GA-S becomes a TANF program effective May 1, 1999. The sixty-month time limited will apply to pregnant women with no other eligible children effective May 1, 1999.

Citation of Existing Rules Affected by this Order: Amending WAC 388-400-0020 and 388-484-0005.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Adopted under notice filed as WSR 99-04-102 on February 3, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

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

April 1, 1999

Edith M. Rice

for Marie Myerchin-Redifer, Manager  
 Rules and Policies Assistance Unit

PERMANENT

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-400-0020 General assistance for pregnant women—General eligibility requirements.** (1) To be eligible for general assistance for pregnant women (GA-S), a woman must:

- (a) Meet the requirements of WAC 388-462-0005; and
  - (b) Meet the general assistance citizenship/alien status requirements under WAC 388-424-0005(3); and
  - (c) Be in financial need according to temporary assistance for needy families (TANF) income and resource rules in chapters 388-450, 388-470 and 388-488 WAC; and
  - (d) Provide a Social Security number as required under WAC 388-476-0005; and
  - (e) Reside in the state of Washington as required under WAC 388-468-0005.
- (2) A woman is not eligible for GA-S if she:
- (a) Is eligible for or her needs are being met by the Supplemental Security Income (SSI) program TANF or state family assistance (SFA);
  - (b) Is under sanction for failing to comply with SSI requirements;
  - (c) Fails or refuses to cooperate without good cause in obtaining SSI; or
  - (d) Fails or refuses to cooperate in obtaining TANF or SFA. This includes disqualifications for:
    - (i) Convictions for misrepresenting residence to obtain assistance in two or more states as specified under chapter 388-446 WAC;
    - (ii) Convictions for drug-related felonies and failing to complete drug treatment as specified under chapter 388-442 WAC;
    - (iii) Failing to report a child's absence within five days of becoming reasonably certain the absence will exceed ninety days as specified in chapter 388-418 WAC; or
    - (iv) Failing to meet school attendance requirements for unmarried teen parents as specified under chapter 388-486 WAC.

(3) The assistance unit for a woman applying for or receiving GA-S will be established according to WAC 388-408-0010.

(4) Unmarried pregnant or parenting minors who are not emancipated under a court decree must meet the living arrangement requirements of WAC 388-486-0005.

(5) A pregnant woman in an institution may be eligible for GA-S as specified under WAC 388-230-0080.

(6) Effective May 1, 1999, GA-S cash benefits will count toward the sixty-month time limit as specified under WAC 388-484-0005.

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-484-0005 Five year (sixty-month) time limit for TANF ((and)), SFA and GA-S cash benefits.** (1) ~~((A family is not eligible for TANF or SFA if the family includes an adult who has received TANF or SFA for sixty months after August 1, 1997.~~

~~(2) In calculating the number of months an adult family member has received TANF or SFA, a month is not counted if the adult received assistance:~~

~~(a) As a minor child who was not the head of a household or married to the head of a household. A minor child is not the head of a household when residing with a parent, legal guardian, or other adult relative, or living in a department-approved living arrangement under the supervision of a non-related adult; or~~

~~(b) When living in Indian country, as defined under 18 U.S.C. 1151, or an Alaskan Native village, if during the months the individual received TANF or SFA at least fifty percent of the adults living on the reservation or in the village were unemployed.~~

~~(3) An adult who has received fifty-two months of TANF or SFA may be exempted from the five-year time limit for reasons of hardship or family violence if the total number of exempted cases does not exceed twenty percent of the average monthly number of TANF and SFA cases statewide during a fiscal year.)~~ **What is the sixty-month time limit?**

**The sixty-month time limit is a lifetime limit of cash benefits for TANF, SFA, and GA-S. The time limit applies to any combination of these cash benefits.**

**(2) When does the sixty-month time limit start?**

**The sixty-month time limit starts August 1, 1997 for TANF and SFA and May 1, 1999 for GA-S.**

**(3) Who does this time limit apply to?**

**The sixty-month time limit applies to any needy caretaker relative(s) as defined in WAC 388-454-0010.**

**(4) Are there any exceptions to the time limit?**

**A month does not count towards the sixty-month time limit when:**

**(a) Unmarried pregnant or parenting minors live in a department approved living arrangement as defined by WAC 388-486-0005.**

**(b) Living in Indian country, as defined under 18 U.S.C. 1151, or an Alaskan Native village, if during the months the needy caretaker relative(s) received TANF, SFA, or GA-S cash benefits at least fifty percent of the adults living on the reservation or in the village were unemployed.**

**(5) What happens if a member of my assistance unit has received sixty months of TANF, SFA, and GA-S cash benefits?**

**The entire assistance unit becomes ineligible for TANF, SFA, or GA-S cash benefits once any member has received sixty months of these benefits.**

WSR 99-08-051

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(WorkFirst Division)

[Filed April 1, 1999, 9:22 a.m.]

Date of Adoption: April 1, 1999.

Purpose: Amends the rules to bring them into compliance with Governor Locke's Executive Order 97-02 and

makes the current GA-S program part of WorkFirst as of May 1, 1999.

Citation of Existing Rules Affected by this Order: Amending WAC 388-310-0100 WorkFirst—Purpose, 388-310-0200 WorkFirst—Activities, and 388-310-1300 WorkFirst—Community jobs program.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.050.

Adopted under notice filed as WSR 99-05-072 on February 17, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

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

April 1, 1999

Edith M. Rice

for Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-0100 WorkFirst—((Authority and))**

**Purpose.** (1) ~~((The WorkFirst program is established under Title 74 RCW.~~

(2) ~~The goals of WorkFirst are to:~~

(a) ~~Reduce poverty by helping those receiving temporary assistance for needy families (TANF) and state family assistance (SFA) get and keep jobs;~~

(b) ~~Sustain the independence of those who become employed by helping them keep jobs; and~~

(c) ~~Protect children and other vulnerable residents))~~

**What is the WorkFirst program?**

The WorkFirst program offers services and activities to help people in low-income families find jobs, keep their jobs, find better jobs and become self-sufficient. The program links families to a variety of state, federal and community resources to meet this goal. When you enter the WorkFirst program, you will be asked to work, look for work and/or prepare for work.

**(2) Who does the WorkFirst program serve?**

The WorkFirst program serves three groups:

(a) Parents and children age sixteen or older who receive cash assistance under the temporary assistance for needy families (TANF), general assistance for pregnant women (GA-S) or state family assistance (SFA) programs; and

(b) Parents who no longer receive cash assistance and need some continuing support to remain self-sufficient; and

(c) Low income parents who support their family without applying for or relying on cash assistance.

**AMENDATORY SECTION** (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-0200 WorkFirst—((Components))**  
**Activities.** ~~((Except as otherwise specified, the terms used in this chapter, 388-310 WAC, shall have the same meaning as applied to the TANF program, and terms defined under chapter 388-22 WAC.~~

~~WorkFirst components are:~~

~~(1) **Paid employment**, either:~~

~~(a) **Unsubsidized**, including self-employment; or~~

~~(b) **Subsidized and includes on-the-job training, work-study, and wage subsidy programs.**~~

~~(2) **Work experience;**~~

~~(3) **Community service;**~~

~~(4) **Job search;**~~

~~(5) **Vocational educational training;**~~

~~(6) **Basic education activities;**~~

~~(7) **Post-employment services** which include employment retention and career development services.))~~

**(1) Who is required to participate in WorkFirst activities?**

(a) You are required to participate in WorkFirst activities, and become what is called a "mandatory participant," if you:

(i) Receive TANF, GA-S or SFA cash assistance; and

(ii) Are a custodial parent or age sixteen or older; and

(iii) Are not exempt. (You can only get this exemption if you are caring for a child under twelve months of age. See WAC 388-310-0300 for more details).

(b) Participation is voluntary for all other WorkFirst participants (those who no longer receive or have never received TANF, GA-S or SFA cash assistance).

**(2) What activities do I participate in when I enter the WorkFirst program?**

When you enter the WorkFirst program, you will participate in one or more of the following activities (which are described in more detail in other sections of this chapter):

(a) Paid employment (see WAC 388-310-400(1)(a) and 388-310-1500);

(b) Self employment (see WAC 388-310-1700);

(c) Job search (see WAC 388-310-0600);

(d) Community jobs (see WAC 388-310-1300)

(e) Work experience (see WAC 388-310-1100);

(f) On-the-job training (see WAC 388-310-1200);

(g) Vocational educational training (see WAC 388-310-1000);

(h) Basic education activities (see WAC 388-310-0900);

(i) Job skills training (see WAC 388-310-1050);

(j) Community service (see WAC 388-310-1400); and/or

(k) Activities provided by tribal governments for tribal members and other American Indians (see WAC 388-310-1400(1) and 388-310-1900).

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**(3) If I am a mandatory participant, how much time must I spend doing WorkFirst activities?**

If you are a mandatory participant, you will be required to spend up to forty hours a week working, looking for work or preparing for work. You will have an individual responsibility plan (described in WAC 388-310-500) that includes the number of hours a week that you are required to participate.

**(4) What activities do I participate in after I get a job?**

You may participate other activities, which are called "post employment services" (described in WAC 388-310-1800) once you are working twenty hours or more a week. Work can include a paid, unsubsidized job, self-employment, college work study or a community jobs placement. Services include:

(a) Activities that help you keep a job (called an "employment retention" service); and/or

(b) Activities that help you get a better job (called a "wage and skill progression" service).

**AMENDATORY SECTION** (Amending WSR 98-10-054, filed 4/30/98, effective 5/31/98)

**WAC 388-310-1300 Community jobs ((wage subsidy)) program. (1) What is the community jobs program?**

The community jobs ((wage subsidy)) program ((is to allow participants to)) helps you gain work skills and experience by enrolling you in a temporary ((position which helps them)) subsidized job. You will also receive other services and support to help you move into unsubsidized employment as quickly as possible. ((In all instances, the term "department" refers to the department of social and health services (DSHS). The state department of community, trade and economic development (DCTED) administers the community jobs program. DCTED selects community jobs contractors (CJC) by using a competitive "requests for proposal" (RFP) process. DCTED, based upon the successful proposals, develops contracts specific to each selected community jobs contractor.

(1) WorkFirst case managers may assign a TANF/SFA participant to a community jobs (CJ) position when:

(a) The participant has an unsuccessful job search;

(b) The case manager determines the participant needs a supportive work environment to help them become more employable; and

(c) The participant's monthly cash grant is sufficient to pay their community jobs wages for twenty hours per week at the federal minimum wage.

(2) The department uses a participant's grant to provide a wage subsidy to the community jobs contractor.

(3) The CJs develop and manage the CJ positions, pay the wages and provide support services.

(4) Once hired, the department will authorize the participant's wage subsidy for no longer than nine TANF/SFA payment months in that specific position.

(5) CJs may not hire participants into a community jobs position to do work related to religious, electoral or partisan political activities.

(6) Community jobs participants are employees of the community jobs contractor(s).

(7) Wages from the community jobs wage subsidy program are fully attributable to diverted public assistance funds. These wages are not "earned income" for purposes of eligibility for the WorkFirst fifty percent earned income disregard. For the food stamp program, consider these wages and any grant supplement as TANF grant monies.

(8) The department shall review the appropriateness for continued participation in a community jobs position every ninety days during the nine-month placement. This review shall include:

(a) A review of any earned or unearned income received by the participant or other member of the assistance unit; and

(b) A review of continued TANF/SFA eligibility.

(9) Community jobs participants work an average of twenty hours per week at a gross wage of four hundred forty-two dollars and ninety cents per month, which is at least equal to the federal minimum wage. CJ participants are eligible for a twenty percent "work expense" income disregard applied to their gross pay for DSHS purposes when determining TANF/SFA residual grant amounts. In no instance may the net wages earned in a community jobs position exceed the participant's authorized TANF/SFA monthly grant amount.

(10) Community jobs participants earn sick leave and annual leave according to the rates designated for part-time employment by their employer (community jobs contractor). If the employer has no guidelines, participants earn sick leave at a rate of four hours each month and vacation leave at a rate of four hours each month. If they exhaust all leave and miss work time, a community jobs participant is expected to make up the missed time; total work is not to exceed forty hours per week. There is no cash-out value to the participant for accrued sick and vacation leave hours remaining at the end of the community jobs assignment.

(11) The amount of the CJ participant's TANF/SFA monthly grant shall be determined as stated in WAC 388-218-1390(2).

(12) Only those employers who take actions that enable a participant to move into other unsubsidized employment will be considered for additional subsidized employees.

(13) The following categories of employers will be considered for employment sites for participants in the community jobs wage subsidy program:

(a) Federal, state or local governmental agencies, and tribal governments; and

(b) Private and tribal nonprofit businesses, charities, and educational institutions))

(a) The state department of community, trade and economic development (DCTED) administers the community jobs program.

(b) DCTED selects community jobs contractors (CJC) by using a competitive "requests for proposal" process. DCTED, based upon the successful proposals, develops contracts specific to each selected community jobs contractor.

(c) The CJs develop and manage the community jobs positions, pay the wages, provide support services and act as the "employer of record" while you are enrolled in a subsidized community job.

(d) Employers at the community jobs work sites must take actions to help participants move into unsubsidized

employment. If they do not meet this requirement, they will not be considered for additional community jobs employees.

(e) The department of social and health services funds the community jobs program and reimburses your wages to the CICs.

**(2) How will I be affected if I am enrolled in the community jobs program?**

If you are enrolled in the community jobs program:

(a) Your case manager will assign you to a community job position for no more than nine months.

(b) You may be assigned to a community job position when:

(i) You have gone through job search without finding a job; and/or

(ii) You and your case manager decide you need a supportive work environment to help you become more employable.

(c) You may not be enrolled in any community jobs position that requires you to do work related to religious, electoral or partisan political activities.

(d) You, your case manager and the CJC will review the appropriateness of your community jobs position every ninety days during your nine-month placement, looking at:

(i) Your continued TANF/SFA eligibility;

(ii) Any earned or unearned income received by you or another member of your assistance unit (that is, you and other people in your household who are included on your cash grant); and

(iii) Whether the community jobs position is actually helping you become more employable.

(e) You may work twenty or more hours per week in the community jobs position and will be paid the federal or state minimum wage, whichever is higher.

(f) You will earn sick leave and annual leave at the rate agreed upon by DCTED and the CJC for community jobs participants.

(g) The amount of your TANF/SFA monthly grant will be determined by following the rules in WAC 388-450-0050 and 388-450-0215 (1), (3), (4), (5) and (6). WAC 388-450-0215 (2), does not apply to your community jobs wages.

**(3) What kind of employers provide community jobs work sites?**

The CJC may ask the following categories of employers to provide you with a community job work site:

(a) Federal, state or local governmental agencies and tribal governments; and

(b) Private and tribal nonprofit businesses, organizations and educational institutions.

480-146-070, 480-146-080, 480-146-090, 480-146-091, 480-146-095, 480-146-200, 480-146-210, 480-146-220, and 480-146-230 and adopting WAC 480-146-240, 480-146-250, 480-146-260, 480-146-270, 480-146-280, 480-146-290, 480-146-300, 480-146-310, 480-146-320, 480-146-330, 480-146-340, 480-146-350, 480-146-360, 480-146-370, and 480-146-380, relating to securities, liens, affiliated interests, refunding of notes, lease of utility facilities.

STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 99-03-073, filed with the code reviser on January 19, 1999. The commission brings this proceeding pursuant to RCW 80.01.040 and 80.04.160.

STATEMENT OF COMPLIANCE: This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C [43.21C] RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

DATE OF ADOPTION: The commission adopted this rule on February 26, 1999.

CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: The proposed rules implement the requirements of Executive Order 97-02, requiring agencies to review rules for clarity, intent and statutory authority, need, effectiveness and efficiency, coordination, cost, and fairness. The new rules incorporate and formalize policies, update definitions, and eliminate rules that are obsolete.

New section WAC 480-146-240 defines the application of the rules and allows for waiver of rules upon a public service company's written request or upon the commission's own motion.

New section WAC 480-146-250 defines the method for filing securities statements and applications.

New section WAC 480-146-260 provides the commission may require additional information regarding statements or applications, if necessary.

New section WAC 480-146-270 allows applicants to include by reference information currently on file with the commission.

New section WAC 480-146-280 requires applicants to explain why any omitted information is not available at the time of application.

New section WAC 480-146-290 defines filing requirements for securities statements and requests for a commission written order.

New section WAC 480-146-300 sets forth the filing requirements for securities statements and applications.

New section WAC 480-146-310 provides the commission may determine a securities application or statement will be set for public hearing

New section WAC 480-146-320 sets forth the minimum time required to process requests for a commission securities order.

New section WAC 480-146-330 states conditions under which supplemental securities filings are exempt from time limitations.

New section WAC 480-146-340 requires public service companies to report the final terms and conditions of securi-

WSR 99-08-054

PERMANENT RULES

UTILITIES AND TRANSPORTATION  
COMMISSION

[Docket No. A-980085, General Order No. R-460—Filed April 1, 1999,  
12:17 p.m.]

In the Matter of Repealing WAC 480-146-010, 480-146-020, 480-146-030, 480-146-040, 480-146-050, 480-146-060,

ties transactions and to report annually details of all securities transactions entered into over the preceding year.

New section WAC 480-146-350 sets forth the filing requirements for affiliated interest transactions.

New section WAC 480-146-360 requires public service companies to file annually a detailed report of all affiliated interest transactions that occurred during the preceding year.

New section WAC 480-146-370 sets forth the conditions necessary for approval of utility facilities leases.

New section WAC 480-146-380 sets forth the filing requirements for utility facilities leases.

REFERENCE TO AFFECTED RULES: This rule repeals the following sections of the Washington Administrative Code:

WAC 480-146-010 Filing, 480-146-020 Requests, applications, and statements, 480-146-030 General contents, 480-146-040 Additional information, 480-146-050 Material incorporated by reference, 480-146-060 Conditions for public hearing, 480-146-070 Procedure for merger or consolidation, 480-146-080 Form of securities application, 480-146-090 Form of affiliated interest application, 480-146-091 Reporting of affiliated interest transactions, 480-146-095 Form of lease application, 480-146-200 Minimum time required for commission order, 480-146-210 Supplemental filings exempt from time limitations, 480-146-220 Waiver of time limitations, and 480-146-230 Reporting of securities transactions.

PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a Preproposal Statement of Inquiry (CR-101) on July 1, 1998, at WSR 98-14-138.

ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The statement advised interested persons the commission was considering entering a rule making on rules relating to securities, liens, affiliated interests, refunding of notes, and lease of utility facilities. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to utility companies. The commission accepted written comments regarding the CR-101 through July 31, 1998.

Pursuant to notice, the commission held one stakeholder meeting on August 31, 1998. The workshop participants included representatives from commission staff, US WEST Communications, Inc. (USWC), GTE Northwest Incorporated (GTE), Sprint Communications Company, Washington Independent Telephone Association (WITA), and Puget Sound Energy Company (Puget). Participants met in a workshop to address the potential rule making and comments that some of the participants had filed. Staff mailed out a letter and a rule discussion draft on November 9, 1998.

NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of Proposed Rule Making (CR-102) on January 19, 1999, at WSR 99-03-073. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 99-03-073 at 9:30 a.m., Wednesday, January 13, 1999, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

MEETINGS OR WORKSHOPS; COMMENTS: The commission received oral and written comments from GTE, USWC, WITA, and the Industrial Customers of Northwest Utilities (ICNU). On February 18, 1999, the commission gave supplemental notice of proposed rule adoption hearing. This supplemental notice indicated that in response to comments from interested parties the rules were reordered and language was added to WAC 480-146-350 to conform to RCW 80.16.020.

Based on the comments received, commission staff suggested revised clarifying language that did not change the intent or ultimate effect of the proposed rule.

RULE-MAKING HEARING: The rule proposal was considered for adoption, pursuant to the notice, at the commission's regularly scheduled open public meeting on February 26, 1999, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, and Commissioner William R. Gillis. The commission heard oral comments from Kathy Folsom, representing commission staff.

COMMISSION ACTION: After considering all of the information regarding this proposal, the commission adopts the proposed rules, with the changes described below.

CHANGES FROM PROPOSAL: The commission adopts the proposal with the following changes from the text noticed at WSR 99-03-073 (underlined text is added).

Consistent with GTE's recommendation, the commission reorders the rules to allow all sections dealing with particular issues to be grouped together. This results in a logical sequence within the rules.

Consistent with GTE's recommendation, the commission adds a provision to WAC 480-146-250 to allow for filing by mail or in person or as the commission may otherwise provide anticipating the future availability of other methods such as electronic filing.

The commission staff adds the following language to WAC 480-146-350 in order to conform the rule to changes in RCW 80.16.020: The commission may institute an investigation and disapprove the contract or arrangement if the commission finds the public service company has failed to prove that it is reasonable and consistent with the public interest. The commission also adopts minor typographical changes.

SUGGESTIONS FOR CHANGE THAT ARE REJECTED: WITA recommended reporting requirements contained in WAC 480-146-340 be reduced. The commission rejects this recommendation because an annual securities transaction report allows the commission to monitor financial transactions to determine the effect on earnings, capital structure and rate of return.

Both GTE and WITA recommended an annual affiliated interest transactions report should not be required in WAC 480-146-360. The commission rejected this recommendation because an annual report is the only means for the commission to monitor ongoing transactions between regulated companies and their affiliates.

STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the commission determines that WAC 480-146-010, 480-146-020, 480-146-030, 480-146-040, 480-146-050, 480-146-060, 480-146-070, 480-146-080, 480-146-090, 480-146-091, 480-146-095, 480-146-200, 480-146-210, 480-146-220, and 480-146-230 should be

repealed and WAC 480-146-240, 480-146-250, 480-146-260, 480-146-270, 480-146-280, 480-146-290, 480-146-300, 480-146-310, 480-146-320, 480-146-330, 480-146-340, 480-146-350, 480-146-360, 480-146-370 and 480-146-380 should be adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

#### ORDER

##### THE COMMISSION ORDERS:

1. WAC 480-146-010, 480-146-020, 480-146-030, 480-146-040, 480-146-050, 480-146-060, 480-146-070, 480-146-080, 480-146-090, 480-146-091, 480-146-095, 480-146-200, 480-146-210, 480-146-220, and 480-146-230 should be repealed and WAC 480-146-240, 480-146-250, 480-146-260, 480-146-270, 480-146-280, 480-146-290, 480-146-300, 480-146-310, 480-146-320, 480-146-330, 480-146-340, 480-146-350, 480-146-360, 480-146-370 and 480-146-380 are adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

2. This order and the rules set out in Appendix A, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

3. The commission adopts the commission staff memorandum, presented when the commission considered filing a preproposal statement of inquiry, when it considered filing the formal notice of proposed rule making, and when it considered adoption of this proposal, in conjunction with the text of this order, as its concise explanatory statement of the reasons for adopting and rejecting proposed changes, as required by RCW 34.05.025.

DATED at Olympia, Washington, this 31st day of March 1999.

Washington Utilities and Transportation Commission  
Marilyn Showalter, Chairwoman  
Richard Hemstad, Commissioner  
William R. Gillis, Commissioner

#### NEW SECTION

**WAC 480-146-240 Application of rules.** The rules in this chapter apply to any public service company that meets the requirements for commission regulation or jurisdiction under RCW 80.04.010. The rules do not apply to a local exchange company that serves less than two percent of the access lines in the state of Washington.

The commission may waive or modify the application of any rule to a public service company upon written request or upon the commission's own motion, except when such provisions are fixed by statute. The waiver or modification must be approved by the commission in writing. Violations of these rules will be subject to the penalty provisions of chapter 80.04 RCW.

#### NEW SECTION

**WAC 480-146-250 Filing.** Any filing under this chapter must be made at the commission by mail or in person or as the commission otherwise may provide.

#### NEW SECTION

**WAC 480-146-260 Commission may require additional information.** The commission may require the applicant to file or provide pertinent information in addition to that specified by statute or in this chapter.

#### NEW SECTION

**WAC 480-146-270 Applicant may include information by reference.** When any information required to support an application is on file with the commission, it is sufficient for the applicant to make specific reference to the information indicating the proceeding, report, or other filing that contains the referenced information.

#### NEW SECTION

**WAC 480-146-280 Applicant duty when information is unavailable.** If any required information is unavailable at the time of the application, the applicant must include with the application the reason why the information is not available and state when it will be available.

#### NEW SECTION

**WAC 480-146-290 Securities statements and applications.** Any public service company that issues stocks, stock certificates, other evidence of interest or ownership, bonds, notes, or other evidence of indebtedness must file a statement with the commission. A corporation formed by a merger or consolidation that issues securities must also file a statement with the commission. Statements must include:

(1) A description of the purposes for which the issuance is made, including a certification by an officer authorized to do so that the proceeds from any such financing is for one or more of the purposes allowed by RCW 80.08.030;

(2) A description of the proposed issuance including the terms of the financing; and

(3) A statement as to why the transaction is in the public interest.

Any public service company making such a filing may request from the commission a written order affirming that the public service company has complied with the requirements of RCW 80.08.040. For purposes of this chapter, a request for such an order is termed an application.

#### NEW SECTION

**WAC 480-146-300 Filing requirements for securities statements and applications.** The applicant must submit all information required to comply with the requirements of RCW 80.08.040 and any additional information deemed necessary by the commission. The applicant, authorized representative, or applicant's attorney must sign and date the state-

ment and include a certification that the information is true and correct to the signer's information and belief, under penalties of perjury as set forth in RCW 9A.72.085. When an applicant requests an order affirming compliance with RCW 80.08.040 it must submit a draft order.

#### NEW SECTION

**WAC 480-146-310 Commission may set securities application or statement for public hearing.** The commission will act upon a complete, filed application or statement as promptly as possible. The commission may consider the application or statement without public hearing or can order a hearing.

#### NEW SECTION

**WAC 480-146-320 Minimum time required for commission order.** A public service company must submit an application, except as provided in WAC 480-146-330, at least fifteen working days prior to the requested effective date for a commission order. The fifteen day period will start once the applicant has filed with the commission all information and exhibits required by WAC 480-146-290.

#### NEW SECTION

**WAC 480-146-330 Supplemental securities filings may be exempt from time limitations.** Supplemental filings made:

- (1) To comply with a previous order;
- (2) To change the terms and conditions of a previous order; or
- (3) To request that flaws in a previous order must be corrected are exempt from WAC 480-146-320.

#### NEW SECTION

**WAC 480-146-340 Reporting of securities transactions.** (1) A public service company must file a letter with the commission outlining the final terms and conditions of the transaction, within thirty days after the issuance of any of the following:

- (a) Stock;
- (b) Stock certificates;
- (c) Other evidence of interest or ownership;
- (d) Bonds;
- (e) Notes; or
- (f) Other evidences of indebtedness.

(2) Every public service company, as defined in the application of rules WAC 480-146-240, that has issued securities during the prior year, must file with the commission by April 1 of each year an annual securities transaction report. At a minimum, the report must contain:

- (a) A detailed description of the final agreements;
- (b) A description of the use of proceeds;
- (c) The level of expenses for each of the securities transactions for the year ending December 31;
- (d) Information to determine the individual and collective impact on capital structure;

(e) The pro forma cost of money for the securities transactions.

(3) Any public service company that is not required to file an annual report must maintain complete records of all securities transactions as outlined in subsection (2) of this section. The commission may request any information as it determines necessary.

#### NEW SECTION

**WAC 480-146-350 Filing of affiliated interest transactions.** Every public service company must file a verified copy, or a verified summary, if unwritten, of contracts or arrangements with affiliated interests before the effective date of the contract or arrangement. Verified copies of modifications or amendments to the contract or arrangements must be filed before the effective date of the modification or amendment. If the contract or arrangement is unwritten, then a public service company must file a verified summary of any amendment or modification. The commission may institute an investigation and disapprove the contract or arrangement if the commission finds the public service company has failed to prove that it is reasonable and consistent with the public interest.

#### NEW SECTION

**WAC 480-146-360 Reporting of affiliated interest transactions.** (1) Every public service company, as defined in the application of rules WAC 480-146-240, must file with the commission by June 1 of every year an annual report of all affiliated interest transactions that occurred during the period January 1 through December 31 of the preceding year. "Affiliated interest transactions" mean contracts or arrangements between affiliated interests as defined in RCW 80.16.010.

(2) The annual report must include a corporate organization chart of the public service company and its affiliates.

(3) The annual report must contain the following information for each affiliate that had transactions with the public service company during the preceding year:

(a) A description of the products or services flowing between the public service company and any affiliated interest;

(b) A description of the pricing basis or costing method and procedures for allocating costs for such products or services rendered, and the amount and accounts charged;

(c) A description of the terms of any loans between the public service company and its affiliate and a listing of the year-end loan amounts and maximum loan amounts outstanding during the year;

(d) A description of the terms and maximum amount of any debt guarantees by the public service company for any affiliate and a listing of the year end debt amounts and maximum debt amounts outstanding during the year;

(e) A detailed description of the activities of the affiliates with which the public service company has transactions;

(f) A list of all common officers and directors of the affiliated interest company and the public service company along with their titles in each organization, and;

(g) Appropriate financial information for each affiliated interest company including, but not limited to, a balance sheet and income statement.

The commission may request any additional information during its review of the public service company's annual report of affiliated interest transactions.

(4) The annual report required by this section will supersede the reporting requirements contained in previous commission orders authorizing affiliated interest transactions pursuant to chapter 80.16 RCW.

(5) The public service company is obligated to file verified copies of affiliated interest contracts and arrangements as stated in WAC 480-146-350.

**NEW SECTION**

**WAC 480-146-370 Application for approval of lease of utility facilities.** The applicant must certify that the requested approval of lease of utility facilities is necessary to exempt any owner of the facilities from being a public utility company under the Public Utility Holding Company Act of 1935.

**NEW SECTION**

**WAC 480-146-380 Form of lease application.** A filing for approval of lease of utility facilities must be submitted in the following form:

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

IN THE MATTER OF THE APPLICATION OF (insert name) FOR AN ORDER APPROVING THE LEASE OF UTILITY FACILITIES.  
.....

No. ....  
  
(Number to be inserted by Secretary of Commission)

Application is hereby made to the Washington Utilities and Transportation Commission for an order authorizing the lease of utility facilities. The following general information and exhibits are furnished in support:

**GENERAL INFORMATION**

- 1. Name of applicant.
- 2. Address of principal office of applicant.
- 3. Name and address of attorney or agent.
- 4. State or states under which applicant is organized and form of organization.
- 5. A general description of the property owned by applicant and the field of its operations.

**EXHIBIT "A"**

A statement by applicant certifying that the requested approval is necessary or appropriate to exempt any owner of

the facilities from being a public utility company under the federal Public Utility Holding Company Act of 1935.

**EXHIBIT "B"**

Detailed unconsolidated balance sheet as of three months before the date the application is filed, and a pro forma balance sheet as of the same date showing the effect of the proposed lease. Indicate separately the amount of intangibles and the amount reflected in plant acquisition adjustment account if such items are included in the fixed capital or utility plant accounts of the balance sheet.

**EXHIBIT "B-1"**

(A) Detailed income and profit-and-loss statement for the twelve months ended as of the date of the balance sheet submitted as Exhibit "B."

(B) Reconciliation of the retained earnings account for the period covered by the income and profit-and-loss statement. Retained earnings should be segregated from other surplus accounts.

**EXHIBIT "C"**

- 1. A description of the property to be leased.
- 2. The historical or original cost of the property to be leased and the related accrued depreciation. (Estimated in both cases if actual amounts are not known.)
- 3. The amount of contributions in aid of construction.
- 4. Terms of the lease.

**EXHIBIT "D"**

Economic and financial justification for entering into the proposed lease including a lease versus purchase analysis.

**EXHIBIT "E"**

Show such other facts that may be pertinent to the application.

WHEREFORE, the undersigned applicant requests that the Washington Utilities and Transportation Commission make its order granting to such applicant its application.

DATED at . . . . ., THIS. . . . . DAY OF . . . . ., 19. . . . .

.....  
(Applicant)  
By .....  
Title .....

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 480-146-010 Filing.
- WAC 480-146-020 Requests, applications, and statements.

PERMANENT

WAC 480-146-030	General contents.
WAC 480-146-040	Additional information.
WAC 480-146-050	Material incorporated by reference.
WAC 480-146-060	Conditions for public hearing.
WAC 480-146-070	Procedure for merger or consolidation.
WAC 480-146-080	Form of securities application.
WAC 480-146-090	Form of affiliated interest application.
WAC 480-146-091	Reporting of affiliated interest transactions.
WAC 480-146-095	Form of lease application.
WAC 480-146-200	Minimum time required for commission order.
WAC 480-146-210	Supplemental filings exempt from time limitations.
WAC 480-146-220	Waiver of time limitations.
WAC 480-146-230	Reporting of securities transactions.

Executive Order 97-02, requiring agencies to review rules for clarity, intent and statutory authority, need, effectiveness and efficiency, coordination, cost and fairness. The new rule incorporate and formalize policies, add requirements for customer notice for mergers or consolidations, and eliminate rules that are obsolete. The proposed rules require commission determination that a property is not necessary or useful if the property to be disposed of has a market value that exceeds the greater of .1% of rate base or \$20,000. The proposed rules are intended to provide the public with timely notice and full disclosure of any information related to transfers of property which may impact the public interest.

New section WAC 480-143-100 defines the application of the rules and allows the commission to waive rule provisions upon written request of the public service company or upon the commission's own motion.

New section WAC 480-143-110 defines the method of filing.

New section WAC 480-143-120 defines requirements for approval of transfers of property that is necessary or useful.

New section WAC 480-143-130 defines requirements for approval of a public service company's purchase of property.

New section WAC 480-143-140 sets forth the general contents of transfer of property applications.

New section WAC 480-143-150 sets forth requirements for a company, other than a public service company, when it acquires property from a public service company.

New section WAC 480-143-160 provides the commission may determine a transfer of property application will be set for hearing.

New section WAC 480-143-170 allows the commission to deny a transfer of property application if it finds the transaction is not consistent with the public interest.

New section WAC 480-143-180 requires commission pre-determination of whether property is necessary or useful if the property to be disposed of has a market value that exceeds the greater of .1% of rate base or \$20,000.

New section WAC 480-143-190 requires public service companies to report annually all property transferred without commission approval except items whose fair market value is less than the greater of .01% of rate base or \$2,000.

New section WAC 480-143-200 sets forth the conditions when telephone leases are exempt from the requirements of chapter 480-143 WAC.

New section WAC 480-143-210 requires a public service company to provide notice to its customers when it merges or consolidates its facilities with another company and requires public service companies to provide the public with timely notice and full disclosure of any information which may impact the public interest.

REFERENCE TO AFFECTED RULES: This rule repeals the following sections of the Washington Administrative Code: WAC 480-143-010 Sale, lease or assignment of property, 480-143-020 Purchase of property, 480-143-030 Statement required of a nonutility, 480-143-040 Public hearing, 480-143-050 Transaction must be consistent with public interest, 480-143-060 Definition of property not necessary or useful, 480-143-070 Annual filing of property disposed of without

### WSR 99-08-055

#### PERMANENT RULES

### UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. A-980084, General Order No. R-461—Filed April 1, 1999, 12:18 p.m.]

In the Matter of Repealing WAC 480-143-010, 480-143-020, 480-143-030, 480-143-040, 480-143-050, 480-143-060, 480-143-070, 480-143-080, and 480-143-990 and adopting WAC 480-143-100, 480-143-110, 480-143-120, 480-143-130, 480-143-140, 480-143-150, 480-143-160, 480-143-170, 480-143-180, 480-143-190, 480-143-200 and 480-143-210, relating to transfers of property.

STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 99-03-074, filed with the code reviser on January 19, 1999. The commission brings this proceeding pursuant to RCW 80.01.040 and 80.04.160.

STATEMENT OF COMPLIANCE: This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C [43.21C] RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

DATE OF ADOPTION: The commission adopted this rule on February 26, 1999.

CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: The proposed rules implement the requirements of

authorization, 480-143-080 Certain telephone utility leases exempt, and 480-143-990 Form of verification for application.

**PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER:** The commission filed a Preproposal Statement of Inquiry (CR-101) on July 1, 1998, at WSR 98-14-137.

**ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT:** The statement advised interested persons the commission was considering entering a rule making on rules relating to transfers of property. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to utility companies that are subject to these provisions. The commission accepted written comments regarding the CR-101 through July 31, 1998.

Pursuant to notice, the commission held one stakeholder meeting on August 31, 1998. The workshop participants included representatives from commission staff, US WEST Communications, Inc. (USWC), GTE Northwest Incorporated (GTE), Sprint Communications Company, Washington Independent Telephone Association (WITA), and Puget Sound Energy Company (Puget). Participants met in a workshop to address the potential rule making and comments that some of the participants had filed. Staff mailed out a letter and a rule discussion draft on November 9, 1998.

**NOTICE OF PROPOSED RULE MAKING:** The commission filed a Notice of Proposed Rule Making (CR-102) on January 9, 1999, at WSR # 99-03-074. The commission scheduled this matter for oral comment and adoption under Notice WSR 99-03-074 at 9:30 a.m., Wednesday, January 13, 1999, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons an opportunity to submit written comments to the commission.

**COMMENTS:** The commission received oral and written comments from Cascade Natural Gas Corporation (Cascade), GTE, the Industrial Customers of Northwest Utilities (ICNU), Puget, USWC, and WITA. After discussions with staff, Cascade withdrew its objections to the proposed rules.

Based on the comments received, commission staff suggested revised clarifying language that did not change the intent or ultimate effect of the proposed rule.

**RULE-MAKING HEARING:** The rule proposal was considered for adoption, pursuant to the notice, at the commission's regularly scheduled open public meeting on February 26, 1999, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, and Commissioner William R. Gillis. The commission heard oral comments from Kathy Folsom, representing commission staff.

**COMMISSION ACTION:** After considering all of the information regarding this proposal, the commission adopts the proposed rules, with the changes described below.

**CHANGES FROM PROPOSAL:** The commission adopts the proposal with the following changes from the text noticed at WSR 99-03-074 (underlined text added).

Consistent with ICNU's recommendation, the commission adds a provision to WAC 480-143-110 to allow for filing

by mail or in person or as the commission may otherwise provide anticipating the future availability of other methods such as electronic filing.

Consistent with Puget's recommendation the commission adds a provision in WAC 480-143-180 to clarify for companies that provide more than one utility service (e.g., gas and electric) the appropriate rate base against which to measure a property's market value to determine whether the company must apply for a "necessary or useful" determination prior to any disposal. The commission adds to the rules the language for the applicable utility service.

Consistent with Puget's recommendation the commission adds a provision in WAC 480-143-190 to clarify for companies that provide more than one utility service (e.g., gas and electric) the appropriate rate base against which to measure a property's market value to determine whether the company must apply for a "necessary or useful" determination prior to any disposal. The commission adds to the rules the language for the applicable utility service.

The commission also adopts minor typographical changes.

**SUGGESTIONS FOR CHANGE THAT ARE REJECTED:** ICNU recommended that the transfer of property rules should prescribe specific methods of analysis. The commission rejects this recommendation. Rules should not be overly prescriptive and should allow for commission discretion. The commission may require specific analyses necessary and appropriate to a specific case.

Puget recommended that the commission modify WAC 480-143-180 to exclude disposals provided for in a commission order. The commission rejected this recommendation because orders deal with individual circumstances and rules are general guidelines. The rules appropriately require commission determination that property disposed of is not necessary or useful.

WITA recommended the filing threshold in WAC 480-143-180 be increased. The commission rejects this recommendation. Under the rule only properties with significant value require a filing prior to any disposal. The threshold adopted is reasonable.

Both WITA and GTE recommended that the reporting threshold in WAC 480-143-190 be increased. The commission rejects this recommendation because this provision raises the reporting threshold from current levels for all but the smallest companies. This provision is much less burdensome for companies but still provides pertinent information to the commission.

USWC recommended that WAC 480-143-210 be qualified to indicate that public notice is necessary only for property transfers where the public is directly affected. The commission rejects this recommendation because this provision only applies when a public service company merges or consolidates its franchises, property or facilities with another company. Customers should be notified when their service provider changes.

**STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** In reviewing the entire record, the commission determines that WAC 480-143-010, 480-143-020, 480-143-030, 480-143-040, 480-143-050, 480-143-060, 480-143-070, 480-143-080, and 480-143-990 should be repealed and WAC

480-143-100, 480-143-110, 480-143-120, 480-143-130, 480-143-140, 480-143-150, 480-143-160, 480-143-170, 480-143-180, 480-143-190, 480-143-200, and 480-143-210 should be adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

**ORDER**

**THE COMMISSION ORDERS:**

1. WAC 480-143-010, 480-143-020, 480-143-030, 480-143-040, 480-143-050, 480-143-060, 480-143-070, 480-143-080, and 480-143-990 are repealed and WAC 480-143-100, 480-143-110, 480-143-120, 480-143-130, 480-143-140, 480-143-150, 480-143-160, 480-143-170, 480-143-180, 480-143-190, 480-143-200, and 480-143-210 are adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

2. This order and the rules set out in Appendix A, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

3. The commission adopts the commission staff memorandum, presented when the commission considered filing a preproposal statement of inquiry, when it considered filing the formal notice of proposed rule making, and when it considered adoption of this proposal in conjunction with the text of this order, as its concise explanatory statement of the reasons for adoption and for rejection of proposed changes, as required by RCW 34.05.025.

DATED at Olympia, Washington, this 31st day of March 1999.

Washington Utilities and Transportation Commission  
Marilyn Showalter, Chairwoman  
Richard Hemstad, Commissioner  
William R. Gillis, Commissioner

**NEW SECTION**

**WAC 480-143-100 Application of rules.** The rules in this chapter apply to any public service company that meets the requirements for commission regulation or jurisdiction under RCW 80.04.010. The rules do not apply to a local exchange company that serves less than two percent of the access lines in the state of Washington.

The commission may waive or modify the application of any rule to a public service company upon written request or upon the commission's own motion, except when such provisions are fixed by statute. The waiver or modification must be approved by the commission in writing. Violations of these rules will be subject to the penalty provisions of chapter 80.04 RCW.

**NEW SECTION**

**WAC 480-143-110 Filing.** Any filing under this chapter must be made at the commission by mail or in person or as the commission otherwise may provide.

**NEW SECTION**

**WAC 480-143-120 Transfers of property.** A public service company may not complete a transfer of property necessary or useful to perform its public duties unless the company first applies for, and obtains, commission approval. Transfers include sale, lease, assignment of all or part of a public service company's property, and merger or consolidation of a public service company's property with another public service company. Certain telephone utility leases are exempt under WAC 480-143-200. Applications must describe transfers in detail and must include the public service company's current financial statements and copies of all transfer instruments.

**NEW SECTION**

**WAC 480-143-130 Purchase of property.** A public service company may not acquire any franchise, property, facility, capital stock, or bonds of another public service company unless it first applies for, and obtains, commission approval. Applications must describe the proposed acquisitions in detail and include the public service company's current financial statements and copies of all transfer instruments.

**NEW SECTION**

**WAC 480-143-140 General contents.** Applicants must state all facts that support each application. Each application must be dated and signed by the applicant, the applicant's authorized representative, or the applicant's attorney. Whoever signs the application must certify that the information it includes is true and correct to the best of the signer's information and belief under penalty of perjury as set forth in RCW 9A.72.085.

**NEW SECTION**

**WAC 480-143-150 Statement required for nonpublic service company purchases.** If a company other than a public service company proposes to acquire franchises, property, or facilities from a public service company, the commission may require a sworn statement from the purchaser that includes any resulting changes in rates, services, or equipment that may affect the public interest.

**NEW SECTION**

**WAC 480-143-160 Public hearing.** The commission will examine all applications for transfers and accompanying exhibits. The commission may set an application for hearing and require all parties to the transaction to appear and give testimony.

**NEW SECTION**

**WAC 480-143-170 Application in the public interest.** If, upon the examination of any application and accompanying exhibits, or upon a hearing concerning the same, the com-

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mission finds the proposed transaction is not consistent with the public interest, it shall deny the application.

**NEW SECTION**

**WAC 480-143-180 Disposal and determination of necessary or useful property.** A public service company must not dispose of any property necessary or useful to perform its public duties unless it first applies for, and obtains, written authority from the commission.

Necessary or useful includes all property except items that:

- (1) Are substituted with or replaced by items of equal or greater value or usefulness;
- (2) Are surplus and unneeded assets for which full value is received;
- (3) Are obsolete; or
- (4) Are excluded from the public service company's rate base by commission order, or otherwise.

The public service company must file an application for commission determination that the property is not necessary or useful, prior to disposing of such property, if the property to be disposed of has a market value that exceeds the greater of .1% of the public service company's rate base (for the applicable utility service) last established by commission order, or \$20,000.

**NEW SECTION**

**WAC 480-143-190 Annual filing of property transferred without authorization.** Every public service company must file with the commission by March 1 of each year a detailed list of all items transferred without commission approval during the previous calendar year, except items whose fair market value is less than the greater of .01% of the public service company's last rate base (for the applicable utility service) established by commission order or two thousand dollars. The public service company must attach an affidavit by a responsible officer qualified to state that none of the items was necessary or useful to perform the public service company's public duties and that the public service company received fair market value for each item.

**NEW SECTION**

**WAC 480-143-200 Certain telephone leases are exempt.** A telephone utility may lease its properties to another telephone utility without prior commission approval if:

- (1) The properties are not essential to the lessor's provision of telephone service;
- (2) The properties are used to transmit interexchange messages between subscribers of different utilities;
- (3) The lease expedites economical interexchange telephone service; and
- (4) A copy of the lease agreement is kept in the lessor's office.

**NEW SECTION**

**WAC 480-143-210 Transfer customer notice requirements.** (1) Whenever a public service company files an application to merge or consolidate any of its franchises, property or facilities with any other company, it must provide notice to customers. This notice must be provided thirty days before the commission's open meeting date when the application is scheduled for action.

(2) A draft customer notice must be submitted to the commission for review at least one week prior to the public service company's planned printing date for distribution.

(3) The public service company must provide a final copy of the notice to the commission.

(4) Content of notice. The notice to customers must contain, at a minimum, the following:

COMPANY NAME  
ADDRESS  
PHONE NUMBER

DATE

**IMPORTANT NOTICE**

(**Company Name**) has asked the Washington Utilities and Transportation Commission for authorization to transfer ownership and operation of (**name of company being sold**) to (**name of company buying**). This transfer is contingent upon approval by the Washington Utilities and Transportation Commission.

(Give background information about the new owner, for example, how many years in business, etc.)

If you have questions about this request and how it will affect you, please call (**company name & office phone number**). If you have questions about the approval process, you may contact the Washington Utilities and Transportation Commission at the following address:

Secretary  
Washington Utilities & Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504-7250  
1-800-562-6150 (toll-free)

If you would like to comment on this proposal, it is important for you to do so now. Comments must be submitted in writing or presented at the commission's open meeting to be considered as part of the formal record. The commission encourages your written comments, either in favor or opposition, regarding this proposal. All open meetings are held in Olympia, WA. If you would like to be added to the commission's mailing list to be notified of the open meeting date please call the toll-free number listed above and leave your name and complete mailing address.

Sincerely,  
Company Name/Representative

(5) The commission may require additional notice to the public as it determines necessary.

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**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 480-143-010	Sale, lease or assignment of property.
WAC 480-143-020	Purchase of property.
WAC 480-143-030	Statement required of a non-utility.
WAC 480-143-040	Public hearing.
WAC 480-143-050	Transaction must be consistent with public interest.
WAC 480-143-060	Definition of property not necessary or useful.
WAC 480-143-070	Annual filing of property disposed of without authorization.
WAC 480-143-080	Certain telephone utility leases exempt.
WAC 480-143-990	Form of verification for application.

**WSR 99-08-062**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**

(Architect Unit)

[Filed April 2, 1999, 12:09 p.m.]

Date of Adoption: April 2, 1999.

Purpose: WAC 308-12-320, set requirements for and assessment of delinquent and/or penalty fees for reinstatement of registrants who fail to pay a renewal fee for a period of five years or more and for reinstatement of registrants who withdraw from the practice of architecture, and exceed five years in an inactive status; and WAC 308-12-326, to adjust fees and renewal periods for services and licensing provided by the department.

Citation of Existing Rules Affected by this Order: Amending WAC 308-12-320 and 308-12-326.

Statutory Authority for Adoption: RCW 18.08.430(1) and (2), 43.24.086.

Other Authority: RCW 43.24.140 (Note: This citation not included on CR-101 and CR-102).

Adopted under notice filed as WSR 99-05-050 on February 12, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

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

March 31, 1999

Alan E. Rathbun

BPD Assistant Director

**AMENDATORY SECTION** (Amending WSR 97-06-064, filed 2/27/97, effective 3/30/97)

**WAC 308-12-320 Renewal of licenses.** (1) The license renewal date for architects shall be the architect's birth date. Licensees who fail to pay the license renewal fee within thirty days of license expiration date will be subject to the late payment penalty fee as set forth in RCW 18.08.430 and WAC 308-12-326. Architects whose renewal fees are delinquent will be listed with the state building officials.

(2) The renewal period for architects is ~~((three))~~ two years.

(3) Assessment of delinquent fees will be based on the number of years delinquent multiplied by one-~~((third))~~ half of the ~~((three))~~ two-year renewal fee or the fee for one year. ~~((Penalty fees are one-third of the three-year renewal fee or equal to the fee for one year multiplied by the number of years delinquent.))~~

(4) A registrant who fails to pay a renewal fee for a period of five years or more may be reinstated upon payment of all delinquent renewal fees and a penalty fee. Assessment of delinquent fees will be based on the number of years delinquent multiplied by one-half of the two-year renewal fee or the fee for one year. In addition to the payment of delinquent fees and a penalty fee the registrant shall submit the following:

(a) A summary of the current law and rules governing architects.

(b) A professional resume of architectural activities during the delinquent period, in sufficient detail to demonstrate to the board maintenance of minimum skills.

(c) A detailed explanation of the circumstances surrounding the reason the license was allowed to expire.

The board may require additional evidence as needed to verify minimum competency and qualifications. The registrant may be required to appear before the board or a representative member thereof where questions of competency remain.

(5) Registrants who withdraw from the practice of architecture, and exceed five years in an inactive status, shall request reinstatement in writing to the board and shall submit the following:

(a) A summary of the current law and rules governing architects.

(b) A professional resume of architectural activities during the delinquent period, in sufficient detail to demonstrate to the board maintenance of minimum skills.

(c) A detailed explanation of the circumstances surrounding the reason the license was in an inactive status for more than five years.

The board may require additional evidence as needed to verify minimum competency and qualifications. The registrant may be required to appear before the board or a representative member thereof where questions of competency remain.

**AMENDATORY SECTION** (Amending WSR 98-12-064, filed 6/1/98, effective 7/2/98)

**WAC 308-12-326 Architect fees.** The following fees shall be charged by the business and professions division of the department of licensing:

Title of Fee	Fee
Examination application	\$100.00
Reciprocity application	((378.00)) <u>390.00</u>
Initial registration	((145.00)) <u>99.00</u>
Oral examination	50.00
Registration renewal (((3)) 2 years)	((145.00)) <u>99.00</u>
Late renewal	((48.00)) <u>33.00</u>
Certificate replacement	15.00
Duplicate license	15.00
Certification	27.00
Corporations:	
Certificate of authorization	((270.00)) <u>278.00</u>
Certificate of authorization renewal	((135.00)) <u>139.00</u>

**WSR 99-08-064**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**  
[Filed April 5, 1999, 8:58 a.m.]

Date of Adoption: April 3, 1999.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-060, 308-56A-065, 308-56A-070, and 308-56A-075.

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 99-04-037 on January 27, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 4, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

April 5, 1999  
Fred Stephens  
Director

**AMENDATORY SECTION** (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-060** (~~Form required for name and address~~) **Ownership in joint tenancy.** ((If more than one person is shown on the title application as registered owner, and the intention of the parties is to create ownership in joint tenancy, it is necessary to use the following language on the application for certificate of title:

(1) "*John Doe and Jane Doe and Mary Doe as joint tenants with right of survivorship*"; or

(2) "*John Doe and Jane Doe and Mary Doe as joint tenants with right of survivorship and not as tenants in common.*"

~~The address of only one of the registered owners will be accepted on the application for title. The ownership of the vehicle in joint tenancy will be indicated on the certificate issued by the department in the following manner: "J.T.W.R.O.S."~~

~~A certified copy of the death certificate will be required upon the death of a party named on such a title. An application for title in the name(s) of the remaining party will be required:)~~ (1) **What does joint tenancy with rights of survivorship mean when noted on a certificate of ownership? If owners own a vehicle in joint tenancy with rights of survivorship and one of the named parties dies, ownership vests in the surviving joint owner(s). The department will issue a certificate of ownership in the name of the surviving joint owner(s) upon application supported by a copy of the death certificate.**

(2) **How is joint tenancy with rights of survivorship shown on the application for certificate of ownership? The application for certificate of ownership shall show the name of every owner with the phrase "Joint tenants with rights of survivorship" spelled out. The address of only one owner can be accepted on the application.**

**Example 1:**  
Doe, John  
Doe, Jane  
Doe, Mary  
Joint tenants with rights of survivorship; or

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Example 2:

Doe, John

Doe, Jane

Joint tenants with rights of survivorship.

(3) How is joint tenancy with rights of survivorship shown on the certificate of ownership? The certificate of ownership will be printed showing the abbreviation "JTWRROS."

(4) If one of the owners dies, what additional documentation does the department require to transfer the certificate of ownership into the name(s) of the surviving owner(s)? The department requires a copy of the death certificate.

AMENDATORY SECTION (Amending WSR 97-03-076, filed 1/15/97, effective 2/15/97)

WAC 308-56A-065 Vehicles held in trust. (1) ((The trustee of a trust, including family trusts, executed pursuant to chapter 11.98 RCW listing a vehicle on the property schedule shall make application for certificate of ownership and registration in the name of the trustee, pursuant to chapters 46.12 and 46.16 RCW. The certificates of ownership and registration shall show the trustee as registered or legal owner followed by the word "trustee" and the name of the trust. The name of the trust may be abbreviated to fit into available space.

~~(2) Applications for licensing activities on the vehicle, including release of interest and transfer of ownership shall be requested over the signature of the trustee until the trustee is replaced or the trust is terminated. The replacement trustee shall make application for transfer of ownership as provided in subsection (1) of this section. If a replacement trustee is not appointed or the trust is terminated, the beneficiary of the vehicle shall make application for ownership as provided in chapter 46.12 RCW.-)~~ How is a trust established under chapter 11.98 RCW, shown on a certificate of ownership? Owners who choose to designate the trust on a certificate of ownership may:

(a) Show the registered owner name with the designation trustee;

(b) Show the registered owner name with the designation trustee followed by the name of the trust as one owner. If necessary, the name of the trust will be abbreviated to comply with the department's data field size constraints on the automated vehicle field system and space limitations on the certificate of ownership; or

(c) The name of the trust only.

(2) What trust documents do I need to present to apply for a certificate of ownership in the name of the trust? You will need to provide a copy of the signed trust documents, showing the name of the trust, trustee(s) and successor trustees.

(3) If a vehicle is titled in the name of a trust, who represents the trust for title transactions? The trustee shown on the certificate of ownership represents the trust on all vehicle transactions with the department until such time as the trustee is replaced or the trust is terminated.

(4) What is required when a successor trustee is appointed? The successor trustee must apply for a new certificate of ownership and provide documentation appointing them as trustee.

(5) What is required when a trust is terminated? The beneficiary must apply for a new certificate of ownership under chapter 46.12 RCW.

AMENDATORY SECTION (Amending WSR 97-03-076, filed 1/15/97, effective 2/15/97)

WAC 308-56A-070 Leased vehicles. ((If the vehicle is leased and operated in Washington, it must be titled and licensed in Washington:

~~(1) The application for title is to be completed with the name of the lessee as registered owner, followed by the word "lessee." The name of the lessor is shown as the secured party or legal owner, followed by the word "lessor."~~

~~(2) If the vehicle is subject to a security agreement, the application will be completed as above except the lessor's name will be immediately below the lessee's name and will be identified by the word "lessor." The address shown will be the lessee's. The secured party's name and address will be shown in the legal owner's space.~~

~~(3) Dealers and persons engaged in the business of vehicle leasing may simply show the lessor as sole registered owner if a copy of the lease or rental agreement is attached to the application. This does not apply if the lease contains an option to purchase or if it is for more than one year.)~~ (1) How are the lessee and lessor designated on Washington certificates of ownership?

(a) The application for certificate of ownership shall show the name of the lessee as registered owner, followed by the word lessee. The name of the lessor shall be shown as the secured party or legal owner, followed by the word lessor.

(b) If the vehicle is subject to a security agreement, the application shall be completed as above with the lessor's name immediately below the lessee's name as second registered owner and shall be followed by the word lessor. The address shown shall be the lessees. The secured party's name and address shall be shown as the legal owner.

(c) Dealers and persons engaged in the business of vehicle leasing may simply show the lessor as sole registered owner if a copy of the lease or rental agreement is attached to the application. This does not apply if the lease contains an option to purchase or if it is for more than one year.

(2) How is a lessee and sublessee designated on the Washington certificate of ownership?

(a) Lessees who enter into a lease agreement with another party will be shown on a certificate of ownership as the registered owner followed by the designation LESSEE. The sublessee will be shown on a certificate of ownership as the registered owner followed by the designation SUBLESSEE. Only the sublessee must sign the application for certificate of ownership.

(b) The name of the lessor shall be shown as either:

(i) The secured party or legal owner, followed by the word lessor; or

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(ii) If the vehicle is subject to a security agreement, the application shall be completed as above with the lessor's name immediately below the lessee's name as third registered owner and shall be followed by the word lessor. The address shown shall be the sublessee's. The secured party's name and address shall be shown as the legal owner.

(3) Do I need to surrender my out-of-state certificate of ownership to the department when I register my leased vehicle in Washington? If the out-of-state certificate of ownership shows lessee and lessor designations as required by Washington state law or rule, the certificate of ownership need not be surrendered. A certificate of registration will be issued, however, a Washington certificate of ownership will not. If the out-of-state certificate of ownership is not in name agreement or does not show lessee and lessor designations as required by Washington law or rule, the out-of-state certificate of ownership shall be surrendered and a Washington certificate of ownership will be issued to the lessor/legal owner.

AMENDATORY SECTION (Amending WSR 97-03-076, filed 1/15/97, effective 2/15/97)

WAC 308-56A-075 ((Two)) Multiple legal owners. ((If one of two legal owners shown on a certificate of title has his/her security interest in the vehicle satisfied, that interest in the vehicle shall be released in the appropriate manner and the appropriate documentation forms forwarded to the remaining legal owner. The remaining legal owner shall either (1) retain that documentation and forward it to the department at the time his/her interest is satisfied along with an application for reissue or (2) the documentation shall be immediately presented to the department with an application for reissue of title to show the remaining secured party as the sole legal owner of the vehicle. If the outstanding certificate of title does not show the address of the remaining legal owner, there must be an application for reissue of title in order that the address of the remaining legal owner may be indicated on the outstanding certificate of title.)) (1) Will the department issue a certificate of ownership indicating more than one legal owner? Yes, more than one legal owner may be shown on the certificate of ownership.

(2) How are additional legal owner's interest shown on the certificate of ownership? Additional legal owners are shown directly after the first legal owner. Only the address of the first legal owner shall be shown on the certificate of ownership.

(3) If the lien has been satisfied with one of the legal owners shown on a certificate of ownership, how is their interest released? When security interest of one of the legal owners shown on a certificate of ownership has been satisfied that interest shall be released on the certificate of ownership or a department approved release of interest form. The remaining legal owner(s) shall, within ten days of receiving the properly released certificate of ownership, apply for reissue of the certificate of ownership showing the remaining legal owner's name and address.

**WSR 99-08-065**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed April 5, 1999, 9:00 a.m.]

Date of Adoption: April 3, 1999.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-56A-255, 308-56A-280, and 308-56A-285; and amending WAC 308-56A-250, 308-56A-265, 308-56A-270, and 308-56A-275.

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 99-04-038 on January 27, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 4, Repealed 3; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

April 5, 1999

Fred Stephens

Director

AMENDATORY SECTION (Amending WSR 92-15-024, filed 7/6/92, effective 8/6/92)

WAC 308-56A-250 Signature of registered owner on application—Exceptions. ((On an application for an original, reissue, or transfer of certificate of title, the signature of each and every named registered owner of the vehicle is required except:

(1) When the application is for the sole purpose of removing a legal owner of record from the certificate of title when that legal owner's security interest has been satisfied in the vehicle;

(2) When authorized supportive documentation is used in lieu of the signature or signatures;

(3) When the legal owner applies for a duplicate title;

(4) When there is a statutorily authorized lien filed by a government agency to place a lien against the vehicle as a secured party.

(5) When an existing legal owner's perfected security interest is transferred to another party and the new legal owner is perfecting their security interest and removing the existing legal owner. Evidence or documentation of the secured interest transfer must be provided.)) (1) When is the signature of a registered owner(s) required? Each regis-

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tered owner is required to sign the application for certificate of ownership **except when:**

(a) The application is for the sole purpose of removing a secured party of record from the certificate of ownership;

(b) Authorized supportive documentation is used in lieu of the signature or signatures;

(c) The legal owner applies for a duplicate title certificate of ownership;

(d) There is a statutorily authorized lien filed by a government agency against the vehicle;

(e) An existing legal owner's perfected security interest is transferred to another party and the new secured party is perfecting its security interest.

(2) **If there are multiple registered owners on an application for certificate of ownership, when is only one registered owner's signature required?** Only one registered owner's signature is required when:

(a) The last certificate of ownership was issued in another jurisdiction; and

(b) The last certificate of ownership shows multiple registered owners; and

(c) Ownership is not changing.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-265 Releasing interest.** (1) ((In order for a person to release his/her interest in a vehicle as registered or legal owner, his/her signature is required on the certificate of title issued by the department, unless authorized supportive documentation is used in lieu of that signature or in lieu of the certificate issued by the department.

(2) If the signatures are not on the certificate of title, all signatures must be certified in accordance with WAC 308-56A-275.

(3) If more than one person is shown on the certificate of title issued by the department as registered or legal owner, the signature of each registered and legal owner is required no matter what the form of ownership unless authorized supportive documents are used in lieu of one or more signatures.

(4) A release of interest is not required from one identified as a lessee.)) **How does an owner release interest in a vehicle?** A vehicle owner(s) or secured party who intends to release interest in a vehicle shall:

(a) Sign the release of interest provided on the certificate of ownership; or

(b) Sign a release of interest document or form approved by the department.

(2) **What forms may secured parties use in lieu of subsection (1)(a) and (b) of this section when their intent is to release interest?** Secured parties who intend to release their interest in a vehicle may provide one of the following if accompanied by the most recently issued certificate of ownership:

(a) Their properly completed official lien release form;  
or

(b) A release of interest on its official letterhead, if the secured party is a business entity.

(3) **How is the release of interest submitted on an electronically generated Washington certificate of ownership?** If the Washington certificate of ownership is a paperless title, the secured party may release its interest electronically or by signing an affidavit in lieu of title.

(4) **When do signatures releasing interest need to be notarized or certified?** An owner's release of interest on department approved documents other than the certificate of ownership must be notarized or certified in accordance with WAC 308-56A-275.

(5) **Are there situations when signatures would not need to be notarized or certified in order to release interest?** Yes, the following are situations where notarized or certified is not required:

(a) A signature releasing interest on the certificate of ownership issued by the department or another jurisdiction;

(b) A signature releasing interest on an affidavit in lieu of title printed at a Washington paperless title institution's location;

(c) When there is a secured party and:

(i) The secured party is a business; and

(ii) Release of interest in a vehicle is in accordance with subsection (2)(a) or (b) of this section; and

(iii) The current certificate of ownership is submitted with the separate release of interest and an application for a new certificate of ownership;

(d) A release of interest or bill of sale from the registered owner when the vehicle is from a jurisdiction which does not title this type of vehicle;

(e) A release of interest or a bill of sale from a wrecker or insurance company.

(6) **When is a registered owner's release of interest not required?** A release of interest is not required when a registered owner is identified as a lessee or sublessee on an ownership document.

(7) **What documentation may be used in lieu of a release of interest?** Documents that may be used in lieu of a release of interest include, but are not limited to, a certified or notarized:

(a) Bill of sale;

(b) Affidavit in lieu of title with the release of interest portion properly completed;

(c) Release of interest form;

(d) Letter of release;

(e) Affidavit of repossession;

(f) Abandoned vehicle report;

(g) Chattel or landlord lien form;

(h) Certificate of junk vehicle form; or

(i) Other documentation approved by the department.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-270 Forms of signature.** (1) ((In all cases where the signature of an individual is required, that signature shall be in exactly the same form as the name of the individual that appears on the application or on the certificate of title issued by the department. If the signature contains initials that coincide with the first letter of the given name or

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names of the named individual, the department will accept that signature. If the signature contains a given name or names that begin with the initials shown on the application or on the title, the department will accept that signature also.

~~(2) If the signature of a named business entity is required, an authorized individual shall sign for the business entity and indicate the title of his/her position with that entity. The name of the business entity shall be shown. A commonly known abbreviation of the name of the business entity, may, in the discretion of the department, be accepted.))~~ **What signature format is acceptable to the department?** The department will accept:

(a) The signature of an individual in the same form as the name appears on the application or on the certificate of ownership.

(b) The signature containing initials corresponding to the first letter of the given name(s).

(c) The signature containing a given name(s) corresponding to the initials.

(d) Common nicknames such as Bob for Robert, Jim for James, Betty for Elizabeth, etc.

(e) The signature, any memorandum, mark or sign made with the intent to authenticate and application for certificate of ownership or registration of any person provided in RCW 9A.04.110(23).

**(2) What form of signature is required for business owned vehicles?** Signatures for business owned vehicles must include:

(a) The name of the business or a commonly accepted abbreviation for the business;

(b) The signature of the person who is signing on behalf of the business; and

(c) The title of the position of the person.

**AMENDATORY SECTION** (Amending Order TL/RG 44, filed 9/30/88)

**WAC 308-56A-275 Certification of signature.** ((The signature of every applicant to be shown on the certificate of title as the registered owner and of other signatures, as required, shall be subscribed to and sworn to by that person before a notary public, county auditor, deputy auditor, an authorized agent approved by the director of licensing, an agent appointed by the director of licensing, an employee or appointee of either type or agent, or an employee of the department of licensing authorized by the director to certify to an applicant's signature. Approved identification of the person signing shall be required.)) **Who may certify signatures?**

**(1) Signatures shall be notarized by a notary public or certified by agents and subagents appointed by the director to conduct vehicle title and registration activities on behalf of the department. The certification must include the signature and the county, office, and operator numbers of the person certifying the signature. Signatures may also be certified by one of the following:**

(a) Employees authorized by the director to certify signatures. These employees are:

(i) Deputy director; and

(ii) Assistant director for vehicle services; and

(iii) Administrator and managers of the division primarily responsible for vehicle title and registration; and

(iv) Persons assigned to liaison duties between the department and its agents and subagents; and

(v) Persons assigned the responsibility of accepting title and registration applications at the department's offices; and

(vi) Persons assigned the responsibility for investigating vehicle dealer activities; and

(b) Persons authorized by a Washington licensed vehicle dealer, if the vehicle is sold by that dealer. The certification must include the dealer number, signature, and title, of the person certifying the signature.

**(2) The person certifying the signatures shall require proof of identification. Approved identification is:**

(a) Drivers license; or

(b) Any photo identification card; or

(c) Any two of the following:

(i) A nationally or regionally recognized credit card (signed);

(ii) A signed ID card issued by a city, county, state or federal government agency;

(iii) Any certificate or other document issued by a government agency for the purpose of establishing identity; or

(d) Other documentation satisfactory to the person certifying the signature.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 308-56A-255	Signature of registered owner—Supplemental form.
WAC 308-56A-280	Certification of signature—Departmental employees.
WAC 308-56A-285	Certification of signature—Vehicle dealer.

**WSR 99-08-066**

**PERMANENT RULES**

**DEPARTMENT OF TRANSPORTATION**

[Filed April 5, 1999, 9:13 a.m.]

Date of Adoption: March 31, 1999.

Purpose: The purpose of this rule is to raise the ferry tolls within the specified WACs. The revisions follow the annual review of WSF's farebox revenue needs. State ferries and toll bridges, WAC 468-300-010, 468-300-020, 468-300-040, and 468-300-220.

Citation of Existing Rules Affected by this Order: Amending WAC 468-300-010, 468-300-020, 468-300-040, and 468-300-220.

Statutory Authority for Adoption: RCW 47.56.030, 47.60.326.

Adopted under notice filed as WSR 99-05-035 on February 11, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

April 1, 1999

Tom Green, Chair  
Transportation Commission

**AMENDATORY SECTION** (Amending WSR 98-08-051, filed 3/27/98, effective 4/27/98)

**WAC 468-300-010 Ferry passenger tolls.**

Effective 03:00 a.m. May ~~((10, 1998))~~ 9, 1999

ROUTES	Full Fare	((Half Fare))		Frequent User Ticket Book 20 Rides <sup>1</sup>	Monthly Pass <sup>5</sup>	Quarterly Pass <sup>5</sup>	Annual Pass <sup>5</sup>	Bicycle Surcharge <sup>2,6</sup>
		Senior/ Disabled	Youth Fare 18 and under					
<b>Via Passenger-Only Ferry</b>								
*Seattle-Vashon	<del>((3.60))</del>	<del>1.80</del>		<del>23.50</del>	<del>49.40</del>	<del>148.20</del>	<del>592.80</del>	<del>N/C</del>
*Seattle-Bremerton	<u>3.70</u>	<u>1.90</u>	<u>2.60</u>	<u>26.00</u>	<u>54.60</u>	<u>163.80</u>	<u>655.20</u>	<u>0.70</u>
<b>Via Auto Ferry</b>								
*Fauntleroy-Southworth								
*Seattle-Bremerton								
*Seattle-Bainbridge Island	<del>((3.60))</del>	<del>1.80</del>		<del>23.50</del>	<del>49.40</del>	<del>148.20</del>	<del>592.80</del>	<del>0.60</del>
*Edmonds-Kingston	<u>3.70</u>	<u>1.90</u>	<u>2.60</u>	<u>26.00</u>	<u>54.60</u>	<u>163.80</u>	<u>655.20</u>	<u>0.70</u>
Port Townsend-Keystone	<del>((1.80))</del>	<del>0.90</del>		<del>((23.50))</del>	N/A	N/A	N/A	<del>((0.30))</del>
*Fauntleroy-Vashon	<u>1.85</u>	<u>1.00</u>	<u>1.40</u>	<u>26.00</u>	N/A	N/A	N/A	<u>0.35</u>
*Southworth-Vashon								
*Pt. Defiance-Tahlequah	<del>((2.40))</del>	<del>1.20</del>		<del>15.75</del>	<del>33.10</del>	<del>99.30</del>	<del>397.20</del>	<del>0.60</del>
*Mukilteo-Clinton	<u>2.50</u>	<u>1.30</u>	<u>1.80</u>	<u>17.50</u>	<u>36.80</u>	<u>110.40</u>	<u>441.60</u>	<u>0.70</u>
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor	<del>((5.10))</del>	<del>2.60</del>		<del>((33.25))</del>	N/A	N/A	N/A	<del>((2.90))</del>
Between Lopez, Shaw, Orcas and Friday Harbor <sup>4</sup>	<u>5.30</u>	<u>2.70</u>	<u>3.80</u>	<u>37.25</u>	N/A	N/A	N/A	<u>3.00</u>
<b>International Travel</b>	N/C	N/C	N/C	N/C	N/A	N/A	N/A	N/C
Anacortes to Sidney and Sidney to all destinations	<del>((8.90))</del>	<del>4.50</del>		N/A	N/A	N/A	N/A	<del>((4.50))</del>
From Lopez, Shaw, Orcas and Friday Harbor to Sidney@	<u>9.10</u>	<u>4.60</u>	<u>6.40</u>	N/A	N/A	N/A	N/A	<u>4.60</u>
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>3</sup>	4.00	2.00	<u>2.80</u>	N/A	N/A	N/A	N/A	1.75
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>3</sup>	<del>((12.90))</del>	<del>6.50</del>		N/A	N/A	N/A	N/A	<del>((6.25))</del>
	<u>13.10</u>	<u>6.60</u>	<u>9.20</u>	N/A	N/A	N/A	N/A	<u>6.35</u>

@ These fares rounded to the next multiple of \$.25. All other fares rounded to the next multiple of \$.10.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>FREQUENT USER TICKETS - Shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage.

<sup>2</sup>BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare.

<sup>3</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the Islands served.

<sup>4</sup>INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

<sup>5</sup>EMPLOYER PASSES - A monthly passenger pass is available for all routes except: Anacortes/San Juan Island/Sidney and Port

Townsend/Keystone, as a pilot program. The pass is available through some local employers. It is a flash pass valid for the month printed on the pass and will be presented to Washington state ferries staff whenever a passenger fare is collected. This pass is based on 21 days of passenger travel with a ~~((35%))~~ 30% discount. The quarterly pass is based on 63 days of travel with a ~~((35%))~~ 30% discount and the annual pass is based on 252 days with a ~~((35%))~~ 30% discount.

<sup>6</sup>BICYCLE PASS - A bicycle pass is available on all routes except: Anacortes/San Juan Island/Sidney ~~((as a pilot program))~~ for a \$20.00 annual fee subject to meeting WSF specified conditions. The pass is valid for one year. A cyclist with a valid pass shall have the bicycle surcharge waived.

~~((HALF FARE))~~ **CHILDREN/YOUTH** - Children under five years of age will be carried free when accompanied by parent or guardian. Children/youths five through ~~((eleven))~~ eighteen years of age will be charged ~~((half fare. Children twelve years of age will be~~

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~~charged full fare~~) the youth fare, which will be 70% of full fare rounded to the next multiple of \$0.10.

**SENIOR CITIZENS** - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

**PERSONS OF DISABILITY** - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

**BUS PASSENGERS** - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

**MEDICARE CARD HOLDERS** - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

**FERRY/TRANSIT PASS** - A combination ferry-transit (~~monthly~~) pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 21 days of passenger travel per month at a (~~50%~~) 40% discount. Passes may be available in monthly, quarterly or annual denominations.

**PROMOTIONAL TOLLS** - A promotional rate may be established at the discretion of the secretary of transportation for a specific discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the secretary of transportation for a specific discount not to exceed fifty percent of full fare.

**SCHOOL GROUPS** - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. (~~Walk-on groups and private vehicles~~) starting September 1, 1999, all school groups require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect.

**AMENDATORY SECTION** (Amending WSR 98-08-051, filed 3/27/98, effective 4/27/98)

**WAC 468-300-020 Vehicle under 20', motorcycle, and stowage ferry tolls.**

Effective 03:00 a.m. May ~~((10, 1998))~~ 9, 1999

ROUTES	Vehicle Under 20' Incl. Driver One Way	Vehicle Under 20' w/Sr Citizen or Disabled Driver <sup>4</sup>	Vehicle Under 20' Over Height Charge <sup>1</sup>	Frequent User Ticket book 20 Rides <sup>2</sup>	Motorcycle <sup>5</sup> Incl. Driver Stowage <sup>(5)</sup> 1 One Way@	Motorcycle w/Sr Citizen or Disabled Driver Stowage <sup>(5)</sup> 1 One Way@	Motorcycle Over-size Charge <sup>1</sup>	Motorcycle Frequent User Ticket book 20 Rides <sup>2</sup> @
Fauntleroy-Southworth Seattle-Bremerton Seattle-Bainbridge Island Port Townsend-Keystone Edmonds-Kingston	<del>((6.25))</del> 6.50	5.50 5.75	6.25 6.50	100.00 104.00	2.70 2.80	1.80 1.90		43.20) 44.80
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	<del>((8.50))</del> 9.00	7.50 8.00	8.50 9.00	68.00) 72.00	3.80	2.60	1.30	30.40
Mukilteo-Clinton	<del>((4.25))</del> 4.50	3.75 4.00	4.25 4.50	68.00) 72.00	1.90	1.30	0.60	30.40
10 Rides - 5 Round Trips								
*Anacortes to Lopez *Shaw, Orcas *Friday Harbor	<del>((12.75))</del> 13.25 <del>((15.25))</del> 15.75	10.25 10.75 12.75 13.25	12.75 13.25 15.25 15.75	51.00 53.00 61.00 63.00	6.70 6.90 7.20 7.40	4.20 4.30 4.70 4.80		53.60) 55.20 57.60) 59.20
*Friday Harbor Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	<del>((17.25))</del> 17.75	14.75 15.25	17.25 17.75	69.00 71.00	7.60 7.80	5.10 5.20	2.50	60.80) 62.40
International Travel								
Anacortes to Sidney and Sidney to all destinations	<del>((24.00))</del> 24.75	19.75 20.25	24.00) 24.75	N/A	<del>((12.00))</del> 12.30	9.80) 10.10	3.20	N/A
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations <sup>(7)</sup> 4	<del>((9.00))</del> 9.75	4.75 5.25	24.00) 24.75	N/A	N/A	N/A	N/A	N/A

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ROUTES	Vehicle Under 20' Incl. Driver One Way	Vehicle Under 20' w/Sr Citizen or Disabled Driver <sup>4</sup>	Vehicle Under 20' Over Height Charge <sup>1</sup>	Frequent User Ticket book 20 Rides <sup>2</sup>	Motorcycle <sup>5</sup> Incl. Driver Stowage <sup>(6)</sup> 1 One Way@	Motorcycle w/Sr Citizen or Disabled Driver Stowage <sup>(6)</sup> 1 One Way@	Motorcycle Over-size Charge <sup>1</sup>	Motorcycle Frequent User Ticket book 20 Rides <sup>2</sup> @
<del>((From))</del> Lopez, Shaw, Orcas and Friday Harbor to Sidney	<del>((8.75))</del> 2.00	7.00	<del>((8.75))</del> 2.00	N/A	5.00	5.00	1.25	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>(8)</sup> 2	<del>((4.75))</del> 2.00	0.00	<del>((8.75))</del> 2.00	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>(6)</sup> 5	<del>((32.75))</del> 33.75	<del>26.75</del> 27.25	<del>32.75))</del> 33.75	N/A	<del>((17.00))</del> 17.30	<del>14.80))</del> 15.10	4.45	N/A

@ These fares rounded to the next multiple of \$0.10. All other fares rounded to the next multiple of \$.25.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>SIZE - All vehicles up to 20' in length and under 76" shall pay the vehicle under 20' toll. Vehicles up to 20' but over 76" in height shall pay an overheight charge of 100% of the vehicle full fare. Motorcycles with trailers, sidecars, or three wheels will pay an oversize motorcycle charge of 100% of the motorcycle full fare. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height charge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

<sup>2</sup>FREQUENT USER TICKETS - Shall be valid only for 90 days from date of purchase after which time the ticket shall not be accepted for passage.

<sup>3</sup>INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

<sup>4</sup>SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

~~<sup>5</sup>MOTORCYCLES - The motorcycle including driver fare includes motorcycles pulling trailers and motorcycles with side cars.)~~

~~<sup>(6)</sup> 5ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.~~

~~<sup>(7)</sup> 6RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.~~

~~<sup>(8)</sup> 2RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.~~

~~<sup>(VANPOOLS)</sup> RIDE SHARE VEHICLES - A commuter (vanpool) ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organiza-~~

tion approved by the Washington state ferry system, may purchase for a \$10 fee, a permit valid for one year valid only during the hours shown on the permit. ~~((These hours are selectable by the purchaser but shall designate two periods of use each day not to exceed two hours per period.))~~ The \$10.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 25% surcharge shall be applied to vehicles from the second Sunday in May to the second Sunday in October except those using frequent user tickets. A 65% surcharge shall be applied on fares for ~~((international travel to reflect the reduced base fares on these routes))~~ the Sidney B.C. route.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the secretary of transportation for a specified discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

PERMANENT

**AMENDATORY SECTION** (Amending WSR 98-08-051, filed 3/27/98, effective 4/27/98)

**WAC 468-300-040 Oversize vehicle ferry tolls.**

Effective 03:00 a.m. May ~~(10, 1998)~~ 9, 1999

Oversize Vehicle Ferry Tolls<sup>1</sup>  
Overall Unit Length - Including Driver

ROUTES	20' To Under 30' Under 7'6" High	20' To Under 30' Over 7'6" High	30' To Under 40'	40' To Under 50'	50' To Under 60'	60' To under 70'	70' To and include 80'	Cost Per Ft. Over 80' @
Fauntleroy-Southworth Seattle-Bremerton Seattle-Bainbridge Island Port Townsend-Keystone Edmonds-Kingston	<del>(9.50)</del> <u>9.75</u>	<del>18.75</del> <u>19.50</u>	<del>25.00</del> <u>26.00</u>	<del>31.25</del> <u>32.50</u>	<del>37.50</del> <u>39.00</u>	<del>43.75</del> <u>45.50</u>	<del>50.00)</del> <u>52.00</u>	0.65
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	<del>(13.00)</del> <u>13.50</u>	<del>25.50</del> <u>27.00</u>	<del>34.00</del> <u>36.00</u>	<del>42.50</del> <u>45.00</u>	<del>51.00</del> <u>54.00</u>	<del>59.50</del> <u>63.00</u>	<del>68.00)</del> <u>72.00</u>	0.90
Mukilteo-Clinton	<del>(6.50)</del> <u>6.75</u>	<del>12.75</del> <u>13.50</u>	<del>17.00</del> <u>18.00</u>	<del>21.25</del> <u>22.50</u>	<del>25.50</del> <u>27.00</u>	<del>29.75</del> <u>31.50</u>	<del>34.00)</del> <u>36.00</u>	0.45
*Anacortes to Lopez <sup>2</sup> *Shaw, Orcas *Friday Harbor	<del>(23.00)</del> <u>23.75</u>	<del>45.75</del> <u>47.25</u>	<del>61.00</del> <u>63.00</u>	<del>76.25</del> <u>78.75</u>	<del>91.50</del> <u>94.50</u>	<del>106.75</del> <u>110.25</u>	<del>122.00</del> <u>126.00</u>	<del>1.50)</del> <u>1.55</u>
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup> ( <del>May 10, 1998</del> )	<del>(11.00)</del> <u>11.25</u>	<del>21.75</del> <u>22.50</u>	<del>29.00</del> <u>30.00</u>	<del>36.25</del> <u>37.50</u>	<del>43.50</del> <u>45.00</u>	<del>50.75</del> <u>52.50</u>	<del>58.00)</del> <u>60.00</u>	N/A
<i>International Travel</i>								
Anacortes to Sidney and Sidney to all destinations	<del>(36.00)</del> <u>37.25</u>	<del>72.00</del> <u>74.25</u>	<del>96.00</del> <u>99.00</u>	<del>120.00</del> <u>123.75</u>	<del>144.00</del> <u>148.50</u>	<del>168.00</del> <u>173.25</u>	<del>192.00</del> <u>198.00</u>	<del>2.40)</del> <u>2.50</u>
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations <sup>5</sup>	<del>(21.00)</del> <u>22.25</u>	<del>57.00</del> <u>59.25</u>	<del>81.00</del> <u>84.00</u>	<del>105.00</del> <u>108.75</u>	<del>129.00</del> <u>133.50</u>	<del>153.00</del> <u>158.25</u>	<del>177.00</del> <u>183.00</u>	<del>2.40)</del> <u>2.50</u>
( <del>From</del> ) Lopez, Shaw, Orcas and Friday Harbor to Sidney	<del>(13.00)</del> <u>13.50</u>	<del>26.25</del> <u>27.00</u>	<del>35.00</del> <u>36.00</u>	<del>43.75</del> <u>45.00</u>	<del>52.50</del> <u>54.00</u>	<del>61.25</del> <u>63.00</u>	<del>70.00)</del> <u>72.00</u>	0.90
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>6</sup>	<del>(6.00)</del> <u>6.50</u>	<del>19.25</del> <u>20.00</u>	<del>28.00</del> <u>29.00</u>	<del>36.75</del> <u>38.00</u>	<del>45.50</del> <u>47.00</u>	<del>54.25</del> <u>56.00</u>	<del>63.00)</del> <u>65.00</u>	0.90
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>4</sup>	<del>(49.25)</del> <u>50.75</u>	<del>98.25</del> <u>101.25</u>	<del>131.00</del> <u>135.00</u>	<del>163.75</del> <u>168.75</u>	<del>196.50</del> <u>202.50</u>	<del>229.25</del> <u>236.25</u>	<del>262.00</del> <u>270.00</u>	<del>3.30)</del> <u>3.40</u>

@ These fares rounded to the next multiple of \$0.05. All other fares rounded to the next multiple of \$.25.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>OVERSIZE VEHICLES - Includes all vehicles 20 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles 11 feet in width or wider pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10.

<sup>2</sup>STOPOVERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate stopover ticket for \$2.50 when first purchasing the appropriate vehicle fare. The stopover is valid for a 24-hour period.

<sup>3</sup>INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

<sup>4</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

<sup>5</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

<sup>6</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

PERMANENT

**PEAK SEASON SURCHARGE** - A peak season surcharge of 25% shall apply to all oversize vehicles, except for international travel. The senior citizen discount shall apply to the driver of an oversize vehicle. A 65% surcharge shall be applied on fares for ~~((international travel to reflect the reduced base fares on these routes))~~ the Sidney B.C. route.

**SENIOR CITIZEN DISCOUNTS** - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate.

**PENALTY CHARGES** - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

**DISCOUNT FROM REGULAR TOLL**

Oversize vehicles making 12 or more, one-way crossings per week (Sunday thru Saturday) will qualify for a 20% discount from the regular ferry tolls.

**EMERGENCY TRIPS DURING NONSERVICE HOURS** - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

**BULK NEWSPAPERS** - Per 100 lbs. \$2.20

(Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)

Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

**EXPRESS SHIPMENTS** - A flat handling charge of \$25.00 per parcel is charged.

(Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)

Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight that can easily be handled by carrier's employees.

Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled at \$5.00 per parcel.

**MEDICAL SUPPLIES** - A flat handling charge of \$5.00 per shipment is charged.

**DISCLAIMER** - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

**AMENDATORY SECTION** (Amending WSR 98-08-051, filed 3/27/98, effective 4/27/98)

**WAC 468-300-220 Calculation of charter rates for vessels owned by the Washington state ferry system.** Pursuant to chapter 323, Laws of 1997, vessels owned by the Washington state ferry system may be made available for charter subject to operational availability. Execution of a charter agreement as set forth in the statute must precede a commitment to charter. The following actual hourly vessel operating costs have been calculated for establishing the rates to be charged for vessel charters from July ~~((27, 1998))~~ 1999, through June 30, ~~((1999))~~ 2000:

Vessel Class	Deck Crew On Overtime	Deck Crew Not On Overtime
Jumbo	<del>((966.58))</del> <u>\$971.70</u>	<del>788.87)</del> <u>790.44</u>
Super	<del>((931.10))</del> <u>937.74</u>	<del>759.61)</del> <u>762.90</u>
Evergreen	<del>((716.13))</del> <u>735.18</u>	<del>574.06)</del> <u>590.26</u>
Issaquah	<del>((712.18))</del> <u>725.33</u>	<del>583.83)</del> <u>594.37</u>
Steel	<del>((595.11))</del> <u>611.76</u>	<del>482.75)</del> <u>497.09</u>
Rhododendron	<del>((571.11))</del> <u>591.76</u>	<del>458.75)</del> <u>480.09</u>
Hiyu	<del>((428.15))</del> <u>445.77</u>	<del>354.43)</del> <u>370.52</u>
Passenger Only	<del>((416.83))</del> <u>433.42</u>	<del>356.83)</del> <u>371.57</u>

The rate for an individual charter will be calculated by:

(1) Multiplying the actual operating cost set forth above for the vessel that is chartered by the number of hours, or fraction thereof, for which the vessel is chartered;

(2) Adding labor costs, mileage and per diem expenses to determine the total actual costs if the particular charter requires a crew callout; and

(3) Increasing the total actual costs calculated pursuant to subsections (1) and (2) of this section by fifty percent, and rounding to the nearest fifty dollars.

In the case of charters for the transport of hazardous materials, the transporter is required to pay for all legs necessary to complete the charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of the Washington state ferry system.

**WSR 99-08-073**

**PERMANENT RULES**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed April 5, 1999, 12:52 p.m.]

Date of Adoption: March 17, 1999.

Purpose: Beginning in February 1999, the department began implementation of a new process whereby applications for unemployment benefits are filed by telephone rather than in person. The changes in the rules are needed to identify how information will be provided to claimants, and how claimants are to request or provide information to the department, when claims are processed in an unemployment claims telecenter rather than in a local office.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-005, 192-12-141, 192-12-150, 192-12-182, 192-23-002, 192-23-013, 192-23-018, 192-24-001, 192-24-010, and 192-24-020; and amending WAC 192-04-170, 192-04-190, 192-12-330, and 192-15-150.

PERMANENT

Statutory Authority for Adoption: RCW 50.20.010, 50.12.040.

Adopted under notice filed as WSR 99-01-161 on December 23, 1998.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of the rules contain only minor changes from the proposed version, and serve only to clarify requirements and simplify language.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 17, Amended 4, Repealed 10.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 17, Amended 4, Repealed 10.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 17, Amended 4, Repealed 10.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

April 2, 1999

Carver Gayton  
Commissioner

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 99-09 issue of the Register.

**WSR 99-08-089**  
**PERMANENT RULES**  
**SECRETARY OF STATE**  
[Filed April 6, 1999, 3:40 p.m.]

Date of Adoption: April 6, 1999.

Purpose: To standardize procedures state-wide for optical scan and absentee ballots and to remove the requirements for inactive voter cancellation notices.

Citation of Existing Rules Affected by this Order: Repealing WAC 434-324-105; and amending WAC 434-261-005, 434-261-080, and 434-240-205.

Statutory Authority for Adoption: RCW 29.04.080, 29.04.210.

Adopted under notice filed as WSR 99-05-054 on February 12, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

April 6, 1999

Donald F. Whiting  
Assistant Secretary of State

**AMENDATORY SECTION** (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-240-205 Replacement absentee ballots.**

The county auditor may issue replacement absentee ballots to a voter who both:

- (1) Requested an absentee ballot prior to election day; and
- (2) Did not receive the absentee ballot or whose absentee ballot was damaged, lost, or destroyed.

A voter may request an absentee replacement ballot in person, by mail, by telephone, or by other electronic transmission for himself or herself and for any member of his or her immediate family. The request must be received by the auditor prior to 8:00 p.m. on election day.

The county auditor shall maintain a record of each replacement ballot issued, including the date of the request. Replacement absentee ballots or the original absentee ballot, whichever is received first, shall ((be counted in the final tabulation of ballots, and shall only)) be tabulated if the ((original ballot is not received by the county auditor and the replacement)) ballot meets all requirements for tabulation ((necessary for the tabulation of regular absentee ballots)). If the auditor receives additional ballot(s) from a voter, the additional ballot(s) shall not be counted and shall be forwarded to the county canvassing board.

**AMENDATORY SECTION** (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-261-005 Definitions.** (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot upon breaking the seals and opening the ballot containers from the precincts or, in the case of precinct counting systems, prior to the certification of the election;

(2) "Duplicating ballots" is the process of copying valid votes from ballots that may not be properly counted by the electronic voting equipment to blank ballots of the same type and style, or as directed by the canvassing board;

(3) "Ballot enhancement" is the process of adding or covering marks on ((a)) an optical scan ballot to ensure that the electronic voting equipment will tally the votes on the ballot in the manner intended by the voter, or as directed by the canvassing board.

**AMENDATORY SECTION** (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-261-080 Ballot enhancement—Optical scan systems.** Ballots shall only be enhanced when such enhancement will not permanently obscure the original marks of the voters. Ballots shall be enhanced by teams of two or more people working together. When enhancing ballots, the county shall take the following steps to create and maintain an audit trail of the actions taken with respect to those enhanced ballots:

- (1) Each ballot to be enhanced must be assigned a unique control number, with such number being marked on the face of the enhanced ballot;
- (2) A log shall be kept of the ballots enhanced and shall include at least the following information:
  - (a) The control number of each ballot enhanced;
  - (b) The initials of at least two people who participated in enhancing each ballot; and
  - (c) The total number of ballots enhanced;
- (3) Enhanced ballots and ballots to be enhanced shall be sealed into secure storage at all times, except when said ballots are in the process of being enhanced, are being tabulated, or are being inspected by the canvassing board.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 434-324-105 Notification of cancellation.

**WSR 99-08-090  
PERMANENT RULES  
DEPARTMENT OF REVENUE**

[Filed April 6, 1999, 3:41 p.m.]

Date of Adoption: April 6, 1999.

Purpose: To explain the business and occupation (B&O), retail sales, and use tax reporting requirements of persons operating pull-tab and punch board games. The rule also explains the application of tax to persons conducting amusement games, card games, bingo games, and raffles.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-131 Games of chance.

Statutory Authority for Adoption: RCW 82.32.300.

Adopted under notice filed as WSR 99-05-017 on February 5, 1999.

Changes Other than Editing from Proposed to Adopted Version: Subsection (2)(c) has been revised to explain that persons conducting raffles are subject to the service and other activities B&O tax upon the "increases" arising from the conduct of the raffles. The proposed rule as published had indicated that the measure of tax was the gross income from the sale of raffle tickets or chances.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

April 6, 1999

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

**AMENDATORY SECTION** (Amending Order ET 83-17, filed 3/15/83)

**WAC 458-20-131 (~~Merchandising games~~) Games of chance (~~and concessionaires~~).**

**(~~Business and Occupation Tax Retail Sales Tax~~)**

~~Merchandising games for stimulating trade. Persons conducting dice games and other games of chance which determine the amount the customer will pay for merchandise that he desires to purchase are taxable as follows: Under the retailing classification with respect to the retail selling price of all merchandise sold to or won by customers, and under the service and other business activities classification upon the "increases" arising from the conduct of such games. As used herein the word "increases" means the winnings, gains or accumulations accruing daily over and above the retail selling price of all merchandise sold or won in any one day through such games. This method of reporting tax liability will be allowed only in those cases where the operator of the games, by proper accounting methods, accurately segregates the receipts accruing from such games. Where no such segregation is made, such persons are taxable under the retailing classification with respect to the entire gross receipts from such games.~~

~~Punchboards which offer prizes of merchandise are considered as merchandising games, with the prizes being sold for the gross proceeds from the boards, and the gross income from such boards should therefore be reported under the retailing classification. When such punchboards are assigned to a location under an arrangement for a split of the gross income between the owner of the boards and the person operating the location, the owner of the boards shall be responsible for reporting gross receipts therefrom under the retailing classification. Where the owner of the boards has not paid the tax due, however, the department of revenue may proceed directly against the operator of the location for payment of the tax due.~~

~~Games of chance other than merchandising games. Persons conducting dice games, card games, bingo or keno~~

PERMANENT

games, "pools," or similar games of chance wherein players participate in such games with the opportunity of winning a certain sum of money, scrip or trade checks or a pool which accumulates, are taxable under the service and other business activities classification upon all "increases" arising from the conduct of such games. The word "increases" as used herein means the winnings, gains, or accumulations accruing from any one game over and above the amount put into the game by the operator; and, where redeemable scrip, trade checks, or hickies are issued to winning players, the word "increases" means the excess of the operator's cash income from the game over the amount of redeemable scrip, trade checks, or hickies issued.

It is essential to the classification of such revenues as income from service and other business activities that they be segregated properly from income derived from merchandising games. When the income from games of chance and amusement is not segregated properly from income from merchandising games, the income derived from both types of games will be taxable as income derived from sales at retail.

Punchboards which offer cash prizes are games of chance rather than merchandising games, and the "increases" (as defined above) therefrom should be reported under the service and other business activities classification. When such punchboards are consigned to a location under an arrangement for a split of the gross increases between the owner of the boards and the person operating the location, the owner of the boards shall be responsible for reporting gross increases therefrom under the service and other business activities classification. Where the owner of the boards has not paid the tax due, however, the department may proceed directly against the operator of the location for payment of the tax due.

Each type of game is considered as a separate, taxable transaction. Thus, losses on one type of game may not be deducted from winnings on another type of game.

**Betting.** "Increases" from bets on events of public interest, such as sporting events, election results, etc., are taxable under the service and other business activities classification, and should be reported as income of the taxing period in which the winner is determined.

**Concessionaires.** Persons conducting games of chance at fairs, carnivals, expositions, bazaars, picnics and other similar places in which merchandise is delivered to players in the form of prizes and awards under certain conditions are taxable under the service and other business activities classification upon the gross income received from the operation of such games. The predominant characteristics of the business in such cases is chance and amusement, and the transfers of merchandise in the form of prizes and awards is relatively small and does not constitute sales of such merchandise.

**Raffles.** Persons regularly conducting raffles are subject to the business and occupation tax under the classification service and other activities on gross income from the sale of chances.

**Redemption of scrip or trade checks.** When scrip or trade checks are redeemed in exchange for merchandise or for services which are defined by the law as retail sales, the value of the scrip, etc., so redeemed should be reported as income under the retailing classification. When scrip or trade

checks are redeemed in exchange for services which are not defined by law as retail sales, e.g., haircuts, manicures, etc., the value of the scrip, etc., so redeemed should be reported as income under the service and other business activities classification.

**Miscellaneous.** Revenues of card rooms, etc., from all activities other than those which are reportable under the retailing classification, must be reported under the service and other business activities classification. Such revenues include income from the furnishing of playing facilities to card players, etc.

### Retail Sales Tax

Persons making retail sales of tangible personal property through merchandising games are liable for the payment of the retail sales tax upon the full retail selling price of the merchandise sold to or won by the customer and whether the tax was actually collected from the customer or not. The retail sales tax does not apply to income from games of chance or amusement which are not merchandising games if that income is properly segregated upon the taxpayer's books and records from the income from merchandise sales or merchandising games. Where the income is not so segregated, it is subject to the retail sales tax.

**Merchandising games for stimulating trade.** Persons conducting dice games and other games of chance which determine the amount that the customer will pay for merchandise that he desires to purchase should collect the retail sales tax from the customer, measured by the amount that the customer actually pays for the merchandise as a result of the outcome of the game.

Punchboards which offer prizes of merchandise are considered as merchandising games, with the prizes being sold for the gross proceeds from the boards, and the retail sales tax is therefore payable on those gross proceeds. For practical reasons, the retail sales tax may be absorbed by the operator, at his option, but the latter will be liable nevertheless to the department of revenue for the full tax on the gross income from each punchboard. When such punchboards are consigned to a location under an arrangement for a split of the gross income between the owner of the boards and the person operating the location, the owner of the boards shall be responsible for collecting and reporting to the department the retail sales tax measured by the gross receipts from such boards. Where the owner of the boards has not paid the tax due, however, the department may proceed directly against the operator of the location for the full amount of sales tax measured by the gross receipts from such boards.

When scrip or trade checks are given, the sales tax should be collected when the scrip or trade checks are exchanged for merchandise or for services that are defined by the law as retail sales.

For example:

(a) **Merchandising games.** Dice are rolled for a 15¢ cigar. In the event that the player wins, a cigar is given to the player free of charge; in the event that the house wins, the player receives a cigar but pays 30¢.

When the player wins, no tax is payable. When the player loses and pays 30¢ for a single cigar, the retail sales tax applies to the latter amount.

(b) **Punchboards.** The price of each punch is 25¢. The operator may collect the sales tax on each punch, or at his option, may absorb the tax, but he will be required in either event to remit to the department the retail sales tax measured by the gross income from each board.

Sales to persons who conduct merchandising games of the merchandise delivered to persons, such as confections, tobacco, jewelry, radios, etc., are sales for resale, and, accordingly, the retail sales tax should not be collected thereon by the seller. When merchandise punchboards are sold outright to an operator, together with merchandise that will be offered as prizes, such sales are considered sales for resale of the boards and of the merchandise by the dealer to the operator. The sale of the board is considered incidental to the sale of the merchandise. When merchandise punchboards are sold outright without the merchandise that will be offered as prizes, such sales are sales at retail and are taxable as such. When money punchboards are sold outright, such sales are sales at retail and are taxable as such.

(e) **Card games.** Persons conducting card games in card rooms, cigar stores, etc., wherein the players participating receive scrip or trade checks which entitle them to the value thereof in merchandise or services shall collect the retail sales tax when such scrip, trade checks, or hickies are exchanged for merchandise or for services defined by the law as retail sales.

**Concessionaires at fairs, carnivals, etc.** Persons conducting games of chance at fairs, carnivals, expositions, bazaars, picnics, or other similar places and delivering merchandise to players in the form of prizes and awards under certain conditions are not making sales of tangible personal property at retail upon which they are required to collect the retail sales tax. The predominant characteristic of the business in such cases is chance and amusement, and the transfers of merchandise in the form of prizes and awards are relatively small and do not constitute sales of such merchandise. Sales to such persons of the merchandise delivered to the players in the form of prizes and awards are sales at retail upon which the retail sales tax must be collected by the seller. Sales to such persons of devices and other equipment used in the conduct of such games are also retail sales upon which the tax must be collected by the seller.

**Raffles.** Persons conducting raffles are not deemed to be making retail sales of the merchandise given away. Retail sales tax or use tax must be paid by the operator upon the acquisition of such property. Until the tax has been paid by one party, however, the department may hold both the operator and the winner liable for the tax. (1) **Introduction.** This rule explains the business and occupation (B&O), retail sales, and use tax reporting requirements of persons operating pull-tab and punch board games. It also explains the application of tax to persons conducting amusement games, card games, bingo games, and raffles. Nonprofit organizations conducting these games as a part of their fund-raising activities should also refer to RCW 82.04.3651, 82.08.02573, and WAC 458-20-169 (Religious, charitable, benevolent, nonprofit service organizations, and sheltered workshops) to determine if a B&O, retail sales, or use tax exemption is available for their activities.

Persons operating or selling these types of games should also be aware that the Washington state gambling commission regulates these activities. These persons should refer to chapter 9.46 RCW (Gambling—1973 Act), Title 230 WAC (Gambling commission), and/or contact the Washington state gambling commission with any questions regarding their licensing and reporting responsibilities with the commission.

(2) **Measure of tax.** The business and occupation (B&O) and retail sales taxes apply to income as described below. These guidelines apply equally whether the game is mechanically or electronically operated.

(a) **Pull-tab, punch board, and bingo games.** Persons operating pull-tab, punch board, or bingo games are taxable under the service and other activities B&O tax classification upon all "increases" arising from the conduct of such games. The term "increases" as used in this subsection, means gross gambling receipts less the monetary value or, in the case of merchandise, the actual cost, of any prizes that are awarded. The actual cost of the merchandise is the amount actually paid by the operator without any markup. In the case of donated merchandise, the operator may deduct the fair-market value of the merchandise. While the cost of merchandise prizes may be deducted, other costs of operating the game, including the amount paid for the purchase of the actual game (e.g., a punch board), may not be deducted.

Prior to April 1, 1999, operators of pull-tab and punch board games awarding merchandise as prizes were considered to be selling the prizes for the gross income derived from the games. As a result, this income was subject to the retailing B&O and retail sales taxes.

(b) **Card games.** The fees charged to card players as a condition for their participation in card games, whether the fees are based on time, on a per-hand basis, or on a percentage of the wagered amount (commonly referred to as a "rake"), are subject to the service and other activities B&O tax. In those cases where the operator of the card room participates in the card game as a house or central bank, the measure of tax is the amount of winnings less the amount of losses.

(c) **Raffles.** Effective April 1, 1999, persons conducting raffles are subject to the service and other activities B&O tax upon all "increases" (as defined in subsection (2)(a) above) arising from the conduct of the raffles. Prior to this date, the measure of tax was the gross income from the sale of raffle tickets or chances without any deduction for the value or cost of any prizes awarded.

(d) **Amusement games.** The gross receipts derived from the operation of amusement games as defined in RCW 9.46.0201 are subject to the service and other activities B&O tax. The cost of any prizes awarded may not be deducted from the measure of tax.

(i) RCW 9.46.0201 defines amusement games to be a game played for entertainment in which:

- (A) The contestant actively participates;
- (B) The outcome depends in a material degree upon the skill of the contestant;
- (C) Only merchandise prizes are awarded; and
- (D) The outcome is not in the control of the operator.

(ii) Crane machines, coin-toss and dart-toss games at fairs and carnivals, and skill-stop games are examples of games qualifying as amusement games under RCW 46.0201. Persons operating coin-operated games that do not qualify under the definition of amusement games in RCW 9.46.0201 (e.g., pinball, video, and pool games) should refer to WAC 458-20-187 (Coin-operated vending machines, amusement devices and service machines) for an explanation of their tax reporting responsibilities.

(e) Sales of foods and beverages. Sales of foods, beverages, and other tangible personal property by persons operating or conducting any of the activities described above are retail sales and subject to the retailing B&O and retail sales taxes, unless a specific exemption applies (e.g., see WAC 458-20-124 regarding sales of food and beverages by restaurants, taverns, and similar businesses and WAC 458-20-244 for exemptions available for certain food products). Persons conducting dice games to determine the amount that the customer will pay for food or beverages are subject to tax upon the amount the customer actually pays for the food or drink.

(3) Merchandise prizes. Persons operating or conducting any of the activities described in subsection (2) (a) through (d) of this rule are the consumers of any merchandise delivered to the players in the form of prizes or awards. Purchases of this merchandise are purchases at retail and subject to the retail sales tax, unless a specific exemption applies (e.g., see WAC 458-20-244 for exemptions available for certain food products). Purchases of supplies, devices, and other equipment used in the conduct of these games are also subject to the retail sales tax.

(a) If retail sales tax is not collected by the seller, the person conducting these games must remit the retail sales tax (often referred to as deferred retail sales tax) or use tax directly to the department. See also WAC 458-20-178 (Use tax).

(b) Prior to April 1, 1999, operators of punch board and pull-tab games awarding merchandise as prizes were considered to be selling the prizes for the gross income derived from the games. The purchase of the merchandise prizes by the operators of these games were purchases at wholesale and not subject to either the retail sales or use tax.

For the purposes of determining the taxability of merchandise prizes awarded by operators of punch board and pull-tab games that were in operation both before and after April 1, 1999, the operator should remit retail sales or use tax on the value of the prizes awarded on or after April 1, 1999.

fees, 246-810-990 Fees and renewal cycle (counselors), 246-817-990 Dental fees, 246-822-990 Dietitian and nutritionist fees, 246-830-990 Massage fees, 246-845-990 Nursing pool fees, 246-847-990 Occupational therapy fees, 246-849-990 Ocularist fees, 246-851-990 Optometry fees, 246-915-990 Physical therapy fees, 246-924-990 Psychology fees, 246-926-990 Certification fees (radiological technicians), 246-928-990 Respiratory care fees, and 246-930-990 Sex offender treatment provider fees.

Statutory Authority for Adoption: RCW 43.70.250.

Adopted under notice filed as WSR 99-02-057 on January 6, 1999.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-851-990, "late renewal" was changed to "late renewal penalty." The amount of the fee is the same as listed in the proposed rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 15, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 15, Repealed 0.

Effective Date of Rule: July 1, 1999.

April 2, 1999

Kristine Van Gorkom

Deputy Secretary

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-802-990 Acupuncture fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
License application	<del>(\$200.00)</del> <u>\$ 50.00</u>
License renewal	<del>((240.00))</del> <u>180.00</u>
Inactive license renewal	<del>((+10.00))</del> <u>50.00</u>
Late renewal penalty	<del>((+100.00))</del> <u>90.00</u>
Expired license reissuance	<del>((+20.00))</del> <u>90.00</u>

**WSR 99-08-101**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed April 6, 1999, 4:51 p.m., effective July 1, 1999]

Date of Adoption: March 1, 1999.

Purpose: Reduce fees for eighteen health care credentials so the revenue generated by the fees is brought into alignment with the costs.

Citation of Existing Rules Affected by this Order: WAC 246-802-990 Acupuncture fees, 246-808-990 Chiropractor

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Title of Fee	Fee
Expired inactive license reissuance	<del>((55.00))</del> <u>50.00</u>
Duplicate license	15.00
Certification of license	25.00
Acupuncture training program application	500.00

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-808-990 Chiropractic fees and renewal cycle.** (1) Licenses and registrations must be renewed on the practitioner's birthday every year as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged for chiropractic license:

Title of Fee	Fee
Application/full examination or reexamination	\$300.00
<del>((Original license</del>	<del>200.00))</del>
Temporary permit application	150.00
Temporary practice permit	50.00
Preceptorship	100.00
License renewal	<del>((300.00))</del> <u>270.00</u>
Late renewal penalty	<del>((150.00))</del> <u>135.00</u>
Expired license reissuance	<del>((150.00))</del> <u>135.00</u>
Inactive license renewal	150.00
Expired inactive license reissuance	75.00
Duplicate license	15.00
Certification of license	25.00

(3) The following nonrefundable fees will be charged for chiropractic x-ray technician registration:

Application	25.00
Original registration	25.00
Renewal	40.00
Late renewal penalty	<del>((25.00))</del> <u>40.00</u>
Expired registration reissuance	40.00
Duplicate registration	15.00
Certification of registration	25.00

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-810-990 Fees and renewal cycle.** (1) Certificates and registrations must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

Title	Fee
(2) The following nonrefundable fees will be charged for registered counselor:	
Application and registration	\$ 40.00
Renewal	37.00
Late renewal penalty	37.00
Expired registration reissuance	37.00
Duplicate registration	15.00
Certification of registration	15.00

(3) The following nonrefundable fees will be charged for registered hypnotherapist:	
Application and registration	95.00
Renewal	130.00
Late renewal penalty	65.00
Expired registration reissuance	65.00
Duplicate registration	15.00
Certification of registration	15.00

(4) The following nonrefundable fees will be charged for certified marriage and family therapist:	
Application	<del>((100.00))</del> <u>50.00</u>
Initial certification	<del>((125.00))</del> <u>25.00</u>
Examination administration	<del>((50.00))</del> <u>25.00</u>
Renewal	<del>((200.00))</del> <u>83.00</u>
Late renewal penalty	<del>((100.00))</del> <u>50.00</u>
Expired certification reissuance	<del>((100.00))</del> <u>50.00</u>
Duplicate certification	<del>((15.00))</del> <u>10.00</u>
Certification of certificate	<del>((15.00))</del> <u>10.00</u>
Wall certificate	<del>((15.00))</del> <u>10.00</u>

(5) The following nonrefundable fees will be charged for certified mental health counselor:	
Application	<del>((75.00))</del> <u>25.00</u>
Initial certification	<del>((60.00))</del> <u>25.00</u>
Renewal	<del>((65.00))</del> <u>29.00</u>

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Title	Fee
Late renewal penalty	((50.00)) 29.00
Expired certification reissuance	((50.00)) 29.00
Duplicate certification	((15.00)) 10.00
Certification of certificate	((15.00)) 10.00
Wall certificate	((15.00)) 10.00
<b>(6) The following nonrefundable fees will be charged for certified social worker:</b>	
Application	((50.00)) 25.00
Initial certification	((50.00)) 25.00
Renewal	((65.00)) 42.00
Late renewal penalty	((50.00)) 42.00
Expired certification reissuance	((50.00)) 42.00
Duplicate certification	((15.00)) 10.00
Certification of certificate	((15.00)) 10.00
Wall certificate	((15.00)) 10.00

Renewal	((215.00)) 205.00
Surcharge - impaired dentist	5.00
Late renewal penalty	((110.00)) 102.50
Expired license reissuance	((110.00)) 102.50
<b>Duplicate license</b>	15.00
<b>Certification of license</b>	25.00
<b>Anesthesia permit</b>	
Initial application	50.00
Renewal - (three-year renewal cycle)	50.00
Late renewal penalty	50.00
Expired permit reissuance	50.00
On-site inspection fee	To be determined by future rule adoption.

\* In addition to the initial application fee above, applicants for licensure via examination will be required to submit a separate application and examination fee directly to the dental testing agency accepted by the dental quality assurance commission.

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-822-990 Dietitian and nutritionist fees and renewal cycle.** (1) Certificates must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title	Fee
Application	((100.00)) \$75.00
Renewal	((80.00)) 45.00
Late renewal penalty	((25.00)) 45.00
Expired certificate reissuance	((50.00)) 45.00
Duplicate certificate	15.00
Certification of certificate	25.00

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-830-990 Massage fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Written examination and reexamination	\$ 65.00
Practical examination and reexamination	50.00
Initial license	55.00

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-817-990 Dentist fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2, except faculty and resident licenses.

(2) Faculty and resident licenses must be renewed every year on July 1 as provided in chapter 246-12 WAC, Part 2.

(3) The following nonrefundable fees will be charged:

Title of Fee	Fee
<b>Original application by examination*</b>	
Initial application	\$ 325.00
<b>Original application - Without examination</b>	
Initial application	350.00
Initial license	350.00
<b>Faculty license application</b>	325.00
<b>Resident license application</b>	60.00
<b>License renewal:</b>	

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Title of Fee	Fee
Renewal	(( <del>65.00</del> )) <u>40.00</u>
Late renewal penalty	(( <del>50.00</del> )) <u>40.00</u>
Expired license reissuance	(( <del>50.00</del> )) <u>40.00</u>
Certification of license	(( <del>15.00</del> )) <u>10.00</u>
Duplicate license	(( <del>15.00</del> )) <u>10.00</u>

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-845-990 Nursing pool fees and renewal cycle.** (1) Registrations must be renewed every year on the date of original issuance as provided in chapter 246-12 WAC, Part 3.

(2) The following nonrefundable fees will be charged:

Title	Fee
Registration application	(( <del>175.00</del> )) <u>\$100.00</u>
Registration renewal	(( <del>185.00</del> )) <u>115.00</u>
Late renewal penalty	(( <del>185.00</del> )) <u>57.50</u>
<del>(Duplicate registration</del>	<del>25.00</del>
Registration certification	<u>25.00</u>
<u>Expired registration reissuance</u>	<u>57.50</u>

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-847-990 Occupational therapy fees and renewal cycle.** (1) Licenses must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged for occupational therapist:

Title of Fee	Fee
Application <u>and initial license fee</u>	(( <del>90.00</del> )) <u>\$125.00</u>
<del>(Initial license</del>	<del>80.00</del>
License renewal	(( <del>125.00</del> )) <u>95.00</u>
Limited permit fee	40.00
Late renewal fee	(( <del>60.00</del> )) <u>50.00</u>
Expired license reissuance	(( <del>62.50</del> )) <u>50.00</u>

Title of Fee	Fee
Inactive license	5.00
Expired inactive license reissuance	5.00
Duplicate	15.00
Certification of license	25.00
(3) The following nonrefundable fees will be charged for occupational therapy assistant:	
Application <u>and initial license fee</u>	(( <del>90.00</del> )) <u>125.00</u>
<del>(Initial license</del>	<del>80.00</del>
License renewal	(( <del>95.00</del> )) <u>70.00</u>
Late renewal fee	(( <del>60.00</del> )) <u>50.00</u>
Expired license reissuance	50.00
Inactive license	5.00
Expired inactive license reissuance	5.00
Limited permit fee	40.00
Duplicate	15.00
Certification of license	25.00

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-849-990 Ocularist fees and renewal cycle.**

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application and examination	(( <del>250.00</del> )) <u>\$125.00</u>
Renewal	(( <del>500.00</del> )) <u>225.00</u>
Late renewal penalty	(( <del>175.00</del> )) <u>112.50</u>
Expired license reissuance	(( <del>250.00</del> )) <u>112.50</u>
Duplicate license	25.00
Certification of license	25.00
Apprentice registration	25.00
Apprentice renewal	25.00
Temporary practice permit	25.00
Retired active license	(( <del>100.00</del> )) <u>50.00</u>

PERMANENT

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-851-990 Optometry fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	(( <del>\$250.00</del> )) <u>\$125.00</u>
Out-of-state seminar	100.00
License renewal	(( <del>160.00</del> )) <u>100.00</u>
Late renewal <u>penalty</u>	(( <del>45.00</del> )) <u>50.00</u>
Expired license reissuance	(( <del>80.00</del> )) <u>50.00</u>
Duplicate license	15.00
Certification of license	25.00

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-915-990 Physical therapy fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	(( <del>\$150.00</del> )) <u>\$100.00</u>
License renewal	(( <del>70.00</del> )) <u>65.00</u>
Late renewal penalty	(( <del>70.00</del> )) <u>50.00</u>
Expired license reissuance	50.00
Duplicate license	15.00
Certification	25.00

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-924-990 Psychology fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	(( <del>\$250.00</del> )) <u>\$225.00</u>
Renewal	(( <del>275.00</del> )) <u>225.00</u>
Renewal retired active	(( <del>175.00</del> )) <u>100.00</u>

Title of Fee	Fee
Late renewal penalty	(( <del>100.00</del> )) <u>112.50</u>
Expired license reissuance	(( <del>137.50</del> )) <u>112.50</u>
Duplicate license	25.00
(( <del>Written examination administration</del> ))	80.00
Oral examination	250.00
Certification of license	25.00
Amendment of certificate of qualification	30.00

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-926-990 Certification and registration fees and renewal cycle.** (1) Certificates and registrations must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application - certification	(( <del>\$50.00</del> )) <u>\$45.00</u>
Exam fee - certification	30.00
Application - registration	35.00
Certification renewal	(( <del>50.00</del> )) <u>45.00</u>
Registration renewal	35.00
Late renewal penalty - <u>certification</u>	(( <del>30.00</del> )) <u>45.00</u>
<u>Late renewal penalty - registration</u>	<u>35.00</u>
Expired certificate reissuance	(( <del>50.00</del> )) <u>45.00</u>
Expired registration reissuance	(( <del>30.00</del> )) <u>35.00</u>
Certification of registration or certificate	15.00
Duplicate registration of certificate	15.00

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-928-990 Respiratory care fees and renewal cycle.** (1) Certificates must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	(( <del>\$85.00</del> )) <u>\$ 70.00</u>
Temporary practice permit	(( <del>50.00</del> )) <u>35.00</u>
Examination application	110.00

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Title of Fee	Fee
Examination retake	25.00
Duplicate license	15.00
Certification of certificate	((25.00)) <u>15.00</u>
Renewal	((80.00)) <u>50.00</u>
Late renewal penalty	50.00
Expired certificate reissuance	50.00

Title of Fee	Fee
Expired affiliate certificate reissuance	((300.00)) <u>150.00</u>
Expired inactive affiliate certificate reissuance	((150.00)) <u>100.00</u>
Duplicate certificate	15.00
Extension fee	850.00

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-930-990 Sex offender treatment provider fees and renewal cycle.** (1) Certificates must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged for:

Title of Fee	Fee
Sex offender treatment provider:	
Application and examination	(( <del>500.00</del> )) <u>500.00</u>
Reexamination	(( <del>325.00</del> )) <u>250.00</u>
Initial certification	100.00
Renewal	(( <del>1,175.00</del> )) <u>800.00</u>
Inactive status	(( <del>585.00</del> )) <u>300.00</u>
Late renewal penalty	(( <del>200.00</del> )) <u>300.00</u>
Expired certificate reissuance	300.00
Expired inactive certificate reissuance	(( <del>292.50</del> )) <u>150.00</u>
Duplicate certificate	15.00
Extension fee	1,475.00

(3) The following nonrefundable fees will be charged for affiliate treatment provider:

Application and examination	(( <del>300.00</del> )) <u>200.00</u>
Reexamination	(( <del>150.00</del> )) <u>100.00</u>
((Initial certification))	50.00
Renewal	(( <del>600.00</del> )) <u>300.00</u>
Inactive status	(( <del>300.00</del> )) <u>200.00</u>
Late renewal penalty	(( <del>200.00</del> )) <u>150.00</u>

**WSR 99-08-102**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed April 6, 1999, 4:53 p.m.]

Date of Adoption: February 19, 1999.

Purpose: To provide guidelines for individuals who, except for the postgraduate experience and examination requirements meet the academic and practicum requirements to practice under interim permit supervision.

Statutory Authority for Adoption: RCW 18.35.161(3).

Other Authority: RCW 18.35.060(6).

Adopted under notice filed as WSR 99-01-097 on December 17, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

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

March 15, 1999

S. Winkler, Chair

Board of Hearing and Speech

**NEW SECTION**

**WAC 246-828-045 Interim permit. Interim permit requirements.**

(1) The department will issue an interim permit to any applicant who has shown to the satisfaction of the department that the applicant:

(a) Is supervised by a speech-language pathologist or audiologist certified under chapter 18.35 RCW, in good standing for at least two years unless otherwise approved by the board.

PERMANENT

(i) Supervision includes the personal and direct involvement of the supervisor. The supervisor must directly observe diagnostic and therapeutic procedures.

(ii) All purchase agreements for the sale of hearing instruments must be signed by the supervisor and the permit holder.

(iii) No certified audiologist or speech-language pathologist under chapter 18.35 RCW may assume the responsibility for more than one permit holder.

(iv) The supervisor is responsible for all acts of the interim permit holder in connection with audiology or speech-language pathology services during the duration of the permit.

(b) Has paid the application and permit fee.

(c) Has not committed unprofessional conduct as specified by the Uniform Disciplinary Act or chapter 18.35 RCW.

(2) The provisions of RCW 18.35.030, 18.35.110, 18.35.120 shall apply to any person issued an interim permit. A person issued an audiology interim permit may engage in the fitting and dispensing of hearing instruments.

(3) The interim permit shall contain the name and title of the certified supervisor under chapter 18.35 RCW who is supervising the permit holder. The supervisor shall execute and submit to the department acknowledgment of responsibility for all acts of the permit holder in connection with audiology or speech-language pathology services.

#### **Interim permit period.**

(4) The interim permit period is divided into three equal segments. The supervisor must complete a minimum of:

(a) No less than thirty-six supervisory activities spaced uniformly throughout the year.

(b) At least eighteen on-site observations (one hour equals one on-site observation). At least six on-site observations must be accrued during each segment (up to six hours may be accrued in one day).

(c) Eighteen other monitoring activities, at least six per segment.

(d) Upon the completion of each segment the supervisor must submit documentation of completion to the department on a form provided by the department.

(e) A review of all purchase agreements in the fitting and dispensing of hearing instruments prior to signing. All purchase agreements will be signed by the supervisor.

(5) The interim permit is valid for one year or for the duration of the postgraduate experience. The interim permit will expire one year from the date of its issuance. The board may extend the permit an additional six months.

#### **Supervisor delegation.**

(6) Portions of the supervisory activities including the supervision in hearing instrument fitting and dispensing may be obtained in another facility and may be under the supervision of another certified speech-language pathologist or audiologist as delegated by the supervisor of record.

(a) The audiologist supervisor of record may delegate the supervision of hearing instrument fitting and dispensing to a licensed hearing instrument fitter/dispenser who has been licensed in good standing for at least two years.

(b) Delegation of the responsibility of supervision must be approved by the department.

(7) The department may approve transfer of a permit holder to another eligible supervisor upon the written request of either the supervisor or the permit holder.

(8) It is the responsibility of the permit holder to immediately report the termination of the supervisor to the department in writing, by certified mail.

(9) The supervisor of a permit holder who desires to terminate the responsibility as supervisor must immediately notify the department in writing, by certified mail, of the termination. The supervisor is responsible for the permit holder until such time as the notification of termination to the department is deposited in the United States mail.

### **WSR 99-08-103**

#### **PERMANENT RULES**

#### **DEPARTMENT OF HEALTH**

[Filed April 6, 1999, 4:56 p.m., effective July 5, 1999]

Date of Adoption: February 19, 1999.

Purpose: The amendments identify the recision amount determined by the Board of Hearing and Speech. The amendments also simplify and clarify the required language and format of the required purchase agreement used by hearing instrument fitter/dispensers in the sale of hearing instruments.

Citation of Existing Rules Affected by this Order: Amending WAC 246-828-290.

Statutory Authority for Adoption: RCW 18.35.161.

Other Authority: RCW 18.35.185(2).

Adopted under notice filed as WSR 99-01-096 on December 17, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Ninety days after filing [July 5, 1999].

March 15, 1999

Sheila Winkler, Chair  
Board of Hearing

**AMENDATORY SECTION** (Amending Order 165B, filed 5/8/91, effective 6/8/91)

**WAC 246-828-290 Purchaser recision rights.** ((In addition to the receipt and disclosure information required by

RCW 18.35.030, 63.14.040 and 63.14.120, every retail agreement for the sale of a hearing aid shall contain or have attached the following notice to buyer in ten point boldface type or larger on the front page in reasonable proximity to the purchaser signature line:

The notice of additional rights must be made known to the purchaser before the contract is executed. Such knowledge shall be demonstrated by the signature of the purchaser following a statement of those "additional rights" or following a statement on the face of the contract that the purchaser has been advised and is aware of the "additional rights." The "additional rights" must be provided in writing to the purchaser by the licensee and be in ten point boldface type or larger.

**Notice to Buyer**

(1) Do not sign this agreement before you read it or if any spaces intended for the agreed terms, except as to unavailable information, are blank.

(2) You are entitled to a copy of this agreement at the time you sign it.

(3) You may cancel this agreement if it was solicited in person, and you sign it, at a place other than the seller's business address shown on the agreement, by sending notice of such cancellation by certified mail, return receipt requested, to the seller at his address shown on the agreement, which notice shall be posted not later than midnight of the third day (excluding Sundays and holidays) following your signing this agreement; you must return or make available to the seller at the place of delivery any merchandise, in its original condition, received by you under this agreement.

**Additional Rights**

In addition to the rights and remedies provided for under the above circumstances, you, the purchaser, have the right to rescind the transaction for other than the seller's breach if, for reasonable cause, you return the hearing aid or hold it at the seller's disposal and the hearing aid is in its original condition less normal wear and tear, and you send a notice to the licensee's regular place of business by certified mail, return receipt requested. The notice should state that the transaction is cancelled pursuant to RCW 18.35.190(3) and must be mailed not later than thirty days following the date of delivery. Reasonable cause does not include a mere change of mind or cosmetic concerns.

In the event of cancellation under RCW 18.35.190(3), or as otherwise provided by law, the licensee must, without further request, refund to you postmarked within ten days after such cancellation, all deposits, including down payment, less fifteen percent of the total purchase price or one hundred dollars per hearing aid, whichever is less. He must also return all goods traded in.

You, the buyer, shall incur no additional liability for such cancellation. If you have taken the steps described above to cancel the purchase and subsequently agree with the seller to extend the trial or rescision period, you remain entitled to receive the refund upon demand made within sixty days of the original date of delivery or such other time as

agreed to in writing by both parties. Written notice of the last date for demanding a refund is to be provided to you at the time the trial or rescision period is extended.) In addition to the receipt and disclosure information required by RCW 18.35.030, 18.35.185, 63.14.040 and 63.14.120, every retail agreement for the sale of hearing instruments shall contain or have attached the following notice to buyer in twelve point type or larger. The language in part 1 under "Notice to Buyer" is intended to have the same legal effect as the notices required in RCW 63.14.040(2) and 63.14.120(3) and may be substituted for those notices.

The rights summarized in the "Notice to Buyer" must be made known to the purchaser before the contract is executed. The licensee or certificate holder must provide this "Notice to Buyer" in writing to the purchaser. The purchaser must demonstrate knowledge of these rights by initialing each numbered section of the "Notice to Buyer" and by signing his or her name in the appropriate space following the "Notice to Buyer."

**Notice to Buyer**

Do not sign this agreement before you read it or if any spaces intended for the agreed terms are blank.

You are entitled to receive a copy of this agreement at the time you sign it.

The seller's business address must be shown on the agreement.

**Section 1 CANCELLATION - WITHIN THREE DAYS Purchaser's Initial .....**

You may cancel this agreement within three days, without explaining your reasons, if the seller solicited it in person and you signed it at a place other than the seller's business address.

To cancel this agreement without explaining your reasons, you must notify the seller in writing that you are cancelling the agreement. You may deliver the written notice to the seller at the seller's business address. Alternatively, you may send the written notice by certified mail, return receipt requested, to the seller at the seller's business address.

Your written notice must be mailed or delivered by midnight of the third business day after you signed this agreement.

Any merchandise you received under this agreement must be in its original condition. You must return it to the seller or make it available to the seller at the same place it was delivered to you.

The seller must refund to you all deposits, including any down payment, and must return to you all goods traded in as part of the agreement.

You will incur no additional liability for canceling the agreement.

**Section 2 RESCISION - WITHIN THIRTY DAYS Purchaser's initial .....**

You may rescind (or terminate) the agreement within thirty days, for reasonable cause. This thirty-day period is called the "rescision period."

PERMANENT

WSR 99-08-104
PERMANENT RULES
DEPARTMENT OF HEALTH
(Nursing Care Quality Assurance Commission)
[Filed April 6, 1999, 4:59 p.m.]

Date of Adoption: February 26, 1999.

Purpose: Repeal WAC 246-838-040 Licensure qualifications. The contents of this rule have been moved to another existing rule, WAC 246-840-030. Therefore, WAC 246-838-040 can now be repealed. In 1997 all of the registered nursing rules and practical nursing rules were combined into a new set of rules. WAC 246-838-040 was the only rule that was not combined because of a typographical error. The rule has since been incorporated into another rule and can now be repealed.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-838-040.

Statutory Authority for Adoption: Chapter 18.79 RCW.

Adopted under preproposal statement of inquiry filed as WSR 99-01-092 on December 17, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 1.

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

February 5, 1999

Paula Q. Meyer
Executive Director

WSR 99-08-115
PERMANENT RULES
SECRETARY OF STATE
[Filed April 7, 1999, 9:24 a.m.]

Date of Adoption: April 7, 1999.

Purpose: Chapter 58, Laws of 1998, direct the Office of the Secretary of State to adopt rules for logic and accuracy tests.

Citation of Existing Rules Affected by this Order: Repealing WAC 434-334-115; and amending WAC 434-334-055, 434-334-065, 434-334-070, 434-334-075, 434-334-080, 434-334-085, 434-334-090, 434-334-095, 434-334-100, 434-334-105, and 434-334-110.

Statutory Authority for Adoption: RCW 29.33.350.

To rescind this agreement, you must notify the seller in writing that you are rescinding the agreement for reasonable cause pursuant to RCW 18.35.185(1). (Reasonable cause does not include cosmetic concerns or a mere change of mind.) You may deliver the written notice to the seller at the seller's business address. Alternatively, you may send the written notice by certified mail, return receipt requested, to the seller at the seller's business address.

Your written notice must be mailed or delivered by midnight of the thirtieth day after you signed this agreement.

Any merchandise you received under this agreement must be in its original condition, except for normal wear and tear. You must return it to the seller or make it available to the seller at the same place it was delivered to you.

The seller must refund to you all deposits, including any down payment, and must return to you all goods traded in as part of the agreement. However, for each hearing instrument you return, the seller may keep either one hundred fifty dollars or fifteen percent of the total purchase price, whichever is less. The seller also may deduct any costs incurred in making traded-in goods ready for resale.

The seller must refund your money and return your traded goods, or have them postmarked and in the mail to you, within ten business days after receiving your notice of rescision.

You will incur no additional liability for rescinding the agreement.

Section 3 EXTENSION OF RESCISION PERIOD Purchaser's

Initial .....

If you notify the seller within the thirty-day rescision period that your hearing instrument has developed a problem that constitutes reasonable cause to rescind the agreement or that prevents you from evaluating your hearing instrument, the seller must extend the rescision period. The rescision period stops running on the date you notify the seller of the problem and starts running again on the date the seller notifies you that your hearing instrument is ready for redelivery.

You and the seller may agree to a rescision period longer than thirty days.

Whenever the rescision period is extended, the seller must provide you written notice of the last date upon which you may demand a refund and return of traded goods.

Signature of Purchaser Date
Signature of Seller Date
Delivery Acknowledgment - Signature of Purchaser Date

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Adopted under notice filed as WSR 99-05-034 on February 10, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 14, Amended 11, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 14, Amended 11, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 14, Amended 11, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

April 7, 1999

Donald F. Whiting

Assistant Secretary of State

**AMENDATORY SECTION** (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-334-055 Acceptance testing of voting systems and equipment.** Whenever a county acquires a new system or an upgrade to an existing system that has been certified by the secretary of state, the county must perform acceptance tests of the equipment before it may be used to count votes at any election. The equipment must be operating correctly, pass all tests and must be ~~((identical to))~~ substantially the same as the equipment certified by the secretary of state. The minimum testing standards are described as follows:

(1) The model number, version number, release number, and any other number, name or description that identifies the product must be the same as the identifying numbers for the product that has been certified by the secretary of state.

(2) The county must receive all manuals, and training necessary for the proper operation of the system.

(3) The county shall perform a series of functional and programming tests that will test all functions of the ballot counting system. This must include processing a substantial number of test ballots of various prepunch or ballot codes, including split precincts, rotated races, multiple candidates, precinct committee officer local races, cumulative reports, precinct reports, canvass reports, and any other tests the county elections authority finds necessary.

#### **NEW SECTION**

**WAC 434-334-063 Definition of official logic and accuracy test.** As used in this chapter, "official logic and accuracy test" means the test performed in accordance with RCW 29.33.350.

**AMENDATORY SECTION** (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-334-065 Logic and accuracy test conduct.** The county shall provide adequate personnel to properly operate the ballot counting equipment. Whenever possible, the equipment should be operated during the test by the same persons who will be ~~((conducting))~~ responsible for the ~~((actual))~~ ballot count on election day. ~~((At the scheduled time the test decks shall be run through the ballot counting system and ballot results produced. The results shall then be compared with the preaudit expected results.))~~ If any error in programming or mechanical function is detected, the cause shall be determined and corrected, and an errorless ~~((total produced))~~ test completed before the primary or election.

**AMENDATORY SECTION** (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-334-070 Logic and accuracy test observers.** The official logic and accuracy test shall be observed by at least one representative of each major political party, if representatives have been appointed by the parties and are present at the test. The party observers shall be instructed as election observers, by the county auditor ~~((prior to observing an election))~~. The official logic and accuracy test shall be open to candidates, the press, and the public. If ~~((a party))~~ any observer hinders or disturbs the ~~((E & A))~~ logic and accuracy test process, the county ~~((election authority))~~ auditor or representative may remove that observer from the test area. ~~((The))~~ An observer ~~((may also be barred from future tests))~~ who has been removed from a logic and accuracy test may also be barred from future tests. The absence of observers shall not delay or stop the test from being conducted.

**AMENDATORY SECTION** (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-334-075 Logic and accuracy testing of voting systems and equipment—State primary and general election.** At least three days before each state primary or general election the office of the secretary of state shall provide for a test of the programming for ~~((each))~~ the vote tallying system to be used at that primary or election ~~((shall be tested by the office of the secretary of state))~~. The test should verify that the system will correctly count the votes cast for all candidates and all measures appearing on the ballot. The test shall ~~((be conducted by processing a preaudited group of ballots, marked with a predetermined number of votes, for each candidate and for or against each measure. For each office where there are two or more candidates and for each measure there will be an undervote and overvote))~~ also verify that the machine(s) is/are functioning to specifications.

**AMENDATORY SECTION** (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-334-080 Logic and accuracy test ~~((deck))~~ preparation—State primary and general election—Punchcard systems.** The test deck or decks used for the official logic and accuracy test ~~((may be prepared by either the~~

PERMANENT

office of the secretary of state, the county, or the vendor)) are maintained by the county auditor. Information describing the candidates, offices, ballot formats, ballot positions, pages applicable or planning matrix, accurate list of prepunches, list of the number of appearances of each office and each rotation, and all other information required to ((create)) select the test ((decks)) precincts and predict the results must be available to the office of the secretary of state at the very latest by the 30th day prior to the primary or election. If a county is delayed due to complications related to lawsuits or late filing periods, the county should advise the office of the secretary of state before the 30th day prior to the primary or election.

#### NEW SECTION

**WAC 434-334-082 Procedure for conduct of delayed primary or general election emergency logic and accuracy test.** If the official logic and accuracy test cannot be completed at the scheduled time and place, an emergency test shall be scheduled by the county auditor. The emergency test must be conducted and properly completed prior to the processing of any official ballots through the tabulating system. If no representative of the office of the secretary of state is able to attend the emergency test, the county auditor and another member of the county canvassing board or their designated representative shall observe the test and certify the results. Observers and notification shall be provided for pursuant to WAC 434-334-070 and 434-334-085.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-334-085 Logic and accuracy test scheduling and preparation—State primary and general election.** Prior to each state primary and general election the office of the secretary of state will prepare a schedule of logic and accuracy tests. The office of the secretary of state will notify each county of the date and time of their test at least ((two weeks)) thirty days before the ((test)) primary or election. The county is responsible for preparing the counting system and testing it before the actual logic and accuracy test. The ballot counting system shall be ((one hundred percent programmed)) fully programmed, cleaned, maintained, tested and functional before the official logic and accuracy test. The county shall notify the parties, the press, the public, and candidates of the date and time of the test.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-334-090 Logic and accuracy test certification—State primary and general election.** The ((secretary of state, the)) county auditor((;)) or deputy, and, if present, the office of the secretary of state representative and any political party observers shall certify that the test has been conducted in accordance with RCW 29.33.350. Copies of this certification shall be retained by the secretary of state and the county auditor. All programming materials, test results, and test ballots shall be securely sealed until the day of the pri-

mary or election. These items may be sealed and stored separately.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-334-095 Logic and accuracy testing of voting systems and equipment—Special elections.** At least three days before each special election the programming for ((each)) the vote tallying system to be used at that election shall be tested for logic and accuracy. The test should verify that the system will correctly count the votes cast for all candidates and all measures appearing on the ballot. The test shall be conducted by processing a preaudited group of ballots, marked with a predetermined number of votes, for each candidate and for or against each measure. For each office where there are two or more candidates and for each measure there will be an undervote and overvote.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-334-100 Logic and accuracy test deck preparation—Special elections.** When a new test deck is required under WAC 434-334-095, the test deck or decks used for the official logic and accuracy test will be prepared by the county elections office.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-334-105 Logic and accuracy test scheduling and preparation—Special election.** The county is responsible for preparing the counting system and testing it before the ((actual)) official logic and accuracy test. The ballot counting system shall be ((one hundred percent)) fully programmed, cleaned and maintained, tested, and functional before the official logic and accuracy test. The county shall notify the parties, the press, the public, and candidates of the date and time of the official logic and accuracy test.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-334-110 Logic and accuracy test certification—Special election.** The county auditor((;)) or deputy and any political party observers, if present, shall certify that the test has been conducted in accordance with RCW 29.33.350. Copies of this certification shall be retained by the county auditor. All programming materials, official test results, and test ballots shall be securely sealed until the day of the primary or election. These items may be sealed and stored separately.

### **PUNCHCARD SYSTEMS**

#### NEW SECTION

**WAC 434-334-125 Punchcard test deck maintenance and storage.** Each county employing a punchcard balloting

system shall maintain a permanent deck of logic and accuracy test ballots. The test ballots shall contain a distinct pattern of votes. The deck may be used for all official logic and accuracy tests and for programming tests conducted in preparation for official logic and accuracy tests. The permanent test deck shall be maintained in secure storage except when being used for actual testing.

#### NEW SECTION

**WAC 434-334-130 Punchcard test precinct selection—State primary and general elections.** Prior to the official logic and accuracy test the office of the secretary of state shall review the election materials provided by the county and select a representative sample of precincts and ballot styles sufficient to cover all offices and issues contained in the election. The representative sample shall constitute the official logic and accuracy test. This provision does not limit the ability of the office of the secretary of state to conduct a complete test of every precinct if conditions warrant.

#### NEW SECTION

**WAC 434-334-135 Punchcard testing requirements prior to official logic and accuracy test.** Prior to the official logic and accuracy test, each county employing a punchcard balloting system shall thoroughly test all programming and system components. The test must at least verify the office programming by thoroughly testing each individual office, test the ballot style logic to insure that all offices are included in the intended precincts and combinations, and verify that the program is accumulating all offices. The county auditor or deputy shall certify that these tests have been completed prior to the official logic and accuracy test.

### OPTICAL SCAN SYSTEMS

#### NEW SECTION

**WAC 434-334-140 Definitions.** For optical scan voting systems:

(1) "Voting response area" means the area defined by ballot instructions which the voter places their mark to indicate their vote.

(2) "Scanning area" means the portions of each ballot that the system scans in order to read the vote marks made by voters.

#### NEW SECTION

**WAC 434-334-145 Logic and accuracy test deck preparation—State primary and general election—Optical scan systems.** The test deck or decks used for the official logic and accuracy test for optical scan systems may, at the discretion of the secretary of state, be prepared by either the office of the secretary of state, the county, or the vendor. Information describing the candidates, offices, ballot formats, ballot positions, ballot styles, list of the number of appearances of each office and each rotation, and all other

information required to create the test decks must be available to the office of the secretary of state by the 20th day prior to the primary or election. If a county is delayed due to complications related to lawsuits or late filing periods, the county should advise the office of the secretary of state before the 20th day prior to the primary or election.

#### NEW SECTION

**WAC 434-334-150 Optical scan test ballot selection—State primary and general elections.** Prior to the official logic and accuracy test the office of the secretary of state shall review the provided election materials with the county and select a representative sample of ballot styles sufficient to cover all offices and issues contained in the election. This representative sample shall constitute the official logic and accuracy test. This provision does not limit the ability of the office of the secretary of state to conduct a complete test of every precinct if conditions warrant. If the office of the secretary of state is preparing the test deck, the county auditor shall send blank ballots of the selected ballot styles to the office of the secretary of state as soon as the ballots are available.

#### NEW SECTION

**WAC 434-334-155 Optical scan read head adjustment standards and tests.** Prior to all state primaries, read heads of optical scan central counting systems shall be cleaned and tested to insure that the reader is functioning within system standards.

#### NEW SECTION

**WAC 434-334-160 Optical scan read head and ballot scan area alignment tests.** Prior to all official logic and accuracy tests, a test shall be conducted by each county employing an optical scan balloting system to confirm that the voting response areas printed on all ballot faces are aligned properly with the scanning area of the ballot counter.

#### NEW SECTION

**WAC 434-334-165 Optical scan ballot marking code program test.** Prior to the official logic and accuracy test each county employing an optical scan balloting system shall thoroughly test all programming and system components. The test must at least verify the office programming by thoroughly testing each individual office, test the ballot style logic to insure that all offices are included on the intended ballot faces, and verify that the program is accumulating all offices. The county auditor or deputy shall certify that these tests have been completed prior to the official logic and accuracy test.

**PRECINCT-BASED OPTICAL SCAN SYSTEMS**

**WSR 99-08-123  
PERMANENT RULES  
DEPARTMENT OF  
FINANCIAL INSTITUTIONS**

[Filed April 7, 1999, 10:17 a.m.]

**NEW SECTION**

**WAC 434-334-170 Precinct-based optical scan ballot counter preparation and testing.** All logic and accuracy testing of precinct-based systems shall be performed by the county during the preparation of the precinct ballot counters prior to system distribution. As each ballot counter is programmed and set up for distribution a test of the ballot counter and ballot styles shall be performed. It shall be established by these tests that the ballot counter(s) are functioning within system standards. All ballot styles programmed for each machine shall be processed by each machine in order to insure that the machine is correctly counting and accumulating every office. The tests shall also establish that the printed ballot voter response areas are correctly aligned with the scanning area. After all tests are performed and the machine is ready for distribution, the machine shall be sealed and the seal number recorded. This will serve as the official logic and accuracy test of these poll site ballot counters.

**NEW SECTION**

**WAC 434-334-175 Poll site-based optical scan ballot counter test notices, observers, and log of process.** A log shall be created during the testing of the poll site-based ballot counters. The log shall record the time and place of each test, the precinct number(s), seal number and machine number of each ballot counter and the initials of each person testing and observing the test for each machine. This log shall be included in the official logic and accuracy test materials. The processes described in WAC 434-334-170 shall be open to observation and subject to all notices and observers pursuant to WAC 434-334-070 and 434-334-085.

**NEW SECTION**

The following section of the Washington Administrative Code, as amended, is recodified as follows:

Old WAC Number	New WAC Number
434-334-080	434-334-120

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 434-334-115	Logic and accuracy tests for direct recording electronic equipment.
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Date of Adoption: April 6, 1999.

Purpose: To repeal chapter 50-16 WAC. Chapter 50-16 WAC is based on RCW 31.04.150 and chapter 31.08 RCW, which were repealed during the 1991 legislative session.

Citation of Existing Rules Affected by this Order: Repealing chapter 50-16 WAC.

Statutory Authority for Adoption: RCW 43.320.010, 43.320.040, 30.04.030.

Adopted under preproposal statement of inquiry filed as WSR 99-04-073 on February 2, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

April 6, 1999

John L. Bley

Director

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 50-16-020	Recordkeeping—General.
WAC 50-16-025	Allocation of expenses to consumer finance business.
WAC 50-16-030	Books, files and accounting records required.
WAC 50-16-035	Forms.
WAC 50-16-040	Litigation record.
WAC 50-16-045	Loans.
WAC 50-16-050	Computation of charges.
WAC 50-16-055	Rebate of precomputed charges.
WAC 50-16-060	Splitting loans prohibited.
WAC 50-16-065	Statement to borrower—Receipt.

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- WAC 50-16-070 Advertising.
- WAC 50-16-075 Restrictions on insurance.
- WAC 50-16-080 Delivery of policy or evidence to borrower—Master policy required.
- WAC 50-16-085 Rebate of credit life insurance charge.
- WAC 50-16-090 File for official correspondence and reports.
- WAC 50-16-095 Knowledge of the law and regulations.
- WAC 50-16-100 Hours of business.
- WAC 50-16-105 Insufficient funds charge.

**WSR 99-08-001**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)

[Filed March 25, 1999, 9:16 a.m., effective April 1, 1999]

Date of Adoption: March 25, 1999.

Purpose: These amendments change income standards to reflect the new federal poverty level (FPL). These changes will increase the number of people eligible for the medical programs based on the FPL, pregnant women, children and those eligible for Medicare cost sharing programs.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0075 and 388-478-0085.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.04.057, 74.09.530 and the poverty guidelines updated annually in the Federal Register by the United States Department of Health and Human Services under authority of Section 673(2) of the Omnibus Budget Reconciliation Act (42 USC 9902(2)).

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

Reasons for this Finding: The increase in FPL must go into effect by April 1, 1999, to comply with federal requirements.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Effective Date of Rule: April 1, 1999.

March 25, 1999

Edith M. Rice

for Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-478-0075 Monthly income standards for medical programs based on the federal poverty level**

~~((income based programs))~~ **(FPL)**. (1) The income ((eligibility)) standard is based upon the FPL for the following medical programs ((is based upon the Federal Poverty Level (FPL) as established by the U.S. Department of Labor and updated annually)):

(a) Children's health program is one hundred percent of FPL,

(b) Pregnant women's program is one hundred eighty-five percent of FPL, and

(c) Children's categorically needy program is two hundred percent of FPL.

(2) ~~((The FPL is effective as of))~~ Beginning April 1, ((1998-)) 1999, the FPL standards are:

FAMILY SIZE	100% FPL	185% FPL	200% FPL
1	\$ <del>((674))</del> <u>687</u>	\$ <del>((1242))</del> <u>1271</u>	\$ <del>((1342))</del> <u>1374</u>
2	\$ <del>((905))</del> <u>922</u>	\$ <del>((1673))</del> <u>1706</u>	\$ <del>((1809))</del> <u>1844</u>
3	\$ <del>((1138))</del> <u>1157</u>	\$ <del>((2105))</del> <u>2140</u>	\$ <del>((2275))</del> <u>2314</u>
4	\$ <del>((1371))</del> <u>1392</u>	\$ <del>((2537))</del> <u>2575</u>	\$ <del>((2742))</del> <u>2784</u>
5	\$ <del>((1605))</del> <u>1627</u>	\$ <del>((2968))</del> <u>3010</u>	\$ <del>((3209))</del> <u>3254</u>
6	\$ <del>((1838))</del> <u>1862</u>	\$ <del>((3400))</del> <u>3445</u>	\$ <del>((3675))</del> <u>3724</u>
7	\$ <del>((2071))</del> <u>2097</u>	\$ <del>((3832))</del> <u>3879</u>	\$ <del>((4142))</del> <u>4194</u>
8	\$ <del>((2305))</del> <u>2332</u>	\$ <del>((4263))</del> <u>4314</u>	\$ <del>((4609))</del> <u>4664</u>
9	\$ <del>((2538))</del> <u>2567</u>	\$ <del>((4695))</del> <u>4749</u>	\$ <del>((5075))</del> <u>5134</u>
10	\$ <del>((2771))</del> <u>2802</u>	\$ <del>((5127))</del> <u>5184</u>	\$ <del>((5542))</del> <u>5604</u>

Add to the ten person standard for each person over ten:

\$ <del>((234))</del> <u>235</u>	\$ <del>((432))</del> <u>435</u>	\$ <del>((467))</del> <u>470</u>
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(3) There are no resource limits for the programs under this section.

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-478-0085 Medicare cost sharing program monthly income and countable resources standards.** (1) The qualified Medicare beneficiary (QMB) program income standard is ~~((based upon))~~ one hundred percent of the Federal Poverty Level (FPL). Beginning April 1, ~~((1998, this))~~ 1999, the QMB program's income standards are:

- (a) One person \$ ~~((674))~~ 687
- (b) Two persons \$ ~~((905))~~ 922

EMERGENCY

**WSR 99-08-010**

**EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 99-21—Filed March 26, 1999, 12:46 p.m.]

(2) The special low-income Medicare beneficiary (SLMB) program income standard is over one hundred percent of the FPL, but under one hundred twenty percent of the FPL. Beginning April 1, (~~1998, this~~) 1999, the SLMB program's income standards are:

	<b>Minimum</b>	<b>Maximum</b>
(a) One person	\$ ( <del>671.01</del> ) <u>687.01</u>	\$ ( <del>805</del> ) <u>824</u>
(b) Two persons	\$ ( <del>905.01</del> ) <u>922.01</u>	\$ ( <del>1085</del> ) <u>1106</u>

(3) The expanded special low-income Medicare beneficiary (ESLMB) program income standard is over one hundred twenty percent of the FPL, but under one hundred thirty-five percent of the FPL. Beginning April 1, (~~1998, this~~) 1999, the ESLMB program's income standards are:

	<b>Minimum</b>	<b>Maximum</b>
(a) One person	\$ ( <del>805.01</del> ) <u>824.01</u>	\$ ( <del>906</del> ) <u>927</u>
(b) Two persons	\$ ( <del>1085.01</del> ) <u>1106.01</u>	\$ ( <del>1221</del> ) <u>1245</u>

(4) The qualified disabled working individual (QDWI) program income standard is standard is based upon two hundred percent of the FPL. Beginning April 1, (~~1998, this~~) 1999, the QDWI program's income standards are:

(a) One person	\$ ( <del>1342</del> ) <u>1374</u>
(b) Two persons	\$ ( <del>1809</del> ) <u>1844</u>

(5) The qualified individual (QI) program income standard is over one hundred thirty-five percent of the FPL, but under one hundred seventy-five percent of the FPL. Beginning April 1, (~~1998 this~~) 1999, the QI program's income standards are:

	<b>Minimum</b>	<b>Maximum</b>
(a) One person	\$ ( <del>906.01</del> ) <u>927.01</u>	\$ ( <del>1174</del> ) <u>1202</u>
(b) Two persons	\$ ( <del>1221.01</del> ) <u>1245.01</u>	\$ ( <del>1583</del> ) <u>1613</u>

(6) The (~~countable~~) resource standard(~~s~~) for (~~all of~~) the Medicare cost sharing programs in this section(~~s are the same. These resource standards are~~):

(a) One person	\$4000
(b) Two persons	\$6000

Date of Adoption: March 26, 1999.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100J; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 75.08.080.

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

Reasons for this Finding: Harvestable amounts of sea cucumbers exist in the Griffin Bay special management area. Prohibition of all diving within two days of the scheduled sea cucumber opening discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 26, 1999

J. P. Koenings

Director

NEW SECTION

**WAC 220-52-07100J Sea cucumbers.** Notwithstanding the provisions of WAC 220-52-071, effective immediately until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) The Griffin Bay Special Management Area is only open on March 31, 1999. The maximum daily landing for a vessel on March 31, 1999, is 1,100 pounds of sea cucumbers.

(2) It is unlawful to dive for any purpose from a commercially-licensed fishing vessel, except vessels actively fishing geoducks under contract with the Washington Department of Natural Resources, on March 29 and March 30, 1999.

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(3) Griffin Bay Special Management Area is defined as those waters of San Juan Channel and Upright Channel within the following lines: north of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island, south of a line projected from Flat Point on Lopez Island to the northernmost point of Turn Island and thence projected true west to San Juan Island.

(4) All shellfish diver gear rules in WAC 220-52-071 remain in effect.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective one hour after official sunset March 31, 1999:

WAC 220-52-07100J Sea cucumbers.

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

**WSR 99-08-011  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 99-22—Filed March 26, 1999, 12:51 p.m., effective March 27, 1999, 6:00 p.m.]

Date of Adoption: March 25, 1999.

Purpose: Commercial and personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04600K and 220-56-33000L; and amending WAC 220-52-046, 220-48-015, and 220-56-330.

Statutory Authority for Adoption: RCW 75.08.080.

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

Reasons for this Finding: The closures in this emergency rule are necessitated by federal court order. The state may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. Agreed plans with applicable tribes have been entered as required by the court order. Such plans have the effect of a federal court order. 898 F. Supp. 1453, 1466, 3.1. Pursuant to RCW 34.04.350 [34.05.350], the need to comply with such federal court orders in the form of allocative management plans constitutes an emergency that requires bypassing the time periods inherent in permanent rule-making. Additionally, test fishing results from Marine Fish/Shellfish Management and Catch Reporting Areas 21A, 21B, 22B, 24A, 24B, 24C, 24D, and 26A do not meet hardshell criteria established by agreed state/tribal harvest plans. The agreed plans require fishery closures to prevent unacceptable handling mortality and resource loss when hardshell criteria are not met. Failure to comply with the conservation and/or allocation requirements of such plans may result in contempt of federal court or fail-

ure of all commercial crab fishing in a given region addressed by a plan. Temporary closure of the ground fish bottom trawl fishery in these areas is necessary to prevent crab resource damage and wastage.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: March 27, 1999, 6:00 p.m.

March 25, 1999

J. P. Koenings

Director

**NEW SECTION**

**WAC 220-52-04600L Commercial crab fishery—Allocation/softshell closures.** Notwithstanding the provisions of WAC 220-52-046, effective 6:00 p.m. March 27, 1999 until further notice, it is unlawful to fish for Dungeness crab for commercial purposes in Puget Sound in the following areas:

(1) All waters of Marine Fish/Shellfish Management and Catch Reporting Areas 21B, 22B, 24A, 24B, 24C, 24D, 26A, 25B, and 25D.

(2) All waters of Marine Fish/Shellfish Management and Catch Reporting Area 21A except those waters north of a line extending from Carter Point on Lummi Island to the northern point of Sinclair Island and west of Lummi Island.

(3) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 25A west of a line from the new Dungeness Light to the mouth of Cooper Creek.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. March 27, 1999:

WAC 220-52-04600K Commercial crab fishery—Allocation/softshell closures. (98-259)

**NEW SECTION**

**WAC 220-48-01500I Puget Sound bottom trawl restriction in softshell crab areas.** Notwithstanding the provisions of WAC 220-48-015, effective 6:00 p.m. March 27 until further notice, it is unlawful to fish for bottomfish for

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commercial purposes using beam trawl or bottom trawl fishing gear in the following areas:

- (1) All waters of Marine Fish/Shellfish Management and Catch Reporting Area 22B.
- (2) All waters of Marine Fish/Shellfish Management and Catch Reporting Area 21A except those waters north of a line extending from Carter Point on Lummi Island to the northern point of Sinclair Island and west of Lummi Island.

**NEW SECTION**

**WAC 220-56-33000M Personal use crab fishery—Allocations/softshell closures.** Notwithstanding the provisions of WAC 220-52-330, it is unlawful to fish for Dungeness crab taken for personal use in the following areas:

- (1) Effective 8:00 a.m. March 27 until further notice it is unlawful to fish for Dungeness crab taken for personal use using shellfish pot gear from all waters of Catch Record Card Areas 8-1 and 8-2, and the portion of Catch Record Card Area 9 north and east of a line from Picnic Point to Possession Point on Whidbey Island.
- (2) Effective 6:00 p.m. March 27 until further notice, it is unlawful to fish for Dungeness crab taken for personal use using shellfish pot gear from waters of Catch Record Card Area 7 south and east of a line from Point Francis to the north end of Inati Bay on Lummi Island, and east of a line from Carter Point on Lummi Island to the northern point of Sinclair Island, and east of a line from the southeast point of Sinclair Island to the Shannon Point ferry dock.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. March 27, 1999:

WAC 220-56-33000L Personal use crab fishery—Allocation/softshell closures. (98-259)

EMERGENCY

**WSR 99-08-016**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)

[Filed March 29, 1999, 2:14 p.m., effective April 1, 1999]

Date of Adoption: March 29, 1999.

Purpose: This rule adopts increases in the amount of the community spouse and dependent family member needs allowance and the standard shelter allocation. Changes in these federal standards become effective April 1, 1999, according to an increase in the federal poverty level. Under section 1924(g) of the Social Security Act the new amounts that become effective April 1, 1999, are adopted in this emergency rule. This rule also readopts an increase in the maximum community spouse needs allowance that became effective January 1, 1999.

Citation of Existing Rules Affected by this Order: Amending WAC 388-513-1380.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: This amendment must go into effect April 1, 1999, to comply with federal regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: April 1, 1999.

March 29, 1999  
Edith M. Rice, Chair  
Office of Legal Affairs

**AMENDATORY SECTION** (Amending WSR 98-08-077 filed 3/31/98, effective 4/1/98)

**WAC 388-513-1380 Institutional—Participation—Client share of monthly institutional payments.** This section describes the allocations which can be deducted from the institutional client's income and excess resources in order to determine the amount available for the client's participation in the cost of care.

(1) The client's excess resources are available to meet the cost of care after the following deductions in this order:

- (a) Health insurance and Medicare premiums, deductions, and co-insurance not paid by a third party; and
- (b) Noncovered medical bills which are the liability of the client and not paid by a third party.

(2) The allocations used to reduce excess resources under subsection (1) of this section cannot be used to reduce income under subsection (3) of this section.

(3) The client's nonexempt income is available to meet the cost of care after the following deductions in this order:

(a) Deductions described in subsection (3)(a) may not total more than the one-person medically needy income level (MNIL):

- (i) A personal needs allowance (PNA) as follows:
  - (A) One hundred sixty dollars for a veteran living in a Medicaid-certified state veteran's home nursing facility;
  - (B) Ninety dollars for a single veteran, or widow or widower of a veteran receiving an improved veteran's pension; or
  - (C) Forty-one dollars and sixty-two cents for all other clients in a medical facility.

(ii) Federal, state, or local income taxes:

(A) Mandatorily withheld from earned or unearned income for income tax purposes before receipt by the client;

(B) Not covered by withholding, but are owed or have been paid by the client.

(iii) Wages for a client who:

(A) Is SSI-related; and

(B) Receives the wages as part of a department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction employment expenses are not deducted.

(iv) Guardianship fees and administrative costs including any attorney fees paid by the guardian, after June 15, 1998, only as allowed by chapter 388-79 WAC.

(b) A monthly needs allowance for the community spouse not to exceed, effective January 1, ((1998)) 1999, two thousand ((nineteen)) forty-nine dollars, unless specified in subsection (5) of this section. The monthly needs allowance is:

(i) An amount added to the community spouse's gross income to provide a total of one thousand three hundred ((fifty-eight)) eighty-three dollars;

(ii) Excess shelter expenses as specified under subsection (4) of this section; and

(iii) Allowed only to the extent the client's income is made available to the community spouse.

(c) A monthly maintenance needs amount for each dependent or minor child, dependent parent or dependent sibling:

(i) Residing with the community spouse, equal to one-third of the amount that one thousand three hundred ((fifty-eight)) eighty-three dollars exceeds the family member's income. Child support received from an absent parent is the child's income.

(ii) Not residing with the community spouse, equal to the MNIL for the number of family members in the home less the income of the family members.

(d) Incurred medical expenses, not subject to third-party payment, which are the current liability of the client including:

(i) Health insurance premiums, deductions, and coinsurance amounts; and

(ii) Necessary medical care recognized under state law, but not covered under Medicaid.

(e) Maintenance of the home of a single person or institutionalized couple:

(i) Up to one hundred percent of the one-person federal poverty level per month;

(ii) Limited to a six-month period;

(iii) When a physician has certified that the client is likely to return to the home within the six-month period; and

(iv) When social service staff documents initial need for the income exemption and reviews the person's circumstances after ninety days.

(4) For the purposes of this section, "excess shelter expenses" equal the actual expenses under subsection (4)(a) of this section less the standard shelter allocation under subsection (4)(b) of this section:

(a) Shelter expenses are the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative; and

(v) The food stamp standard utility allowance, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(b) The standard shelter allocation is four hundred ((eight)) fifteen dollars, effective April 1, ((1997)) 1999.

(5) The amount the institutional spouse may allocate to the community spouse may be greater than the amount in subsection (3)(b) of this section only when:

(a) A court enters an order against the institutionalized client for the support of the community spouse; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(6) SSI clients shall continue to receive total payment under 1611 (b)(1) of the Social Security Act for the first three full calendar months of institutionalization in a public or Medicaid-approved medical institution or facility when the:

(a) Stay in the institution or facility is not expected to exceed three months; and

(b) The client plans to return to former living arrangements.

#### WSR 99-08-038

#### EMERGENCY RULES

#### DEPARTMENT OF

#### FISH AND WILDLIFE

[Order 99-25—Filed March 31, 1999, 2:08 p.m.]

Date of Adoption: March 30, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000M; and amending WAC 220-56-330.

Statutory Authority for Adoption: RCW 75.08.080.

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

Reasons for this Finding: The closures in this emergency rule are necessitated by federal court order. The state may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. Agreed plans with applicable tribes have been entered as required by the court order. Such plans have the effect of a federal court order. 898 F. Supp. 1453, 1466, 3.1. Pursuant to RCW 34.04.350 [34.05.350], the need to comply with such federal court orders in the form of allocative management plans constitutes an emergency that requires bypassing the time periods inherent in permanent rule making. Additionally, test fishing results from Marine Fish/Shellfish Management and Catch Reporting Areas 21A, 21B, 22B, 24A, 24B, 24C, 24D,

and 26A do not meet hardshell criteria established by agreed state/tribal harvest plans. The agreed plans require fishery closures to prevent unacceptable handling mortality and resource loss when hardshell criteria are not met. Failure to comply with the conservation and/or allocation requirements of such plans may result in contempt of federal court or failure of all commercial crab fishing in a given region addressed by a plan.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 30, 1999

J. P. Koenings  
Director

#### NEW SECTION

**WAC 220-56-33000N Personal use crab fishery—Allocations/softshell closures.** Notwithstanding the provisions of WAC 220-52-330, it is unlawful to fish for Dungeness crab taken for personal use in the following areas:

(1) Effective immediately until further notice it is unlawful to fish for Dungeness crab taken for personal use using shellfish pot gear from all waters of Catch Record Card Areas 8-1 and 8-2, and the portion of Catch Record Card Area 9 north and east of a line from Picnic Point to Possession Point on Whidbey Island.

(2) Effective immediately until further notice, it is unlawful to fish for Dungeness crab taken for personal use using shellfish pot gear from waters of Catch Record Card Area 7 south and east of a line from Point Francis to the north end of Inati Bay on Lummi Island, and east of a line from Carter Point on Lummi Island to the northern point of Sinclair Island, and east of a line from the southeast point of Sinclair Island to the Shannon Point ferry dock and all waters of Bellingham Bay.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-33000M Personal use crab fishery—Allocation/softshell closures. (99-22)

### WSR 99-08-045 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 99-20—Filed March 31, 1999, 4:53 p.m., effective April 1, 1999, 12:01 a.m.]

Date of Adoption: March 29, 1999.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-44-05000U; and amending WAC 220-44-050.

Statutory Authority for Adoption: RCW 75.08.080.

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

Reasons for this Finding: This regulation is necessary to achieve conservation goals and to maintain consistency between state and federal regulations. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: April 1, 1999, 12:01 a.m.

March 29, 1999

Evan Jacoby  
for Jeff P. Koenings  
Director

#### NEW SECTION

**WAC 220-44-05000V Coastal bottomfish catch limits.** Notwithstanding the provisions of WAC 220-44-050, effective 12:01 a.m. April 1, 1999 until further notice, it is unlawful to possess, transport through the waters of the state or land in any Washington State port bottomfish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the following species:

1. The following definitions apply to this section:

a. Cumulative limit - A cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per calendar month or cumulative period,

without a limit on the number of landings or trips. The cumulative limit includes all fish harvested by a vessel during the cumulative period, whether taken in limited entry or open access fisheries. Once a cumulative limit has been achieved, an operator may begin fishing on the next cumulative limit so long as the fish are not landed until after the beginning of the next cumulative limit. For B-platoon vessels a calendar month shall be the 16th of the month through the 15th of the following month.

b. **Cumulative period** - Period 2 - April through May, Period 3 - June through July.

c. **Daily trip limit** - The maximum amount of fish that may be taken and retained, possessed or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours.

d. **Groundfish limited entry fishery** - Fishing activity by a trawl, setline or bottomfish pot equipped vessel that has received a federal limited entry permit issued by the National Marine Fisheries Service endorsed for the qualifying gear type.

e. **Groundfish open access fishery** - Fishing activity by a vessel equipped with setline or bottomfish pot gear that has not received a federal limited entry permit, or a vessel using gear other than trawl, setline or bottomfish pot gear.

f. **Shrimp trawl fishery** - Fishing activity by a vessel equipped with shrimp trawl gear when ocean pink shrimp comprise more than one half the volume of shrimp aboard.

g. **Spot prawn trawl fishery** - Fishing activity by a vessel equipped with shrimp trawl gear when ocean spot prawns comprise more than half the volume of shrimp aboard.

h. **Vessel trip** - A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

i. **Vessel trip limit** - The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.

j. **Dressed length** - The dressed length of a fish is the distance from the anterior insertion of the first dorsal fin to the tip of the tail.

2. **Groundfish limited entry fishery limits**. The following limits apply to the groundfish limited entry fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, and 63 (notwithstanding the provisions of WAC 220-44-030):

a. **Pacific ocean perch** - One-month cumulative limit of 4,000 pounds. No minimum size.

b. **Widow rockfish** - Cumulative period limits as follows: Periods 2, 3 - 16,000 pounds per period. No minimum size.

c. **Shortbelly rockfish** - No minimum size. No maximum poundage.

d. **Black rockfish** - The vessel trip limit for black rockfish for commercial fishing vessels using hook-and-line gear between the U.S. Canada border and Cape Alava (48°09'30" N. latitude) and between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude), is 100 pounds (round weight) or 30 percent by weight of all fish on board including salmon, whichever is greater, per vessel trip.

e. **Sebastes complex** - All species of rockfish except Pacific ocean perch, widow, shortbelly, and thornyhead (*Sebastes* spp.) Cumulative period limits as follows: Periods 2, 3 - 25,000 pounds of which no more than 13,000 pounds may be yellowtail rockfish and 9,000 pounds may be canary rockfish.

f. **DTS Complex - (Dover sole, Thornyhead rockfish, and Sablefish)** -

(1) **Dover sole**, cumulative period limits as follows: Periods 2, 3 - 20,000 pounds per period.

(2) **Longspine thornyheads**, cumulative period limits as follows: Periods 2, 3 - 8,000 pounds per period.

(3) **Shortspine thornyheads**, cumulative period limits as follows: Periods 2, 3 - 2,000 pounds per period.

(4) **Sablefish** -

(a) **Trawl vessels** - Cumulative periods limits as follows: Periods 2, 3 - 10,000 pounds per period. Not more than 500 pounds (round weight) of sablefish per trip may be smaller than 22 inches. Sablefish total length of 22 inches is equivalent to dressed length of 15.5 inches. To convert sablefish from dressed weight to round weight, multiply the dressed weight by 1.6.

(b) **Nontrawl vessels** - Daily trip limit of 300 pounds (round weight). Cumulative limit of 2,400 pounds per two-month period. Two month periods are March 1 through April 30 and May 1 through June 30. No minimum size.

g. **Pacific whiting** - Trip limit of 10,000 pounds. No minimum size.

h. **Lingcod** - Cumulative period limits as follows: Periods 2 3 - 1,000 pounds per period. Total length minimum size limit of 24 inches. Lingcod total length of 24 inches is equivalent to dressed length of 19.5 inches. To convert lingcod from dressed weight to round weight, multiply the dressed weight by 1.5. To convert lingcod from dressed, head on (gutted only), weight, multiply the dressed weight by 1.1.

(1) It shall be lawful to land up to 100 pounds of lingcod under 24 inches taken in the trawl fishery only.

3. **Groundfish open access fishery limits**. The following limits apply to the groundfish open access fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, and 63 (notwithstanding the provisions of WAC 220-44-030). Notwithstanding the provisions of this subsection, no groundfish open access fishery limit may exceed a groundfish limited entry fishery daily, vessel or cumulative limit or more than 50% of any period 2 or 3 cumulative limit.

(a) **Sablefish** - Daily trip limit of 300 pounds (round weight) not to exceed two-month cumulative limit of 1,800 pounds. Two-month periods are March 1 through April 30 and May 1 through June 30. No minimum size.

(b) **Pacific ocean perch** - Cumulative limit of 100 pounds per calendar month.

(c) **Widow rockfish** - Cumulative limit of 2,000 pounds per calendar month.

(d) **Sebastes complex** - All species of rockfish except Pacific ocean perch, widow, shortbelly, and thornyhead (*Sebastes* spp.) Cumulative limit of 12,000 pounds per calendar month of which no more than 6,500 pounds may be yellowtail rockfish, 3,500 pounds may be black and blue

rockfish combined, and 2,000 pounds may be canary rockfish. Cumulative limit of 2,000 pounds per calendar month on *Sebastes* complex other than black, blue, canary and yellowtail rockfish.

(e) **Lingcod** - April 1st until further notice when there is a cumulative limit of 250 pounds per calendar month.

(f) **Pacific whiting** - Cumulative limit of 100 pounds per calendar month.

(g) **Dover sole** - Cumulative limit of 100 pounds per calendar month.

(h) **Shortspine thornyheads** - Illegal to take, possess, transport or land shortspine thornyheads.

(i) **Longspine thornyheads** - Illegal to take, possess, transport or land longspine thornyheads.

4. **Shrimp trawl fishery limits**: Limit of 500 pounds of groundfish per day fished not to exceed trip limit of 2,000 pounds of groundfish. Groundfish landings may not exceed 50% of the total weight of species landed from any shrimp trawl trip. Landings may not exceed any single open access species limit with the following exceptions:

(a) **Dover sole** - Trip limit of 2,000 pounds.

(b) **Pacific whiting** - Trip limit of 2,000 pounds.

(c) **Sablefish** - Two-month cumulative limit of 1,800 pounds. Two-month periods are March 1 through April 30 and May 1 through June 30. No daily or trip limit.

5. **Spot prawn trawl fishery limits**: Trip limit of 300 pounds of groundfish, not to exceed any single open access species limit. Groundfish landings may not exceed 50% of the total weight of species landed from any spot prawn trawl trip.

6. Vessels engaged in chartered research for National Marine Fisheries Service (NMFS) may land and sell bottomfish caught during that research without the catch being counted toward any trip or cumulative limit for the participating vessel. Vessels that have been compensated for research work by NMFS with an Exempted Fishing Permit (EFP) to land fish as payment for such research may land and sell fish authorized under the EFP without the catch being counted toward any trip or cumulative limit for the participating vessel. Any bottomfish landed during authorized NMFS research or under the authority of a compensating EFP for past chartered research work must be reported on a separate fish receiving ticket and not included on any fish receiving ticket reporting bottomfish landed as part of any trip or cumulative limit. Bottomfish landed under the authority of NMFS research work or an EFP compensating research with fish must be clearly marked "NMFS Compensation Trip" on the fish receiving ticket in the space reserved for dealer's use. The NMFS scientist in charge must sign the fish receiving ticket in the area reserved for dealer's use if any bottomfish are landed during authorized NMFS research. If the fish are landed under the authority of an EFP as payment for research work, the EFP number must be listed in the dealer's use space.

7. It is unlawful during the unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species or category of bottomfish having a cumulative limit, vessel trip limit or a daily trip limit.

8. The fisher's copy of all fish receiving tickets showing landings of species provided for in this section shall be retained aboard the landing vessel for 90 days after landing.

**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.

### REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. March 31, 1999:

WAC 220-44-05000U Coastal bottomfish catch limits. (98-256)

### WSR 99-08-046 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 99-23—Filed March 31, 1999, 4:54 p.m., effective April 1, 1999, 12:01 a.m.]

Date of Adoption: March 31, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900E; and amending WAC 220-57-175, 220-57-187, 220-57-255, 220-57-310, 220-57-315, 220-57-319, 220-57-505, and 232-28-619.

Statutory Authority for Adoption: RCW 75.08.080 and 75.12.040.

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

Reasons for this Finding: Modifies spring chinook sport fisheries on several tributaries and closes the Kalama River for spring chinook. Projected returns of spring chinook to the Cowlitz, Lewis, and Klickitat rivers will not achieve hatchery escapement needs with standard sport fisheries. Projected returns of spring chinook to the Kalama River will not achieve hatchery escapement needs with any sport fishery. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 8, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: April 1, 1999, 12:01 a.m.

March 31, 1999

Evan Jacoby

for Jeff P. Koenings

Director

NEW SECTION

**WAC 220-57-17500N Cowlitz River** Notwithstanding the provisions of WAC 220-57-175, effective April 1, 1999 until further notice, it is unlawful to take, fish for or possess salmon in those waters of the Cowlitz River except in the following areas and times:

Area: Downstream from 400 feet below the Barrier Dam at the Cowlitz Hatchery to the mouth. Bank fishing only on the north side of the river from 400 feet below the Barrier Dam to Mill Creek (the south side of the river will be closed in this area to all angling).

Daily Limit: one salmon per day

Season Limit: A total of five salmon may be harvested per angler during the months of April through July 29, 1999.

NEW SECTION

**WAC 220-57-18700B Deep River** Notwithstanding the provisions of WAC 220-57-187, effective June 1, 1999 until further notice, it is unlawful to take, fish for or possess salmon in those waters of the Deep River except in the following areas and times:

Area: Downstream from the town bridge to the mouth

Daily Limit: Six jack salmon (minimum size: 12 inches maximum size: 24 inches) per day

NEW SECTION

**WAC 220-57-25500C Green River (Cowlitz County)** Notwithstanding the provisions of WAC 220-57-255, effective April 1, 1999 until further notice, it is unlawful to take, fish for or possess salmon in those waters of the Green River except in the following areas and times:

1. Area: From 400 feet below the hatchery intake to the mouth.

Dates: From April 1, 1999 through May 31, 1999

Daily limit: Six salmon, not more than two adults.

2. Area: From the 2800 Road Bridge to the mouth.

Dates: From June 1, 1999 until further notice.

Daily limit: Six salmon, not more than two adults.

NEW SECTION

**WAC 220-57-31000A Kalama River** Notwithstanding the provisions of WAC 220-57-310, effective April 1, 1999 until further notice, it is unlawful to take, fish for, or possess salmon in those waters of the Kalama River.

NEW SECTION

**WAC 220-57-31500G Klickitat River** Notwithstanding the provisions of WAC 220-57-315, effective April 3, 1999 through May 29, 1999, it is unlawful to take, fish for or possess salmon in those waters of the Klickitat River except in the following areas and times:

Area: Downstream from Fisher Hill Bridge to the mouth.

Times: Wednesdays and Saturdays only

Daily Limit: one salmonid per day (one salmon or one hatchery steelhead)

Season Limit: A total of two salmonids may be harvested per angler during the months of April through May, 1999.

NEW SECTION

**WAC 220-57-31900T Lewis River** Notwithstanding the provisions of WAC 220-57-319, effective April 1, 1999 until further notice, it is unlawful to take, fish for or possess salmon in those waters of the Lewis River except in the following areas and times:

Area: Downstream from Colvin Creek to the mouth. Bank fishing only from Colvin Creek downstream to Johnson Creek.

Daily Limit: one salmon per day

Season Limit: A total of five salmon may be harvested per angler during the months of April through July 29, 1999.

NEW SECTION

**WAC 220-57-50500C White Salmon River** Notwithstanding the provisions of WAC 220-57-505, effective April 1, 1999 until further notice, it is unlawful to take, fish for or possess salmon in those waters of the White Salmon River except in the following areas and times:

Area: From 400 feet downstream from Condit Dam (Northwestern Dam) to the mouth. (Powerhouse to Condit Dam is closed from June 16 through November 15 as per permanent regulation).

Daily Limit: one salmon or one hatchery steelhead per day

NEW SECTION

**WAC 232-28-61900E Exceptions to statewide rules** Notwithstanding the provisions of WAC 232-28-619, it is unlawful to take, fish for or possess the following species taken from the following waters during the periods provided for herein:

1. Effective April 1 through June 15, 1999, it is unlawful to fish for gamefish from the south side of the Cowlitz River in those waters downstream from the Barrier Dam to a line from the mouth of Mill Creek to a boundary marker on the opposite shore.

2. Effective April 1 through June 15, 1999, it is unlawful to fish for gamefish in the waters of the North Fork Lewis River from Colvin Creek upstream to Merwin Dam.

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- 3. Effective April 3 through May 29, 1999, it is lawful to fish for steelhead in the waters of the Klickitat River from the mouth upstream to the Fisher Hill Bridge. Daily limit: one salmonid (salmon or hatchery steelhead). Special season limit of two salmonids between April 3 and May 29, 1999.
- 4. Effective April 1 through June 1, 1999, it is lawful to fish for steelhead in the waters of the White Salmon River from the mouth upstream to the Condit Dam. Daily limit: one salmon or hatchery steelhead, hatchery steelhead to be included as part of trout daily limit.

Effective Date of Rule: April 1, 1999, 12:01 a.m.  
 March 29, 1999  
 Evan Jacob  
 for Jeff P. Koenings  
 Director

NEW SECTION

**WAC 220-56-35000X Clams other than razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-310 and WAC 220-56-350, effective April 1, 1999 until further notice, it is unlawful to harvest or possess clams, cockles, or mussels taken for personal use from the following public tideland during the closed periods herein, and lawful to harvest only during the open periods to the amounts specified.

(1) Quilcene Bay - All state-owned tidelands in Quilcene Bay north of a line drawn from the north boundary of the Port of Port Townsend public beach/boat launch to Fisherman's Point are closed to the harvest of clams the entire year, except those tidelands of the west side of the bay defined by boundary markers and a sign in the parking area are open April 1 until further notice, daily from official sunrise to official sunset only. Access to these tidelands shall be by the designated upland parking lot only. Boat access is prohibited.

(2) The daily limit on these tidelands is 40 clams in the aggregate, not to exceed 10 pounds in weight.

(3) The minimum size for all species of clams is one and one-quarter inches.

(4) Clams taken from these tidelands may not be transported to another public beach.

REPEALER

The following section of the Washington Administrative Code is hereby repealed effective 12:01 a.m. June 16, 1999:

WAC 232-28-61900E Exceptions to statewide rules.

**WSR 99-08-047  
 EMERGENCY RULES  
 DEPARTMENT OF  
 FISH AND WILDLIFE**

[Order 99-24—Filed March 31, 1999, 4:55 p.m., effective April 1, 1999, 12:01 a.m.]

Date of Adoption: March 29, 1999.  
 Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-350.

Statutory Authority for Adoption: RCW 75.08.080.

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

Reasons for this Finding: This regulation is necessary to reflect tribal management plan agreement and to greater utilize the resource on this tideland. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

**WSR 99-08-048  
 EMERGENCY RULES  
 DEPARTMENT OF  
 FISH AND WILDLIFE**

[Order 99-26—Filed March 31, 1999, 4:56 p.m., effective April 1, 1999, noon]

Date of Adoption: March 31, 1999.  
 Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04600J; and amending WAC 220-32-057.

Statutory Authority for Adoption: RCW 75.08.080

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

Reasons for this Finding: This regulation is necessary to set tribal set line seasons. Harvestable numbers of sturgeon are available and this regulation conforms state rules with tribal rules. There is insufficient time to promulgate permanent rules. In accordance with the state-tribal fishery management plan for the 1998-99 coastal Dungeness crab season, WAC 220-52-04600J closed the Makah special management

EMERGENCY

area after December 28, 1998, until notice to provide for Makah tribal fishing opportunity. In accordance with the state-tribal plan, this area is scheduled to reopen to nontreaty fishers on April 1, 1999. The closure to nontreaty fishers would remain in effect after April 1 unless the emergency order is repealed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: April 1, 1999, noon.

March 31, 1999

Evan Jacoby

for Jeff P. Koenings

Director

**NEW SECTION**

**WAC 220-32-05700A Columbia River sturgeon seasons above Bonneville Dam.** Notwithstanding the provisions of WAC 220-32-057, effective immediately until further notice, it is unlawful for a person to take, fish for, or possess sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1F and 1H, except those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon with set line gear under the following provisions:

- 1) Noon Thursday, April 1, 1999 until further notice in Columbia River Salmon Management and Catch Reporting Areas 1F (Bonneville Reservoir) and 1H (John Day Reservoir).
- 2) During the season specified in Section 1, it is unlawful to:
  - a) retain for commercial purposes sturgeon less than 48 inches or greater than 60 inches in length.
  - b) sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of a sturgeon prior to sale of the sturgeon to a wholesale dealer licensed under chapter RCW 75.28, or to sell or barter sturgeon eggs at retail.
  - c) deliver to a wholesale dealer licensed under chapter RCW 75.28 any sturgeon that are not in the round with the head and tail intact.
- 3) During the season specified in Section 1, it is 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.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. March 31, 1999:

WAC 220-52-04600J Crab fishery—Seasons and areas. (98-247)

**WSR 99-08-058**

**EMERGENCY RULES**

**DEPARTMENT OF FISH AND WILDLIFE**

[Order 99-28—Filed April 1, 1999, 4:24 p.m., effective April 3, 1999, 8:00 a.m.]

Date of Adoption: April 1, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000N; and amending WAC 220-56-330.

Statutory Authority for Adoption: RCW 75.08.080.

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

Reasons for this Finding: Test fishing results from portions of Catch Area 7 do not meet hardshell criteria established by agreed state/tribal harvest plans. The agreed management plans require fishery closures to prevent unacceptable handling mortality and resource wastage when hardshell criteria are not met. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

EMERGENCY

Effective Date of Rule: April 3, 1999, 8:00 a.m.

April 1, 1999

Larry W. Peck

for Jeff P. Koenings

Director

**NEW SECTION**

**WAC 220-56-33000P Personal use crab fishery— Allocation/softshell closures.** Notwithstanding the provisions of WAC 220-52-330, effective 8:00 a.m. April 3, 1999 until further notice:

(1) It is unlawful to fish for Dungeness crab taken for personal use using shellfish pot gear from waters of Catch Record Card Area 7 south and east of a line from Point Francis to the north end of Inati Bay on Lummi Island, and east of a line from Carter Point on Lummi Island to the northern point of Sinclair Island, and east of a line from the southeast point of Sinclair Island to the Shannon Point ferry dock, and all waters of Bellingham Bay.

(2) It is unlawful to fish for Dungeness crab taken for personal use using shellfish pot gear from all waters of Catch Record Card Area 8-1.

(3) It is lawful to fish for Dungeness crab taken for personal use using shellfish pot gear from all waters of Catch Record Card Area 8-2, and the portion of Catch Record Card Area 9 north and east of a line from Picnic Point to Possession Point on Whidbey Island.

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

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. April 3, 1999:

WAC 220-56-33000N Personal use crab fishery— Allocation/softshell closures. (99-25)

**WSR 99-08-063**

**EMERGENCY RULES**

**DEPARTMENT OF**

**FISH AND WILDLIFE**

[Order 99-29—Filed April 2, 1999, 2:14 p.m.]

Date of Adoption: April 2, 1999.

Purpose: Declare an emergency and allow for custody or destruction of dogs harassing deer or elk.

Statutory Authority for Adoption: RCW 77.12.315.

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

Reasons for this Finding: Heavier than expected snowfall in Yakima County has forced elk to lower elevations, where harassment by dogs has been observed. In order to protect deer and elk, it is necessary to allow officer to take dogs into custody, and, if necessary, to destroy dogs.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

April 2, 1999

Larry W. Peck

for Jeff P. Koenings

Director

**NEW SECTION**

**WAC 232-12-31500F Declaration of emergency for custody or destruction of dogs harassing deer or elk.** Effective immediately until further notice an emergency is declared in the following Washington State counties, and it is lawful for fish and wildlife officers to take into custody or destroy, if necessary, any dog that is pursuing, harassing, attacking or killing deer or elk:

(1) Yakima County

**WSR 99-08-077**

**EMERGENCY RULES**

**FOREST PRACTICES BOARD**

[Filed April 6, 1999, 9:22 a.m.]

Date of Adoption: March 31, 1999.

Purpose: To modify forest practices rules that define Type 2 and 3 Waters in WAC 222-16-030, and define requirements for Forest Practices Board manual.

Citation of Existing Rules Affected by this Order: Amending WAC 222-12-090 Forest practices board manual and 222-16-030 Water typing system.

Statutory Authority for Adoption: RCW 76.09.040 and chapter 34.05 RCW.

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

EMERGENCY

state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of rule.

Reasons for this Finding: The Forest Practices Board and the Department of Ecology find good cause for an emergency to modify the water typing rules. This document organizes and summarizes information presented to and discussed by the board in public meetings.

The reasons for findings are as follows:

New data has shown that the physical characteristics of streams, as defined in the current forest practices rules, are no longer accurate. Accurate water typing is critical to public resource protection. This emergency rule updates those physical characteristics based on current knowledge so that appropriate resource protection can be provided to fish habitat and water quality.

This emergency rule establishes presumptions for determining fish use in the absence of field verification and is necessary during permanent rule making updating the water type rules and associated riparian protection. Because water typing triggers riparian protection through the forest practices rules, watershed analysis, and some local land use decisions, the definitions used to determine water types must reflect current knowledge about fish use and habitat. Due to significant field verification of water types and research, more is known today about fish distribution and the physical characteristics of fish habitat than was known when the existing water type definitions were written (see WAC 222-16-030). In addition, the 303(d) water quality and actual and potential ESA listings cause increased pressure on the forest practices regulation system that will result in increased cost and complexities for all participants. If the water typing system is not upgraded immediately, it will contribute to potential listings and increase the associated burdens of such listings.

In August 1994, the Point-No-Point Treaty Council published a report, Stream Typing Errors in Washington Water Type Maps for Watersheds of Hood Canal and the Southwest Olympic Peninsula. Simultaneously, the Quinault Indian Nation and the Department of Fish and Wildlife were also reviewing water types in the southwest part of the Olympic Peninsula. Data from these studies indicated that 72% of the Type 4 streams were actually Type 2 or 3 streams. In addition, projects funded by the United States Fish and Wildlife Service with cooperation from some western Cascade landowners and Washington Trout have also resulted in significant upgrades.

The intent of the Forest Practices Act is to meet water quality standards under the Clean Water Act. As indicated by the number of water bodies listed under section 303(d) of the Clean Water Act, water quality standards are not being met. The number of waterbodies included on the Department of Ecology's 303(d) water quality limited list has increased and now includes many forested streams. Numerous fish stocks are being considered for listing under the Endangered Species Act. The state has water quality antidegradation regulatory requirements. These requirements demand that the beneficial in-stream uses, such as salmonid habitat, be fully protected. Changes in water quality are not allowed that violate the standards set to fully protect these uses. Further, degradation of water quality, even where it does not cause a violation

of the standards, is not allowed unless all known, available, and reasonable best management practices are being used to reduce the affect on water quality; and the activity has been found to be in the overriding public interest. Water quality standards cannot be met if inaccurate stream typing information is used in assessing the impacts of forest practices.

The public has a strong interest in protecting public resources, including water, and fish, especially those listed as endangered and threatened species. Immediate action is necessary to ensure that impacts from forest practices near water are carefully evaluated while the board is in the process of adopting permanent rules. Without an emergency rule, public resources, including the habitat of threatened and endangered species, could be significantly impacted by forest practices because of incorrect water typing.

The FPB and DOE maintain rule-making files for this emergency rule that have detailed background information supporting these findings. Please contact Judith Holter, DNR at (360) 902-1412 or Doug Rushton, DOE at (360) 407-6180 if you would like to inspect these files.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

April 5, 1999

Jennifer M. Belcher

Commissioner of Public Lands

**AMENDATORY SECTION** (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

**WAC 222-12-090 Forest practices board manual.**

When approved by the board the manual serves as an advisory technical supplement to these forest practices regulations. The department, in cooperation with the departments of fish and wildlife, agriculture, ecology, and such other agencies, affected Indian tribes, or interested parties as may have appropriate expertise, is directed to prepare, and submit to the board for approval, revisions to the forest practices board manual. The manual shall include:

(1) **Method for determination of adequate shade requirements on streams** needed for use with WAC 222-30-040.

(2) **The standard methods** for measuring channel width, stream gradient and flow which are used in the water typing criteria WAC 222-16-030.

(3) A **chart** for establishing recommended permanent culvert sizes and associated data.

(4) **Guidelines** for clearing slash and debris from Type 4 and 5 Waters.

(5) **Guidelines** for landing location and construction.

(6) **Guidelines** for determining acceptable stocking levels.

(7) **Guidelines** for calculating average widths of riparian management zones.

(8) **Guidelines** for wetland delineation.

(9) **Guidelines** for wetland replacement or substitution.

(10) A list of nonnative wetland plant species.

(11) The standard methodology, which shall specify the quantitative methods, indices of resource conditions, and definitions, for conducting watershed analysis under chapter 222-22 WAC. The department, in consultation with Timber/Fish/Wildlife's Cooperative Monitoring, Evaluation and Research Committee (CMER), may make minor modifications to the version of the standard methodology approved by the board. Substantial amendments to the standard methodology requires approval by the board.

(12) A list of special concerns related to aerial application of pesticides developed under WAC 222-16-070(3).

(13) **Guidelines for determining fish use for the purpose of typing waters under WAC 222-16-030.**

(14) **Survey protocol for marbled murrelets.** The Pacific seabird survey protocol in effect March 1, 1997, shall be used when surveying for marbled murrelets in a stand. Surveys conducted before the effective date of this rule are valid if they were conducted in substantial compliance with generally accepted survey protocols in effect at the beginning of the season in which they were conducted.

(15) The department shall, in consultation with the department of fish and wildlife, develop **platform protocols** for use by applicants in estimating the number of platforms, and by the department in reviewing and classifying forest practices under WAC 222-16-050. These protocols shall include:

(a) A sampling method to determine platforms per acre in the field;

(b) A method to predict the number of platforms per acre based on information measurable from typical forest inventories. The method shall be derived from regression models or other accepted statistical methodology, and incorporate the best available data; and

(c) Other methods determined to be reliable by the department, in consultation with the department of fish and wildlife.

**AMENDATORY SECTION** (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

**WAC 222-16-030 Water typing system.** \*The department in cooperation with the departments of fish and wildlife, and ecology, and in consultation with affected Indian tribes shall classify streams, lakes and ponds and prepare stream classification maps showing the location of Type 1, 2, 3 and 4 Waters within the various forested areas of the state. Such maps shall be available for public inspection at region offices of the department. The waters will be classified using the fol-

lowing criteria. If a dispute arises concerning a water type the department shall make available informal conferences, which shall include the departments of fish and wildlife, and ecology, and affected Indian tribes and those contesting the adopted water types. These conferences shall be established under procedures established in WAC 222-46-020.

\***(1) "Type 1 Water"** means all waters, within their ordinary high-water mark, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW, but not including those waters' associated wetlands as defined in chapter 90.58 RCW.

\***(2) "Type 2 Water"** shall mean segments of natural waters which are not classified as Type 1 Water and have a high fish, wildlife, or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands, which:

(a) Are diverted for domestic use by more than 100 residential or camping units or by a public accommodation facility licensed to serve more than 100 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 2 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type 2 Water upstream from the point of diversion for 1,500 feet and tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type 2 Water designation provided the department determines after a landowner-requested on-site assessment by the department of fish and wildlife, department of ecology, the affected tribes and interested parties that:

(i) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and

(ii) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;

(c) Are within a federal, state, local, or private campground having more than 30 camping units: *Provided*, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement;

~~((e))~~ (d) Are used by substantial numbers of anadromous or resident game fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have highly significant fish populations:

(i) Stream segments having a defined channel 20 feet or greater in width between the ordinary high-water marks and having a gradient of less than 4 percent.

(ii) Lakes, ponds, or impoundments having a surface area of 1 acre or greater at seasonal low water; or

~~((d))~~ (e) Are used by salmonids for off-channel habitat. These areas are critical to the maintenance of optimum sur-

vival of juvenile salmonids. This habitat shall be identified based on the following criteria:

(i) The site must be connected to a stream bearing salmonids and accessible during some period of the year; and

(ii) The off-channel water must be accessible to juvenile salmonids through a drainage with less than a 5% gradient.

\***(3) "Type 3 Water"** shall mean segments of natural waters which are not classified as Type 1 or 2 Water and have a moderate to slight fish, wildlife, and human use. These are segments of natural waters and periodically inundated areas of their associated wetlands which:

(a) Are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 3 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are used by significant numbers of anadromous or resident game fish for spawning, rearing or migration. Guidelines for determining fish use are described in the Forest Practices Board Manual. If fish use has not been determined:

(i) Waters having the following characteristics are presumed to have significant anadromous or resident game fish use:

~~((#))~~ **(A)** Stream segments having a defined channel of ~~((5))~~ **2** feet or greater in width between the ordinary high-water marks in Western Washington; or 3 feet or greater in width between the ordinary high-water marks in Eastern Washington; and having a gradient ~~((of less than 12))~~ **16** percent ~~((and not upstream of a falls of more than 10 vertical feet))~~ or less;

**(B)** Stream segments having a defined channel of 2 feet or greater in width between the ordinary high-water marks in Western Washington; or 3 feet or greater in width between the ordinary high-water marks in Eastern Washington; and having a gradient greater than 16 percent and less than or equal to 20 percent; and having greater than 50 acres in contributing basin size in Western Washington; or greater than 175 acres in contributing basin size in Eastern Washington based on hydrographic boundaries;

(ii) The department shall waive or modify the characteristics in (i) above where:

**(A)** Waters have confirmed, long term, naturally occurring water quality parameters incapable of supporting anadromous or resident game fish;

**(B)** Snowmelt streams have short flow cycles that do not support successful life history phases of anadromous or resident game fish. These streams typically have no flow in the winter months and discontinue flow by June 1; or

**(C)** Sufficient information about a geographic region is available to support a departure from the characteristics in (i), as determined in consultation with the department of fish and wildlife, department of ecology, affected tribes and interested parties.

~~((#))~~ **(iii)** Ponds or impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to an anadromous fish stream.

~~((e))~~ Are used by significant numbers of resident game fish. Waters with the following characteristics are presumed to have significant resident game fish use:

~~((i))~~ Stream segments having a defined channel of 10 feet or greater in width between the ordinary high-water marks; and a summer low flow greater than 0.3 cubic feet per second; and a gradient of less than 12 percent.

~~((#))~~ **(iv)** For resident game fish ponds or impoundments having a surface area greater than 0.5 acre at seasonal low water; or

~~((d))~~ **(c)** Are highly significant for protection of downstream water quality. Tributaries which contribute greater than 20 percent of the flow to a Type 1 or 2 Water are presumed to be significant for 1,500 feet from their confluence with the Type 1 or 2 Water or until their drainage area is less than 50 percent of their drainage area at the point of confluence, whichever is less.

\***(4) "Type 4 Water"** classification shall be applied to segments of natural waters which are not classified as Type 1, 2 or 3, and for the purpose of protecting water quality downstream are classified as Type 4 Water upstream until the channel width becomes less than 2 feet in width between the ordinary high-water marks. Their significance lies in their influence on water quality downstream in Type 1, 2, and 3 Waters. These may be perennial or intermittent.

\***(5) "Type 5 Water"** classification shall be applied to all natural waters not classified as Type 1, 2, 3 or 4; including streams with or without well-defined channels, areas of perennial or intermittent seepage, ponds, natural sinks and drainageways having short periods of spring or storm runoff.

\***(6)** For purposes of this section:

(a) "Residential unit" means a home, apartment, residential condominium unit or mobile home, serving as the principal place of residence.

(b) "Camping unit" means an area intended and used for:

(i) Overnight camping or picnicking by the public containing at least a fireplace, picnic table and access to water and sanitary facilities; or

(ii) A permanent home or condominium unit or mobile home not qualifying as a "residential unit" because of part time occupancy.

(c) "Resident game fish" means game fish as described in the Washington game code that spend their life cycle in fresh water. Steelhead, searun cutthroat and Dolly Varden trout are anadromous game fish and should not be confused with resident game fish.

(d) "Public accommodation facility" means a business establishment open to and licensed to serve the public, such as a restaurant, tavern, motel or hotel.

(e) "Natural waters" only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation.

(f) "Seasonal low flow" and "seasonal low water" mean the conditions of the 7-day, 2-year low water situation, as measured or estimated by accepted hydrologic techniques recognized by the department.

(g) "Channel width and gradient" means a measurement over a representative section of at least 500 linear feet with at least 10 evenly spaced measurement points along the normal stream channel but excluding unusually wide areas of negli-

gible gradient such as marshy or swampy areas, beaver ponds and impoundments. Channel gradient may be determined utilizing stream profiles plotted from United States geological survey topographic maps.

(h) "Intermittent streams" means those segments of streams that normally go dry.

**WSR 99-08-078**  
**EMERGENCY RULES**  
**FOREST PRACTICES BOARD**

[Filed April 6, 1999, 9:24 a.m.]

Date of Adoption: March 31, 1999.

Purpose: To modify forest practices rules to provide greater protection for threatened and endangered salmonids that have [been] listed by the federal government. This is a procedural rule that classifies forest practices in mapped areas as Class IV-Special requiring additional environmental review.

Citation of Existing Rules Affected by this Order: Amending WAC 222-10-040 Class IV-Special threatened and endangered species SEPA policies, 222-16-010 General definitions, 222-16-050 Classes of forest practices, 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species, 222-24-050 Road maintenance and 222-30-040 Shade requirements to maintain stream temperature; and new sections WAC 222-16-088 Salmonid listed areas, 222-10-020 SEPA policies for certain forest practices within 200 feet of a Type 1 Water, and 222-10-043 Salmonids.

Statutory Authority for Adoption: RCW 76.09.040 and [76.09.]050, and chapter 34.05 RCW.

Other Authority: Chapter 43.21C RCW.

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

Reasons for this Finding: Note: Sections shown in bold are new text added to the November 18, 1999, version. Non-substantial editorial revisions have also been made to other sections, but these are not highlighted.

**On March 16, 1999, the NMFS listed seven additional Washington state salmonid stocks (i.e., ESUs or evolutionary significant units) as threatened or endangered under the Endangered Species Act. These stocks and their listing status are:**

**Upper Columbia River Spring Chinook - endangered**  
**Puget Sound Fall Chinook - threatened**  
**Lower Columbia River Fall Chinook - threatened**  
**Hood Canal Summer Chum - threatened**  
**Lower Columbia River Chum - threatened**  
**Middle Columbia Steelhead - threatened**  
**Lake Ozette Sockeye - threatened**

These findings continue to support the previously listed stocks covered under the emergency rule adopted by the Forest Practices Board on November 18, 1998, and readopted on February 10, 1999. These stocks, their status, and the dates listed are:

Upper Columbia Steelhead - endangered - August 1997  
Snake River Steelhead - threatened - August 1997  
Lower Columbia Steelhead - threatened - March 1998  
Columbia River Bull Trout - threatened - June 1998

The Forest Practices Board and the Department of Ecology find good cause for an emergency rule to protect these salmonid stocks. This document organizes and summarizes information presented to and discussed by the board in public meetings. The reasons for this finding are as follows:

**1. SALMONID NEEDS:**

**Salmonid Biology - General:** The family *Salmonidae* includes salmon, trout and char. Salmonids have several life history phases which include spawning, incubation, rearing and migration. Salmonids are most commonly associated with cool riverine waters in the temperate and arctic regions of the Northern Hemisphere. Although some species and stocks have adapted to marine and lacustrine (lake) environments for parts of their life history, they all have a common dependence on running cool fresh water and gravel that is reasonably free of fine sediment for spawning and incubation. Once the eggs hatch, most juveniles still require rearing habitat which includes forage, clean cool water, and cover provided by rocks, banks and large woody debris, although the duration of freshwater rearing varies among species and stocks. Stream nutrient conditions are important for those species with extended riverine rearing. Finally, most stocks need to be able to migrate upstream and downstream as both juveniles and adults.

**Factors Limiting Habitat of All Salmonids:** In order to provide cool, clean water and habitat that includes pools, clean gravel and stable channels, the following habitat requirements are necessary in order to provide for healthy salmonids: Shade, stable stream banks, large woody debris, and fish passage.

**Shade and Stream Temperature:** Shade is needed to provide cool water temperatures. Shade is most critical for species and stocks that are present during the summer. Temperatures above 10 to 18°C, depending on the species and feeding conditions, may cause declining health, reduced growth or weight loss, displacement to less desirable habitat, and, under prolonged or extreme conditions, death.

Adult salmonids are biologically timed to spawn within a certain temperature range and time period. Warmer conditions may force adults to spawn after their preferred time period, and they are then often in poorer physical condition which results in reduced survival of the progeny. **Stocks that spawn in the late summer or early fall are especially vulnerable, including Hood Canal Summer Chum, Puget Sound Fall Chinook, Upper Columbia River Spring Chinook, and bull trout.**

Nonsummer water temperatures may be important for juveniles of some anadromous stocks. Timing of egg hatching, emergence, and fry emigration of pink and chum salmon are strongly affected by freshwater temperature. Juvenile

migration to marine waters (coho, steelhead and chinook) is biologically timed by temperature, solar periodicity, and possibly other factors such as flow. There appears to be a window of time (one or three months) for fish to reach marine waters when marine conditions are best for growth and survival.

To restore and maintain natural cool water temperatures, trees along the riparian zones of fish-bearing streams and along contributing nonfish-bearing streams must be retained to assure that the solar radiation does not warm the streams beyond their natural range. Solar heating is a cumulative effect, such that the loss of shade in upstream channels may reduce habitat quality downstream. Because of this, it is important to extend shading upstream into perennial nonfish-bearing waters. On a watershed scale, excessive loss of shade will reduce that amount of habitat available for rearing during the summer. The current Class AA water quality standard (16° C) was intended to fully protect salmonids; **however, this standard has since been shown to be inadequate for bull trout and possibly other species.** Water temperature standards are currently under review by the Washington Department of Ecology, and recommended revisions are expected some time this year.

Although direct solar radiation is the most significant effect, other factors can contribute to higher water temperatures. Micro-climate effects from upland clearcuts, ground water heating where shallow ground water become exposed by clearcuts, and channel widening from sediment aggradation are nonshade effects that may be significant in some channels.

**Sediment.** Sediment naturally enters stream channels from bank erosion and landslides. Certain forest practice activities can greatly accelerate the influx of sediment and can damage fish habitat. Sediment may come from infrequent massive influxes caused by induced landslides and severe bank erosion. Sediment from these sources often include both fine sediment and coarse sediment. Poor construction and maintenance of unpaved forest roads or soil disturbance from unsuspended yarding or heavy equipment near streams causes a steady influx of fine sediment into the channel.

Fine sediment can settle in spawning gravel, often filling the intergravel spaces. This reduces the survival of salmonid eggs by reducing oxygen levels, or it traps alevin (larval salmonids). This intergravel zone (termed the hyporheic zone) is also important habitat for most aquatic invertebrate species and plays an important role in the organic decomposition and nutrient recycling in the stream ecosystems, which are key to providing food for salmonids. The depth and width of the hyporheic zone can be significantly diminished by the influx of fine sediment, effectively blocking the penetration of oxygen and nutrients into the streambed.

Coarse sediment can be beneficial to fish habitat, providing spawning gravel and juvenile habitat. However, excessive quantities of sediment associated with landslides and rapid bank erosion can destroy habitat by filling pools and creating long stretches of gravel that are prone to scour (gravel mobilization) during floods. Scour destroys eggs and alevin.

**Hydrology.** Clearcut stands have the capacity to accumulate considerably more snow than forested stands with full canopies. As a result, the size and timing of surface run-off events can be changed as a result of forest management. This can occur primarily as a result of rain-on-snow events in harvested areas or through snowmelt run-off on the eastside. These run-off events are more likely to be triggered at higher elevations where snow has greater potential to accumulate. Forest roads can also exacerbate surface run-off by extending the watershed drainage network up roadside ditches and sometimes tread surfaces, resulting in faster run-off from roads that are directly connected to streams.

Both of these run-off effects result in higher peak flows in stream channels, which in turn increases the frequency and extent of scour and, where streambanks are unstable, increases stream bank erosion. These effects can kill salmonid eggs and alevin, fill pools, and degrade other physical habitat features.

**Large Woody Debris.** Juvenile salmonids need pools and cover for refuge and desired feeding conditions. Stream morphology that contains adequate pools requires input of large woody debris (LWD) on a continuous basis. The LWD provides structure in the streams and creates the formation of pools and cover. It also moderates the movement of sediment and contributes to the stability of spawning gravel. Very large pieces of wood are required to function effectively because of the large flood events common to the Northwest. Conifer species are preferred for LWD because they are more resistant to decay, and they achieve greater sizes than deciduous species.

Adult fish also use LWD for resting areas and cover during migration. This need is particularly important in large anadromous stocks **and bull trout** that hold over summer in rivers prior to spawning; they need deep cool pools with cover for survival during low flow periods. Stocks especially vulnerable include **spring chinook**, summer steelhead, **bull trout and, to a lesser extent, the late summer spawners such as Puget Sound Chinook and Hood Canal Summer Chum.**

Trees from the adjacent riparian stand are an important source of LWD. In larger stream channels, wood from upstream sources are also important. Large, multiple rotation conifers are needed, especially in larger stream channels. Harvest of riparian forest stands will result in long term declines in LWD abundance.

**Fish Passage.** Adult salmonids need to move upstream to access spawning areas. Juvenile fish need to move upstream and downstream to find desirable feeding conditions or take refuge from undesirable environmental conditions. Forest road stream crossings often block fish passage.

**Bank Stability.** Trees and shrubs rooted in the banks of a stream channel are important in maintaining a deep channel and preventing the erosion of sediment from the stream banks. Exposed root masses are important refuge for juvenile fish. Removal of logs from the channel and stream bank can contribute to fine sediment erosion and loss of in-channel habitat features.

**Specific Species Biological Attributes and How They Relate to Forest Practices Activities:**

**Chum Salmon:** Migrating adult chum salmon enter rivers and streams to spawn from September to February; there is considerable variation among stocks. Most stocks, including the two listed on March 16, 1999, are not extensive freshwater migrants. They prefer spawning areas close to marine waters, and they rarely jump falls greater than four feet in height. Spawning may occur individually or enmass (i.e., large numbers on one spawning bed) in both rivers and streams. Juveniles emigrate to sea within weeks of emergence from gravel while they are still fry (i.e., at a very small size). During their brief freshwater residence, juveniles use intergravel spaces, brushy in-water cover, shallow river margins, and backwater sloughs as refuge from predators and water currents.

Chum salmon need an abundance of clean, stable gravel. Stability may be provided by low channel gradients, LWD and other hydraulic obstructions, or some combination of both. Adult Hood Canal summer chum may enter fresh water at a time when solar heating is still significant and flow is low, so shading and deep pool habitat should be fully protected. Full shade protection is also recommended for Columbia River chum because there is uncertainty about critical timing of hatching and emigration for the survival of juveniles in early ocean life.

**Fall Chinook Salmon:** Chinook salmon enter rivers from August to November, spawning primarily in rivers and, less frequently, streams. Juvenile chinook emerge from the gravel in March and April. Freshwater residency varies considerably, both within stocks and between stocks. Juveniles may remain in freshwater for only two to three months, during which time they actively feed and grow. Some juveniles may stay in freshwater over the summer. A few of these emigrate during the summer and fall, but most wait until the following spring.

Other than the fact that they prefer larger channels, the spawning and juvenile rearing habitat requirements of chinook are typical of other salmonids. They need shade, clean stable spawning gravel, LWD for pools and cover, and shade for cool water temperatures.

**Spring Chinook Salmon:** The life history and habitat requirements of spring chinook are similar to fall chinook, with the exception that adult migration in freshwater starts prior to July 1, and spawning occurs in August and September. Thus, there are special habitat requirements associated with over-summer holding and spawning during the time when flow is very low and temperatures are at their peak. Many spring chinook stocks are associated with cold, often glacial, river systems.

**Mid-Columbia Steelhead:** This is a "summer" steelhead stock, meaning that adults enter fresh water as early as a year before spawning. Part of the adult population spend the summer in freshwater and need full shade protection, and they need deep pools for holding during the late summer low flow period. Steelhead are the strongest jumpers among anadromous salmonids, with leaps of up to 20' vertical feet under favorable pool and flow conditions. More often than any other anadromous species, they define the upper extent of anadromous utilization.

Spawning occurs in March, April, and May, and the fry emerge from the gravel during the summer. While some steelhead push to the headwaters to spawn in small channels, others spawn in large rivers. Juvenile steelhead typically spend one to three summers in freshwater before emigrating to sea. Steelhead are more likely to use steeper gradients for both spawning and rearing than other anadromous species.

**Lake Ozette Sockeye:** Lake Ozette Sockeye spawn in tributaries to Lake Ozette. As with most sockeye stocks, the juveniles rear in lakes for one to two years before emigrating to the ocean. Thus, the habitat requirements of this stock require protection of lacustrine habitat in addition to the riverine spawning and incubation habitat required by other species. Lake nutrient conditions and competitive and predatory interactions with other lake species often affect the survival and productivity of sockeye stocks.

**Bull Trout.** Bull trout (*Salvelinus confluentus*), a native char, is a cold-water species that moved north and into higher elevations after the last glacial period. Bull trout exhibit both migratory and nonmigratory life history forms (Brown 1994). Resident populations generally spend their entire lives in small headwater streams, whereas migratory populations spawn and rear in headwater tributary streams for several years before migrating to either larger river systems (fluvial), lakes and reservoirs (adfluvial), or the ocean (anadromous) for adult rearing. Bull trout generally concentrate in reaches influenced by groundwater where temperature and flow conditions may be more stable (MBTSG 1998; Baxter et al., in press; Baxter and Hauer, in prep.).

Dolly Varden (*Salvelinus malma*) and bull trout (*Salvelinus confluentus*) were considered to be the same species until the late 1970s when Cavender (1978) provided evidence to suggest that there was a dichotomy. The American Fisheries Society accepted Cavender's work in 1980 and recognized the separation of the two species (Mongillo 1993). However, the two species are difficult to differentiate in the field; extensive and costly genetic work must be done in the laboratory. Furthermore, their life histories and habitat requirements are similar, if not identical (Mongillo 1993, Brown 1994). Therefore, from a management and recovery perspective, they are currently considered the same species. As pertains to an emergency rule, while coastal and Puget Sound populations can be either species or a combination of Dolly Varden and bull trout, all populations in Eastern Washington and the Columbia River drainage are assumed to be bull trout.

Bull trout habitat requirements differ from other salmonids in the following ways:

- Temperature requirements for bull trout are colder than for other salmonids (especially for spawning and juvenile rearing); in some cases, so cold as to exclude other salmonids which would otherwise compete for habitat and food. When living within the same habitat with other salmonids, colder temperatures can give bull trout the competitive advantage (MBTSG 1998).

- Bull trout will often stratify higher in the watershed than other salmonids (especially resident life forms and for spawning and rearing). (Adams 1994.)
- Because bull trout spawn higher in the headwaters, they can be more vulnerable to fish passage problems.
- Bull trout spend a longer period [of] time in the gravels before emergence (220+days) and thus are more vulnerable to sediment and scouring peak flows.

**Additional Factors Limiting Bull Trout Habitat:** The decline of bull trout throughout their range has been linked to habitat destruction and migration barriers, as well as other factors such as introduced exotic species (Dambacher and Jones 1997). Bull trout spawning, incubation, and juvenile rearing generally occur in second through fourth order streams which are most susceptible to effects resulting from harvest. Effects may be more obvious on smaller streams than on larger ones. Timber harvest can influence stream temperature, LWD recruitment, local run-off patterns, erosion, sedimentation, channel aggradation, and channel stability (MBTSG 1998).

**Shade and Stream Temperature Effects on Bull Trout:** Bull trout are glacial relics and require a narrow range of cold temperature conditions to rear and reproduce (Brown 1994, Adams and Bjornn 1997, Buchanan and Gregory 1997). Temperatures required to initiate spawning (late August through October) vary from 4-11°C, depending on the drainage (McPhail and Murray 1979, Wydoski and Whitney 1979, Fraley and Shepard 1989, Kraemer 1991, Buchanan and Gregory 1997). Egg incubation (late August through April) occurs at 1-6°C (McPhail and Murray 1979, Weaver and White 1985, Brown 1994, Buchanan and Gregory 1997). Optimal temperature ranges for juvenile rearing occur from 4-10°C (McPhail and Murray 1979, Buchanan and Gregory 1997). In the Flathead drainage in Montana, bull trout juveniles have been rarely observed in streams with summer temperatures exceeding 15°C (Fraley and Shepard 1989). Adults are known to tolerate somewhat higher temperatures (Kraemer 1991, Brown 1994); however, they are seldom found in streams with summer temperatures exceeding 18°C and are often found near cold perennial springs (Shepard et al. 1984b, Brown 1994). Higher densities of adult bull trout have been found to occur at temperatures less than 12°C (Adams 1994, Clancy 1996, Buchanan and Gregory 1997). Optimum temperatures for migration are 10-12°C (McPhail and Murray 1979, Buchanan and Gregory 1997).

Various factors contribute towards providing for cool water in streams (shade, groundwater contribution, elevation, etc.). Shade is the primary factor that is impacted by land management and which is needed to reduce solar radiation to the stream, to protect groundwater sources and seeps and springs, and to provide for microclimate. Shade contributing trees within the riparian zone must be retained in both fish-bearing and contributing nonfish-bearing streams to maintain cool water temperatures. Sediment deposition and resultant stream widening can also cause an increase in stream temperature, as well as alteration of natural streamflow regimes and reduced groundwater inflows (MBTSG 1998).

The current state water quality standard for stream temperature is targeted to maintain water temperatures below 16 and 18°C depending on the Department of Ecology stream class. However, because bull trout and Dolly Varden have temperature requirements which are below those for other salmonids, the current water quality standard is not adequate. The United States Environmental Protection Agency has established temperature criteria for bull trout (now used as a state water quality standard in Idaho). The temperature standard to meet bull trout requirements is set at 10°C expressed as a consecutive seven-day average of the daily maximum temperatures for June, July, August and September. It is believed that if a summer temperature criterion of 10°C is met, natural seasonal variability in stream temperatures will result in attainment of appropriate thermal requirements during the remainder of the year in bull trout spawning and juvenile rearing areas (United States Environmental Protection Agency 1997).

**Sediment and Roads Effects on Bull Trout:** The long overwinter intragravel incubation and development for bull trout (average 220 days) leaves them vulnerable to increases in fine sediments and degradation of water quality (Fraley and Shepard 1989). A significant negative correlation between fry emergence of bull trout and the percentage of redd materials smaller than 6.35 mm was found by Weaver and Fraley (1991). Analyses conducted within the Columbia River Basin support the conclusion that increasing road densities are correlated with declining aquatic habitat conditions and aquatic integrity. Results show that bull trout are less likely to use moderate to highly roaded areas for spawning and rearing, and if found in these areas, they are less likely to be at strong population levels (Lee et al. 1997; MBTSG 1998; Baxter et al., in press).

Stream bank stability must be maintained to prevent increases in sediment inputs to the stream from forest practices. Construction and maintenance of roads must be conducted in ways which minimize road density and cut off delivery of sediments to streams. Roads should also be constructed and maintained to prevent changes to the hydrologic regime resulting in higher peak flows and increased sedimentation. Ground disturbance should be minimized and mitigated. Best management practices for sediment and roads should apply to nonfish-bearing streams as well as fish-bearing streams.

**Large Woody Debris and Bull Trout:** Large woody debris is important for the formation of deep pools and habitat complexity needed by bull trout. Adult bull trout prefer deep cold pools, often associated with the cover of large woody debris, for foraging and for holding during migration (Shepard et al. 1984b, Fraley and Shepherd 1989, Goetz 1989, Brown 1994). Juvenile rearing of bull trout is also often associated with pools with shelter-providing large organic debris or clean cobble (McPhail and Murray 1979). A strong preference exists for plunge and scour pools over all other habitat types in southeast Washington (Brown 1994). Large woody debris is also necessary to maintain the step pool formation in steeper headwater streams inhabited by bull trout, and for sediment storage.

Fish Passage and Bull Trout. Due to loss of connectivity, many bull trout populations have become fragmented throughout their range, and remnant headwater populations are all that remain for some drainages. Fish passage barriers result in the loss of genetic exchange, loss in the ability to respond to changes in seasonal habitat requirements and conditions, loss in the ability to recolonize habitats after disturbance regimes, and often extinction of local populations (Rieman et al. 1993, MBTSG 1998). Barriers not only include manmade barriers at road crossings, but also low flows caused from aggregation of excessive coarse sediment, and elevated temperatures.

**2. ENDANGERED SPECIES ACT LISTINGS AND THE FOREST PRACTICES ACT:**

The Endangered Species Act (ESA) was enacted to conserve threatened and endangered species and the ecosystems upon which they depend. ESA salmonid listings are given above.

ESA listings lead to "take" being prohibited. "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect or attempt to engage in any such conduct. "Harm" can include significant habitat modification or degradation. In addition, the listing itself is indicative of the need to provide protection of the habitat required by these species to assure recovery of the species and protection from harm.

A governmental agency can be responsible for a take if it authorizes the activity that exacts a taking. In a March 1998 decision, the United States Court of Appeals for the First Circuit ordered a Massachusetts agency to prevent the taking of the Northern Right Whale, an endangered species. The court found whales could be harmed from entanglement in fishing gear from commercial fishing activities authorized by agency regulations. The court found the state licensed the commercial fishing in a manner likely to cause harm, even though its actions were only an indirect cause. Thus, the Forest Practices Board and the Department of Ecology could be vulnerable for take if permits continue to be approved without consideration of listed species protected from harm. Actions to enforce the ESA could be brought by the federal government or other third parties.

The ESA requires federal agencies to examine the impact of their actions on protected species. The Washington Forest Practices Board has been working with the United States Fish and Wildlife Service (USFWS) to have the existing state forest practice rules for the northern spotted owl recognized as part of a proposed federal rule providing protection of that species under the ESA. The USFWS has consulted with the National Marine Fisheries Service (NMFS) regarding how the anadromous (listed and proposed to be listed) fish may be impacted by the proposed federal rule. In a letter dated September 16, 1998, NMFS concluded that the existing state forest practice rules "do not leave adequate riparian buffers to provide the important ecosystem functions necessary to support the biological requirements of anadromous salmonids." NMFS indicated that "any further degradation of habitat conditions that reduces essential habitat functions may have a significant impact, which poses an unacceptable risk to the survival and recovery" of certain salmonid evolutionarily significant units (ESUs), including

the Upper Columbia Steelhead addressed in the emergency rule.

Oregon had developed a plan to protect salmonids which was relied on by NMFS in its decision not to list certain species of salmonids as threatened. The Oregon plan was based largely on future actions and voluntary efforts. In June 1998, a federal court rejected this decision as inadequate to prevent endangerment to salmonids under the ESA. In Washington, the forest practice rules also rely on voluntary efforts. The watershed analysis process (chapter 222-22 WAC) is entirely voluntary. Voluntary efforts are not adequate to prevent endangerment to already listed salmonids. Emergency action is necessary because of the state's obligation to comply with the ESA. This emerging and unexpected development makes it clear that the existing rules are not adequate and the listed species are in jeopardy.

**3. CONTINUING TO APPROVE FOREST PRACTICES PERMITS IN LISTED AREAS:**

**Forest Practices Applications in Listed Areas:** The listed areas of the state contain nearly more than 17.5 million acres of nonfederal land, of which about 8.4 million acres are state and private forest land covered by the current forest practices rules. The number of ESU acres are:

Listed Areas (ESUs)	Total Nonfederal Acres	Nonfederal Forest Land Acres
Listed before March 16, 1999	11,105,062	4,339,279
Listed on March 16, 1999	6,477,298	4,111,385
Total	17,582,360	8,450,664

Most of the habitat that salmonids seek for spawning and rearing are in the forested areas of the state. This portion of the habitat continues to be critical to the survival and well-being of these species. See the map in WAC 222-16-088 which shows areas listed prior to and on March 16, 1999.

When the 1998 listings occurred, there were approximately 1,398 approved applications within 200 feet of fish-bearing streams in the steelhead and bull trout ESUs. **The department estimates that there are 4,705 approved applications in the chum, chinook and sockeye areas.** Since operations under these permits may have some impact on salmonid habitat, these applicants have been or are being sent letters notifying them of the listings. If they had questions, the letter said they should contact National Marine Fisheries Service or the United States Fish and Wildlife Service directly for clarification whether their operations may cause a concern for listed steelhead.

Since the listings last year, **558** applications/notifications have been approved within 200 feet of fish-bearing waters within the listed areas for bull trout and steelhead. These permits contain a note to applicants warning them that this state permit does not necessarily meet federal law under the ESA.

The department estimates that, additionally, about **4,894** applications in all the listed ESUs will be approved between now and when a permanent rule might be adopted and become effective (estimated to be Winter 2000). **These applications would be within 200 feet of fish-bearing**

EMERGENCY

**waters.** Since permits are effective for a two-year period, applications approved prior to a new permanent rule taking effect in 2000 would be valid through 2002. Thus, nearly four years from now, some salmonid habitat would still be at risk absent an emergency rule.

The Forest Practices Act (chapter 76.09 RCW) requires protection of public resources. In order to protect these listed salmonids, the habitat associated with spawning, rearing and migration needs to be protected.

**Why Current Forest Practices Rules are Inadequate for All Listed Salmonids:** Current and newly-approved forest practice operations conducted under the existing rules could cause additional harm to ESA-listed salmonids because continued harvests in riparian areas would decrease shade, bank stability, and large woody debris, and continued road construction in these areas would also impact salmonid habitat. Specific impacts are categorized as follows:

**Shade and Stream Temperature:** Under the current forest practices rules, shade is required to meet current temperature criteria at 16 or 18°C. These standards may be modified soon by the Department of Ecology. At the present time, shade is not fully provided on some Type 3 streams because landowners only have to seek shade as far as the maximum width riparian management zone (RMZ). The maximum width RMZs for Type 3 streams are currently fifty feet on streams greater than five feet wide and twenty-five feet on streams that are less than five feet wide. There are some circumstances where significant shading occurs from beyond fifty feet.

An additional factor where current rules are inadequate for meeting temperature requirements involves removal of shade in nonfish-bearing waters which contribute to the temperature of fish-bearing waters downstream. This removal of shade elevates the water temperature which then cumulatively elevates temperatures downstream.

**Stream Bank Stability and Soil Disturbance:** Under the current rules, bank stability is protected except where bank erosion rates are high. It applies to all logs embedded in the bank and all trees and other vegetation rooted in the bank. Under some circumstances, especially at high elevations where shade requirements do not call for a wide buffer, soils disturbance from yarding and heavy equipment can result in fine sediment entering the stream and damaging spawning beds. A minimum of 30' is needed to protect stream bank stability and soil disturbance. Additional protection is needed in the case of rapid stream bank erosion, or soil and slope conditions conducive to surface erosion and soil transport.

**Forest Roads:** Roads are covered by the current rules; however, existing information would lead us to believe that standards need to be upgraded and that roads are out of compliance with existing rules as much as half the time as documented in the 1991 Compliance Report prepared by Timber, Fish and Wildlife's Field Implementation Committee. Preliminary findings from an on-going internal audit by the Department of Natural Resources also show that construction of roads in certain areas of the state indicate that the minimum standards are not adequate to protect public resources. Furthermore, greater efforts should be made to reduce road densities or minimize further increases in road densities,

depending on the basin. Where fine sediment is not a concern, road drainages still need to be disconnected from stream channels as much as possible to reduce hydrologic impacts from road networks.

**Large Woody Debris.** Under the current rules, LWD is only provided at a minimal level. The number of leave trees required to be retained in the RMZ is not based on the ability to improve both near and long-term continuous LWD recruitment. Input of LWD to stream channels generally occurs within one tree height from the channel edge (FEMAT 1993, McDade et al. 1990). Removal of trees from within this area results in a reduction of LWD recruitment to the stream channel. Furthermore, current rules often allow harvest of the larger multiple rotation conifers within the RMZ, which are needed to provide functioning LWD in streams larger than 10' wide.

**Summary:** The literature indicates that in order to protect bank stability and prevent surface erosion of fine sediment, a 30-foot no-cut buffer and no heavy equipment buffer is recommended. In addition, to achieve 95% recruitment of the key piece wood (i.e., wood that is large enough to start the forming of log jams indexed by stream size) approximately 100-foot buffer is required. Additional buffers may be needed to account for areas that have high susceptibility to windthrow, provide additional large woody debris (LWD) recruitment, unstable slopes protection, protection of seeps, springs and stream associated wetlands. Other functions include microclimate (air temperature and humidity, etc.). Given the above information, current forest practice rules are deficient, particularly in providing LWD, adequate shade, bank stability, and excessive contributions of sediment from roads and ground disturbance.

#### **4. PROTECTING PUBLIC RESOURCES & CLASS IV-SPECIAL CLASSIFICATION:**

The public has a strong interest in protecting public resources, including water, fish, and wildlife, especially those listed as endangered and threatened species. Immediate action is necessary to ensure that impacts from forest practices in the salmonid listed areas are carefully evaluated while the board is in the process of adopting permanent rules. Without an emergency rule, habitat of these threatened and endangered species could be significantly impacted by forest practices.

The Forest Practices Act requires that forest practices which have the potential for a substantial impact on the environment be classified as Class IV so that they receive additional environmental review under the State Environmental Policy Act (chapter 43.21C RCW). SEPA recognizes the critical importance of restoring and maintaining environmental quality to the public welfare and the importance of full disclosure of adverse environmental impacts caused by agency actions. The Forest Practices Board is obligated under the law to identify those forest practices that have potential for substantial impact on the environment and classify them as Class IV-Special so that additional SEPA review is conducted. If there is the potential for damage to the habitat of a state or federal listed species, then there is potential for substantial impact on the environment. An emergency rule would not necessarily prohibit harvest; it would require addi-

tional review to evaluate environmental impacts. This process includes public notice and a public comment period.

As described above, certain forest practices in the salmonid listed areas have the potential for impact on listed salmonids. This impact is substantial because of the number of forest practices in the listed areas and because the current rules are inadequate. Absent permanent rules that adequately prevent these impacts, RCW 76.09.050 and SEPA require the emergency rule change in classification.

#### **5. STATE WATER QUALITY REQUIREMENTS:**

The intent of the Forest Practices Act is to meet water quality standards under the Water Pollution Control Act. As indicated by the 2,600 miles of Washington's streams and rivers listed under section 303(d) of the Clean Water Act, water quality standards are not being met. Temperature increases attributed to forestry activities cause 303(d) listings. In 1996, streams with elevated temperatures comprised the largest group on the entire 303(d) list. Temperature limits in the water quality standards are intended to fully protect in-stream beneficial uses by preventing any decrease in salmonid health or reproductive success. These temperature standards are being updated in the near future. This goal is consistent with the state water quality antidegradation regulatory requirements. These requirements demand that the beneficial in-stream uses, such as salmonid habitat, be fully protected. Changes in water quality are not allowed that violate the standards set to fully protect these uses. Further, degradation of water quality, even where it does not cause a violation of the standards, is not allowed unless all known, available, and reasonable best management practices are being used to reduce the affect on water quality; and the activity has been found to be in the overriding public interest.

#### **6. RULE-MAKING FILES:**

The Forest Practices Board and the Department of Ecology maintain rule making files for this emergency rule that have detailed background information supporting these findings. Please contact Judith Holter, DNR at (360) 902-1412 or Doug Rushton, DOE at (360) 407-6180 if you would like to inspect these files.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 31, 1999

Jennifer M. Belcher

Commissioner of Public Lands

#### **NEW SECTION**

**WAC 222-10-020 \*SEPA policies for certain forest practices within 200 feet of a Type 1 Water.** The following policies shall apply to Class IV-Special forest practices, within the salmonid listed areas map in WAC 222-16-088, involving construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas within 200 feet of Type 1 Waters.

\*(1) In order to determine whether forest practices are likely to have a probable significant adverse impact, and therefore require an environmental impact statement, the applicant must submit to the department additional information prepared by a qualified expert on: Whether the proposed activity is within the channel migration zone of the Type 1 Water; whether the proposed activity has the potential for accelerating erosional and depositional processes of the Type 1 Water; whether the proposal will have an impact on salmonid spawning, rearing, or migration habitat; and whether the proposal will adversely impact a threatened or endangered species. (See WAC 222-10-043.) In addition, the report must identify specific mitigation measures designed to reduce the impacts to avoid any probable significant adverse impacts identified above.

\*(2) The department will evaluate the proposal in consultation with the department of ecology, the department of fish and wildlife, local government, and affected Indian tribes. If the proposal is likely to cause significant adverse impacts to salmonid spawning, rearing, or migration habitat, accelerate erosional and depositional processes of the Type 1 Water, or cause significant adverse impacts to a threatened or endangered species, then it is likely to have a probable significant adverse impact on the environment. If the department determines, in consultation with the department of fish and wildlife and affected Indian tribes, that the impacts can be mitigated or that the threatened and endangered species is not likely to occur because of a significant long-term passage barrier such as a dam or waterfall in the case of migrating salmonids or determines that certain stream reaches have unsuitable habitat conditions to support bull trout, then the proposal is not likely to have a probable significant adverse impact on the environment.

\*(3) If a local permit is required, then the local government is lead agency and the department shall forward the additional information, the environmental checklist, and the forest practices application to the local government for completing SEPA. (See WAC 222-20-040(4).)

**AMENDATORY SECTION** (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

**WAC 222-10-040 \*Class IV-Special threatened and endangered species SEPA policies.** In addition to the SEPA policies established elsewhere in this chapter, the following policies shall apply to Class IV-Special forest practices involving threatened or endangered species.

\*(1) The department shall consult with the department of fish and wildlife, other agencies with expertise, affected landowners, affected Indian tribes, and others with expertise when evaluating the impacts of forest practices. If the depart-

ment does not follow the recommendations of the department of fish and wildlife, the department shall set forth in writing a concise explanation of the reasons for its action.

\*(2) In order to determine whether forest practices are likely to have a probable significant adverse impact, and therefore require an environmental impact statement, the department shall evaluate whether the forest practices reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of the survival or recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.

\*(3) Specific mitigation measures or conditions shall be designed to reduce any probable significant adverse impacts identified in subsection (2) of this section.

\*(4) The department shall consider the species-specific policies in WAC 222-10-041 (~~and~~) northern spotted owls, WAC 222-10-042 marbled murrelets, and WAC 222-10-043 salmonids when reviewing and evaluating SEPA documents and the impacts of forest practices.

### NEW SECTION

**WAC 222-10-043 \*Salmonids.** The following policies shall apply to Class IV-Special forest practices, within the salmonid listed areas map in WAC 222-16-088, if the forest practices may cause adverse impacts to salmonids.

\*(1) In order to determine whether forest practices are likely to have a probable significant adverse impact, and therefore require an environmental impact statement, the applicant must submit to the department additional information prepared by a qualified expert that includes: An evaluation of the channel condition; information on how the proposal will provide for bank stability, sediment and mass wasting attenuation, adequate shade, near and long-term large woody debris recruitment, and protection from windthrow. In addition, the report must identify specific mitigation measures designed to reduce the impacts to avoid any probable significant adverse impacts identified above.

\*(2) Roads, skid trails, or yarding corridors may not occupy or disturb more than 10 percent of the soil in the riparian management zone unless the landowner submits mitigation measures that provide equivalent replacement of habitat.

\*(3) Harvesting, road construction, aerial applications of pesticides, or site preparation that is likely to cause significant adverse impacts to salmonid spawning, rearing, or migration habitat are likely to have a probable significant adverse impact on the environment except when the department determines, in consultation with the department of fish and wildlife, that the impacts can be mitigated.

\*(4) The department shall consult with the department of fish and wildlife, the department of ecology, affected Indian tribes, and other interested parties to determine if the proposal will maintain a fully functioning riparian management zone. To meet this goal, the department will review whether the forest practices reasonably would be expected, directly or indirectly, to: Increase protection from sediment and mass wasting impacts; maintain bank stability; maintain shade; maintain near or long-term large woody debris that is key-piece size or larger and indexed to the size of the channel; and, protect riparian functions from windthrow in site-spe-

cific circumstances. If the above functions are not adequately provided, then the forest practice is likely to have a probable significant adverse impact on the environment. If the department determines, in consultation with the department of fish and wildlife and affected Indian tribes, that the impacts can be mitigated or that the threatened and endangered species is not likely to occur because of a significant long-term passage barrier such as a dam or waterfall in the case of migrating salmonids or determines that certain stream reaches have unsuitable habitat conditions to support bull trout, then the proposal is not likely to have a probable significant adverse impact on the environment.

AMENDATORY SECTION (Amending WSR 98-07-047, filed 3/13/98, effective 5/1/98)

**WAC 222-16-010 General definitions.\*** Unless otherwise required by context, as used in these regulations:

"Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"Board" means the forest practices board established by the act.

"Bog" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual*.

"Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Columbia River Gorge National Scenic Area or CRGNSA" means the area established pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(a).

**"CRGNSA special management area"** means the areas designated in the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(b) or revised pursuant to 16 U.S.C. §544b(c). For purposes of this rule, the special management area shall not include any parcels excluded by 16 U.S.C. §544f(o).

**"CRGNSA special management area guidelines"** means the guidelines and land use designations for forest practices developed pursuant to 16 U.S.C. §544f contained in the CRGNSA management plan developed pursuant to 15 U.S.C. §544d.

**"Commercial tree species"** means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

**"Completion of harvest"** means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

**"Constructed wetlands"** means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

**"Contamination"** means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

**"Conversion option harvest plan"** means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

**"Conversion to a use other than commercial timber operation"** shall mean a bona fide conversion to an active use which is incompatible with timber growing.

**"Cooperative habitat enhancement agreement (CHEA)"** see WAC 222-16-105.

**"Critical habitat (federal)"** means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

**"Critical nesting season"** means for marbled murrelets - April 1 to August 31.

**"Critical wildlife habitat (state)"** means those habitat designated by the board in accordance with WAC 222-16-080.

**"Cultural resources"** means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

**"Cumulative effects"** means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

**"Daily peak activity"** means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

**"Debris"** means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

**"Demographic support"** means providing sufficient suitable spotted owl habitat within the SOSEA to maintain the viability of northern spotted owl sites identified as necessary to meet the SOSEA goals.

**"Department"** means the department of natural resources.

**"Dispersal habitat"** see WAC 222-16-085(2).

**"Dispersal support"** means providing sufficient dispersal habitat for the interchange of northern spotted owls within or across the SOSEA, as necessary to meet SOSEA goals. Dispersal support is provided by a landscape consisting of stands of dispersal habitat interspersed with areas of higher quality habitat, such as suitable spotted owl habitat found within RMZs, WMZs or other required and voluntary leave areas.

**"Eastern Washington"** means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

**"End hauling"** means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

**"Erodible soils"** means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

**"Even-aged harvest methods"** means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height

and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

**"Fen"** means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

**"Fertilizers"** means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

**"Fill"** means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

**"Flood level - 50 year."** For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

**"Forest land"** means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

**"Forest land owner"** shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

**"Forest practice"** means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

Road and trail construction;

Harvesting, final and intermediate;

Precommercial thinning;

Reforestation;

Fertilization;  
 Prevention and suppression of diseases and insects;  
 Salvage of trees; and  
 Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest trees" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

Mass wasting;

Surface and road erosion;

Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);

Large organic debris;

Shading; and

Stream bank and bed stability.

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local government entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Marbled murrelet detection area" means an area of land associated with a visual or audible detection of a marbled murrelet, made by a qualified surveyor which is documented and recorded in the department of fish and wildlife data base. The marbled murrelet detection area shall be comprised of the section of land in which the marbled murrelet detection was made and the eight sections of land immediately adjacent to that section.

"Marbled murrelet nesting platform" means any horizontal tree structure such as a limb, an area where a limb branches, a surface created by multiple leaders, a deformity, or a debris/moss platform or stick nest equal to or greater than 7 inches in diameter including associated moss if present, that is 50 feet or more above the ground in trees 32 inches dbh and greater (generally over 90 years of age) and is capable of supporting nesting by marbled murrelets.

"Median home range circle" means a circle, with a specified radius, centered on a spotted owl site center. The radius for the median home range circle in the Hoh-Clearwater/Coastal Link SOSEA is 2.7 miles; for all other SOSEAs the radius is 1.8 miles.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Northern spotted owl site center" means the location of status 1, 2 or 3 northern spotted owls based on the following definitions:

Status 1: Pair or reproductive - a male and female heard and/or observed in close proximity to each other on the same visit, a female detected on a nest, or one or both adults observed with young.

Status 2: Two birds, pair status unknown - the presence or response of two birds of opposite sex where pair status cannot be determined and where at least one member meets the resident territorial single requirements.

Status 3: Resident territorial single - the presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or three or more responses over several years (i.e., two responses in

year one and one response in year two, for the same general area).

In determining the existence, location, and status of northern spotted owl site centers, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

**"Notice to comply"** means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

**"Occupied marbled murrelet site"** means:

(1) A contiguous area of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occur:

- (a) A nest is located; or
- (b) Downy chicks or eggs or egg shells are found; or
- (c) Marbled murrelets are detected flying below, through, into or out of the forest canopy; or
- (d) Birds calling from a stationary location within the area; or
- (e) Birds circling above a timber stand within one tree height of the top of the canopy; or

(2) A contiguous forested area, which does not meet the definition of suitable marbled murrelet habitat, in which any of the behaviors or conditions listed above has been documented by the department of fish and wildlife and which is distinguishable from the adjacent forest based on vegetative characteristics important to nesting marbled murrelets.

(3) For sites defined in (1) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

- (a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or
- (b) The beginning of any gap greater than 300 feet wide lacking one or more of the vegetative characteristics listed under "suitable marbled murrelet habitat"; or
- (c) The beginning of any narrow area of "suitable marbled murrelet habitat" less than 300 feet in width and more than 300 feet in length.

(4) For sites defined under (2) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

- (a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or
- (b) The beginning of any gap greater than 300 feet wide lacking one or more of the distinguishing vegetative characteristics important to murrelets; or

(c) The beginning of any narrow area of suitable marbled murrelet habitat, comparable to the area where the observed behaviors or conditions listed in (1) above occurred, less than 300 feet in width and more than 300 feet in length.

(5) In determining the existence, location and status of occupied marbled murrelet sites, the department shall consult with the department of fish and wildlife and use only those

sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

**"Old forest habitat"** see WAC 222-16-085 (1)(a).

**"Operator"** shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

**"Ordinary high-water mark"** means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

**"Other forest chemicals"** means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

**"Park"** means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

**"Partial cutting"** means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

**"Pesticide"** means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

**"Plantable area"** is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

**"Power equipment"** means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

**"Public resources"** means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

**"Qualified expert"** means a person qualified for level 2 certification in the watershed analysis process, plus having at least 3 additional years of experience in the evaluation of relevant problems in forested lands.

**"Qualified surveyor"** means an individual who has successfully completed the marbled murrelet field training course offered by the department of fish and wildlife or its equivalent.

**"Rehabilitation"** means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

**"Relief culvert"** means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

**"Resource characteristics"** means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

**"Riparian management zone"** means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

**"Rodenticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

**"Salmonid listed areas"** means the geographic areas as mapped in WAC 222-16-088. Detailed maps are available from the department at its regional offices.

**"Salvage"** means the removal of snags, down logs, windthrow, or dead and dying material.

**"Scarification"** means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

**"Shorelines of the state"** shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

**"Side casting"** means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

**"Site preparation"** means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

**"Skid trail"** means a route used by tracked or wheeled skidders to move logs to a landing or road.

**"Slash"** means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

**"SOSEA goals"** means the goals specified for a spotted owl special emphasis area as identified on the SOSEA maps (see WAC 222-16-086). SOSEA goals provide for demographic and/or dispersal support as necessary to complement the northern spotted owl protection strategies on federal land within or adjacent to the SOSEA.

**"Spoil"** means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

**"Spotted owl dispersal habitat"** see WAC 222-16-085(2).

**"Spotted owl special emphasis areas (SOSEA)"** means the geographic areas as mapped in WAC 222-16-086. Detailed maps of the SOSEAs indicating the boundaries and goals are available from the department at its regional offices.

**"Stop work order"** means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

**"Sub-mature habitat"** see WAC 222-16-085 (1)(b).

**"Suitable marbled murrelet habitat"** means a contiguous forested area containing trees capable of providing nesting opportunities:

(1) With all of the following indicators unless the department, in consultation with the department of fish and wildlife, has determined that the habitat is not likely to be occupied by marbled murrelets:

(a) Within 50 miles of marine waters;

(b) At least 40% of the dominant and codominant trees are Douglas-fir, western hemlock, western red cedar or sitka spruce;

(c) Two or more nesting platforms per acre;

(d) At least 7 acres in size, including the contiguous forested area within 300 feet of nesting platforms, with similar forest stand characteristics (age, species composition, forest structure) to the forested area in which the nesting platforms occur.

**"Suitable spotted owl habitat"** see WAC 222-16-085(1).

**"Threatened or endangered species"** means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington fish and wildlife commission.

**"Timber"** shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

**"Water bar"** means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

**"Watershed administrative unit (WAU)"** means an area shown on the map specified in WAC 222-22-020(1).

**"Watershed analysis"** means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

**"Weed"** is any plant which tends to overgrow or choke out more desirable vegetation.

**"Western Washington"** means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

**"Wetland"** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

**"Wetland functions"** include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

**"Wetland management zone"** means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

**"Wildlife"** means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

**"Wildlife reserve trees"** means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

**"Windthrow"** means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

**"Young forest marginal habitat"** see WAC 222-16-085 (1)(b).

**AMENDATORY SECTION** (Amending WSR 98-07-047, filed 3/13/98, effective 5/1/98)

**WAC 222-16-050 Classes of forest practices.** There are 4 classes of forest practices created by the act. All forest practices (including those in Classes I and II) must be conducted in accordance with the forest practices regulations.

(1) **"Class IV - special."** Application to conduct forest practices involving the following circumstances requires an environmental checklist in compliance with the State Environmental Policy Act (SEPA), and SEPA guidelines, as they have been determined to have potential for a substantial impact on the environment. It may be determined that additional information or a detailed environmental statement is required before these forest practices may be conducted.

\*(a) Aerial application of pesticides in a manner identified as having the potential for a substantial impact on the environment under WAC 222-16-070 or ground application of a pesticide within a Type A or B wetland.

(b) Specific forest practices listed in WAC 222-16-080 on lands designated as:

(i) Critical wildlife habitat (state) of threatened or endangered species; or

(ii) Critical habitat (federal) of threatened or endangered species except those excluded by the board under WAC 222-16-080(3).

(c) Harvesting, road construction, aerial application of pesticides and site preparation on all lands within the boundaries of any national park, state park, or any park of a local governmental entity, except harvest of less than 5 MBF within any developed park recreation area and park managed salvage of merchantable forest products.

\*(d) Construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on slide prone areas as defined in WAC 222-24-020(6) and field verified by the department, in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, when such slide prone areas occur on an uninterrupted slope above water typed pursuant to WAC 222-16-030, Type A or Type B Wetland, or capital improvement of the state or its political subdivisions where there is potential for a substantial debris flow or mass failure to cause significant impact to public resources.

\*(e) Timber harvest in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, on slide prone areas, field verified by the department, where soils, geologic structure, and local hydrology indicate that canopy removal has the potential for increasing slope instability, when such areas occur on an uninterrupted slope above any water typed pursuant to WAC 222-16-030, Type A or Type B Wetland, or a capital improvement of the state or its political subdivisions where there is a potential for a substantial debris flow or mass failure to cause significant impact to public resources.

(f) Timber harvest, in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on snow avalanche slopes within those areas designated by the depart-

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ment, in consultation with department of transportation, as high avalanche hazard.

(g) Timber harvest, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on archaeological or historic sites registered with the Washington state office of archaeology and historic preservation, or on sites containing evidence of Native American cairns, graves, or glyptic records, as provided for in chapters 27.44 and 27.53 RCW. The department shall consult with affected Indian tribes in identifying such sites.

\*(h) Forest practices subject to a watershed analysis conducted under chapter 222-22 WAC in an area of resource sensitivity identified in that analysis which deviates from the prescriptions (which may include an alternate plan) in the watershed analysis.

\*(i) Filling or draining of more than 0.5 acre of a wetland.

\*(j) Construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas within 200 feet of a Type 1 Water within the areas on the salmonid listed map in WAC 222-16-088. Road construction means any new road construction, reconstruction, or road maintenance activity that is not a Class I forest practice.

(2) "Class IV - general." Applications involving the following circumstances are "Class IV - general" forest practices unless they are listed in "Class IV - special." Upon receipt of an application, the department will determine the lead agency for purposes of compliance with the State Environmental Policy Act pursuant to WAC 197-11-924 and 197-11-938(4) and RCW 43.21C.037(2). Such applications are subject to a 30-day period for approval unless the lead agency determines a detailed statement under RCW 43.21C.030(2)(c) is required. Upon receipt, if the department determines the application is for a proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the department shall notify the applicable county/city under WAC 197-11-924 that the department has determined according to WAC 197-11-938(4) that the county/city is the lead agency for purposes of compliance with State Environmental Policy Act.

(a) Forest practices (other than those in Class I) on lands platted after January 1, 1960, or on lands being converted to another use.

(b) Forest practices which would otherwise be Class III, but which are taking place on lands which are not to be reforested because of likelihood of future conversion to urban development. (See WAC 222-16-060 and 222-34-050.)

(3) "Class I." Those operations that have been determined to have no direct potential for damaging a public resource are Class I forest practices. When the conditions listed in "Class IV - Special" are not present, these operations may be commenced without notification or application.

(a) Culture and harvest of Christmas trees and seedlings.

\*(b) Road maintenance except: (i) Replacement of bridges and culverts across Type 1, 2, 3 or flowing Type 4 Waters; or (ii) movement of material that has a direct potential for entering Type 1, 2, 3 or flowing Type 4 Waters or Type A or B Wetlands.

\*(c) Construction of landings less than 1 acre in size, if not within a shoreline area of a Type 1 Water, the riparian

management zone of a Type 2 or 3 Water, the ordinary high-water mark of a Type 4 Water, a wetland management zone, a wetland, or the CRGNSA special management area.

\*(d) Construction of less than 600 feet of road on a side slope of 40 percent or less if the limits of construction are not within the shoreline area of a Type 1 Water, the riparian management zone of a Type 2 or Type 3 Water, the ordinary high-water mark of a Type 4 Water, a wetland management zone, a wetland, or the CRGNSA special management area.

\*(e) Installation or removal of a portable water crossing structure where such installation does not take place within the shoreline area of a Type 1 Water and does not involve disturbance of the beds or banks of any waters.

\*(f) Initial installation and replacement of relief culverts and other drainage control facilities not requiring a hydraulic permit.

(g) Rocking an existing road.

(h) Loading and hauling timber from landings or decks.

(i) Precommercial thinning and pruning, if not within the CRGNSA special management area.

(j) Tree planting and seeding.

(k) Cutting and/or removal of less than 5,000 board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence posts, etc.) in any 12-month period, if not within the CRGNSA special management area.

(l) Emergency fire control and suppression.

(m) Slash burning pursuant to a burning permit (RCW 76.04.205).

\*(n) Other slash control and site preparation not involving either off-road use of tractors on slopes exceeding 40 percent or off-road use of tractors within the shorelines of a Type 1 Water, the riparian management zone of any Type 2 or 3 Water, or the ordinary high-water mark of a Type 4 Water, a wetland management zone, a wetland, or the CRGNSA special management area.

\*(o) Ground application of chemicals, if not within the CRGNSA special management area. (See WAC 222-38-020 and 222-38-030.)

\*(p) Aerial application of chemicals (except insecticides), outside of the CRGNSA special management area when applied to not more than 40 contiguous acres if the application is part of a combined or cooperative project with another landowner and where the application does not take place within 100 feet of lands used for farming, or within 200 feet of a residence, unless such farmland or residence is owned by the forest landowner. Provisions of chapter 222-38 WAC shall apply.

(q) Forestry research studies and evaluation tests by an established research organization.

(r) Any of the following if none of the operation or limits of construction takes place within the shoreline area of a Type 1 Water or the riparian management zone of a Type 2 or 3 Water, the ordinary high-water mark of a Type 4 Water or flowing Type 5 Water, or within the CRGNSA special management area and the operation does not involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:

(i) Any forest practices within the boundaries of existing golf courses.

(ii) Any forest practices within the boundaries of existing cemeteries which are approved by the cemetery board.

(iii) Any forest practices involving a single landowner where contiguous ownership is less than two acres in size.

(s) Removal of beaver structures from culverts on active and inactive roads. A hydraulics project approval from the Washington department of fish and wildlife may be required.

(4) "**Class II.**" Certain forest practices have been determined to have a less than ordinary potential to damage a public resource and may be conducted as Class II forest practices: *Provided*, That no forest practice enumerated below may be conducted as a Class II forest practice if the operation requires a hydraulic project approval (RCW 75.20.100) or is within a "shoreslines of the state," or involves a bond in lieu of landowners signature (other than renewals). Such forest practices require an application. No forest practice enumerated below may be conducted as a "Class II" forest practice if it takes place on lands platted after January 1, 1960, or on lands being converted to another use. Such forest practices require a Class IV application. Class II forest practices are the following:

(a) Renewal of a prior Class II notification where no change in the nature and extent of the forest practices is required under rules effective at the time of renewal.

(b) Renewal of a previously approved Class III or IV forest practice application where:

(i) No modification of the uncompleted operation is proposed;

(ii) No notices to comply, stop work orders or other enforcement actions are outstanding with respect to the prior application; and

(iii) No change in the nature and extent of the forest practice is required under rules effective at the time of renewal.

\* (c) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, within the ordinary high-water mark of a Type 4 Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area:

(i) Construction of advance fire trails.

(ii) Opening a new pit of, or extending an existing pit by, less than 1 acre.

\* (d) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, within the ordinary high-water mark of a Type 4 Water, within a wetland management zone or within a wetland; and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:

Salvage of logging residue.

\* (e) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, within the ordinary high-water mark of a Type 4 Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area, and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent, and if none of the operations are located on lands with a likelihood of future conversion (see WAC 222-16-060):

(i) West of the Cascade summit, partial cutting of 40 percent or less of the live timber volume.

(ii) East of the Cascade summit, partial cutting of 5,000 board feet per acre or less.

(iii) Salvage of dead, down, or dying timber if less than 40 percent of the total timber volume is removed in any 12-month period.

(iv) Any harvest on less than 40 acres.

(v) Construction of 600 or more feet of road, provided that the department shall be notified at least 2 business days before commencement of the construction.

(5) "**Class III.**" Forest practices not listed under Classes IV, I or II above are "Class III" forest practices. Among Class III forest practices are the following:

(a) Those requiring hydraulic project approval (RCW 75.20.100).

\* (b) Those within the shoreslines of the state other than those in a Class I forest practice.

\* (c) Aerial application of insecticides, except where classified as a Class IV forest practice.

\* (d) Aerial application of chemicals (except insecticides), except where classified as Class I or IV forest practices.

\* (e) Harvest or salvage of timber except where classed as Class I, II or IV forest practices.

\* (f) All road construction and reconstruction except as listed in Classes I, II and IV forest practices.

(g) Opening of new pits or extensions of existing pits over 1 acre.

\* (h) Road maintenance involving:

(i) Replacement of bridges or culverts across Type 1, 2, 3, or flowing Type 4 Waters; or

(ii) Movement of material that has a direct potential for entering Type 1, 2, 3 or flowing Type 4 Waters or Type A or B Wetlands.

(i) Operations involving an applicant's bond in lieu of a landowner's signature.

(j) Site preparation or slash abatement not listed in Classes I or IV forest practices.

(k) Harvesting, road construction, site preparation or aerial application of pesticides on lands which contain cultural, historic or archaeological resources which, at the time the application or notification is filed, are:

(i) On or are eligible for listing on the National Register of Historic Places; or

(ii) Have been identified to the department as being of interest to an affected Indian tribe.

(l) Harvesting exceeding 19 acres in a designated difficult regeneration area.

(m) Utilization of an alternate plan. See WAC 222-12-040.

\* (n) Any filling of wetlands, except where classified as Class IV forest practices.

\* (o) Harvesting, site preparation or aerial application of pesticides within 200 feet of a Type 1, 2, or 3 Water, or road construction within 200 feet of a Type 2 or 3 Water, within the areas on the salmonid listed map in WAC 222-16-088.

**AMENDATORY SECTION** (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

**WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species.** (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of fish and wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of fish and wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of fish and wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of fish and wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of fish and wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of fish and wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of fish and wildlife.

(h) Northern spotted owl - the following shall apply through June 30, 1996: Harvesting, road construction, or aerial application of pesticides on the most suitable 500 acres of nesting, roosting, and foraging habitat surrounding the northern spotted owl site center. The most suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife, tribes, and others with applicable expertise. Consideration shall be given to habitat quality, proximity to the activity center and contiguity in selecting the most suitable 500 acres of habitat.

Beginning July 1, 1996, the following shall apply for the northern spotted owl:

(i) **Within a SOSEA boundary** (see maps in WAC 222-16-086), except as indicated in (h)(ii) of this subsection, harvesting, road construction, or aerial application of pesticides on suitable spotted owl habitat within a median home range

circle that is centered within the SOSEA or on adjacent federal lands.

(ii) **Within the Entiat SOSEA**, harvesting, road construction, or aerial application of pesticides within the area indicated for demographic support (see WAC 222-16-086(2)) on suitable spotted owl habitat located within a median home range circle that is centered within the demographic support area.

(iii) **Outside of a SOSEA**, harvesting, road construction, or aerial application of pesticides, between March 1 and August 31 on the seventy acres of highest quality suitable spotted owl habitat surrounding a northern spotted owl site center located outside a SOSEA. The highest quality suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife. Consideration shall be given to habitat quality, proximity to the activity center and contiguity.

(iv) **Small parcel northern spotted owl exemption.** Forest practices proposed on the lands owned or controlled by a landowner whose forest land ownership within the SOSEA is less than or equal to 500 acres and where the forest practice is not within 0.7 mile of a northern spotted owl site center shall not be considered to be on lands designated as critical wildlife habitat (state) for northern spotted owls.

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet.

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site.

(ii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within suitable marbled murrelet habitat within a marbled murrelet detection area.

(iii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within suitable marbled murrelet habitat containing 7 platforms per acre outside a marbled murrelet detection area.

(iv) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction outside a marbled murrelet detection area within a marbled murrelet special landscape and within suitable marbled murrelet habitat with 5 or more platforms per acre.

(v) Harvesting within a 300 foot managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stand stem density of 75 trees per acre greater than 6 inches in dbh; provided that 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches in dbh, where they exist. The primary consideration for the design of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of 200 feet and extended to a maximum of 400 feet as long as the average of 300 feet is maintained.

(vi) Except that the following shall not be critical wildlife habitat (state):

(A) Where a landowner owns less than 500 acres of forest land within 50 miles of saltwater and the land does not contain an occupied marbled murrelet site; or

(B) Where a protocol survey (see WAC 222-12-090(14)) has been conducted and no murrelets were detected. The landowner is then relieved from further survey requirements. However, if an occupied marbled murrelet site is established, this exemption is void.

\*(k) Salmonids - harvesting, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas, aerial applications of pesticides, or site preparation, within the areas on the salmonid listed map in WAC 222-16-088, within 100 feet of a type 1, 2, or 3 water. Road construction means any new road construction, reconstruction, or road maintenance activity that is not a Class I forest practice.

(2) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

Marbled murrelet critical habitat 50 C.F.R. §17.95(b), 61 Fed. Reg. 26256 as a result of provisions of the state's marbled murrelet rule.

(3) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington fish and wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of fish and wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(4) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of fish and wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (2) of this section. See WAC 222-16-050 (1)(b)(ii).

(5)(a) Except for bald eagles under subsection (1)(a) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington fish and wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of fish and wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(6) Regardless of any other provision in this section, forest practices applications shall not be classified as Class IV-Special based on critical wildlife habitat (state) (WAC 222-16-080(1)) or critical habitat (federal) (WAC 222-16-050 (1)(b)(ii)) for a species if the forest practices are consistent with one of the following proposed for protection of the species:

(a) A habitat conservation plan and permit or an incidental take statement covering such species approved by the Secretary of the Interior or Commerce pursuant to 16 U.S.C. §1536 (b) or 1539 (a); an "unlisted species agreement" covering such species approved by the U.S. Fish and Wildlife Service or National Marine Fisheries Service; or a "no-take letter" or other cooperative or conservation agreement entered into with a federal or state fish and wildlife agency pursuant to its statutory authority for fish and wildlife protection that addresses the needs of the affected species and that is subject to review under the National Environmental Protection Act, 42 U.S.C. §4321 et seq., or the State Environmental Policy Act, chapter 43.21C RCW, as applicable;

(b) A rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d);

(c) A special wildlife management plan (SWMP) developed by the landowner and approved by the department in consultation with the department of fish and wildlife;

(d) A bald eagle management plan approved under WAC 232-12-292;

(e) A landowner option plan (LOP) for northern spotted owls developed pursuant to WAC 222-16-100(1); or

(f) A cooperative habitat enhancement agreement (CHEA) developed pursuant to WAC 222-16-105.

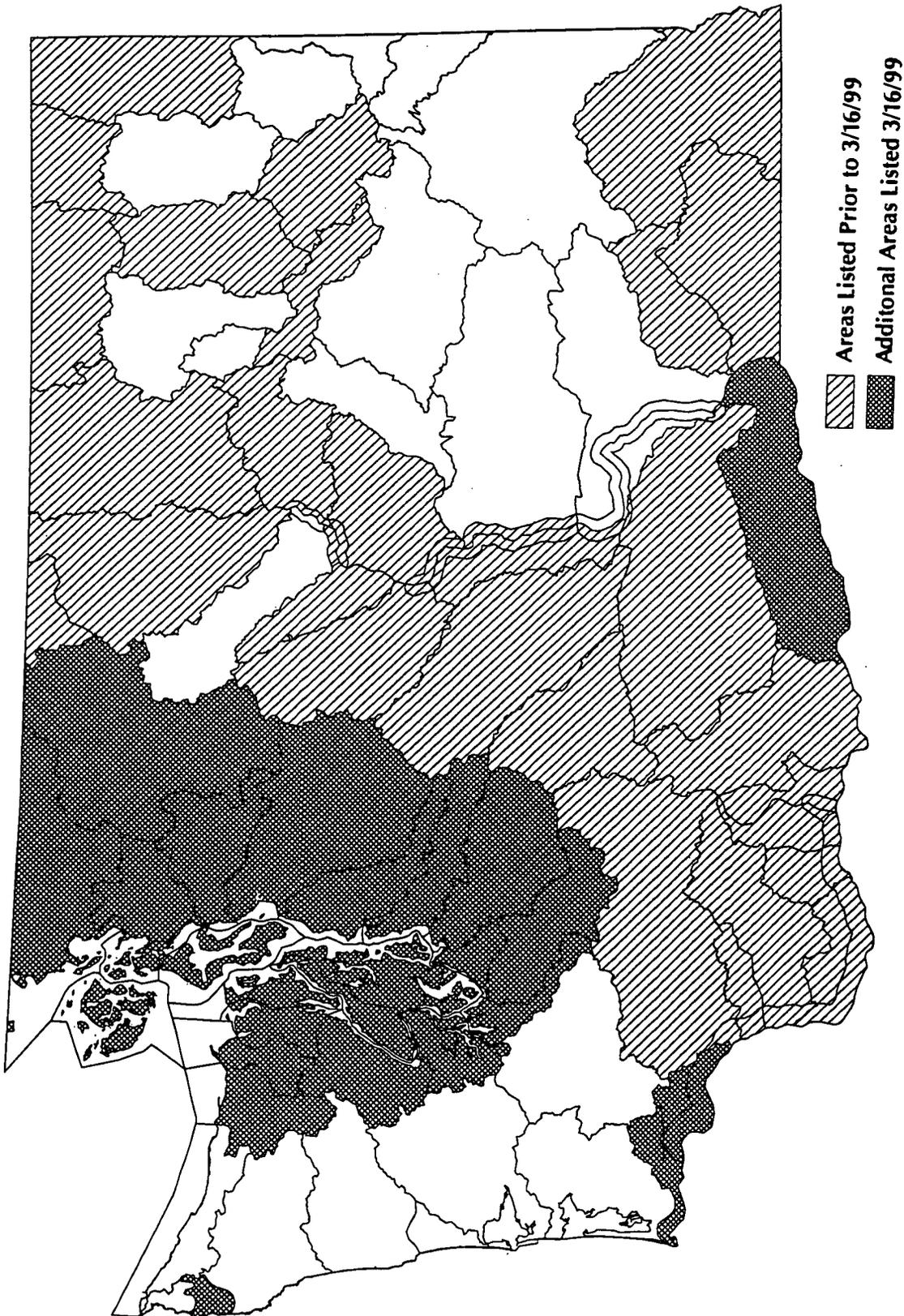
In those situations where one of the options above has been used, forest practices applications may still be classified as Class IV-Special based upon the presence of one or more of the factors listed in WAC 222-16-050(1), other than critical wildlife habitat (state) or critical habitat (federal) for the species covered by the existing plan.

(7) The department, in consultation with the department of fish and wildlife, shall review each SOSEA to determine whether the goals for that SOSEA are being met through approved plans, permits, statements, letters, or agreements referred to in subsection (6) of this section. Based on the consultation, the department shall recommend to the board the suspension, deletion, modification or reestablishment of the applicable SOSEA from the rules. The department shall conduct a review for a particular SOSEA upon approval of a landowner option plan, a petition from a landowner in the SOSEA, or under its own initiative.

(8) The department, in consultation with the department of fish and wildlife, shall report annually to the board on the status of the northern spotted owl to determine whether circumstances exist that substantially interfere with meeting the goals of the SOSEAs.

NEW SECTION

WAC 222-16-088 \*Salmonid listed areas.



EMERGENCY

**AMENDATORY SECTION** (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

**WAC 222-24-050 Road maintenance. \*(1) Road maintenance and abandonment plan.**

(a) The department will identify priorities for road maintenance and abandonment plans by watershed administrative unit by region using information such as the Lower Columbia Steelhead Conservation Initiative. The department shall choose priority WAUs every spring and fall.

(b) Landowners with 500 acres or more of ownership within the areas on the salmonid listed map in WAC 222-16-088 and in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, must submit within 90 days after notification in the spring or by June 30 after notification in the fall by the department, for department approval, a road maintenance and abandonment plan for those drainages or road systems, within the identified watershed administrative units, that are active or will be active within two years. This subsection does not apply to landowners with an approved habitat conservation plan that has specific provisions for road maintenance.

(c) Landowners with less than 500 acres within the areas on the salmonid listed map in WAC 222-16-088 and in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC must submit a road maintenance and abandonment plan covering their entire ownership within the priority WAUs as per (a) of this subsection to the department prior to or concurrently with a forest practice notification or application for proposed road or harvest activities. Once approved, the landowner should attach or reference the approved road maintenance and abandonment plan when submitting subsequent applications.

(d) Landowners not required to submit road maintenance and abandonment plans under (b) or (c) of this subsection, when notified by the department, shall submit a plan for department approval for road maintenance and abandonment for those drainages or road systems the department determines based on physical evidence to have a potential to damage public resources.

~~((The))~~ (e) All road maintenance and abandonment plans ((is)) are subject to annual review. The plan must pay particular attention to those road segments that block fish passage or have the potential to deliver water or sediment to any typed water, and shall include:

- (i) Ownership maps showing the road or road system;
- (ii) Road status, whether active, inactive, orphan, abandoned or planned for abandonment;
- (iii) Maintenance schedule and priorities for the year; and
- (iv) Plan for further maintenance and reconstruction beyond the current year for repair of extensive damage.

~~((b))~~ (f) The plan shall be submitted to the department region office on or before June 30, 1988, and each June 30th thereafter unless the department agrees that no further plans are necessary.

~~((e))~~ (g) The department will review the plan annually with the landowner to determine whether it will be effective and is being implemented.

~~((d))~~ (h) Such plans shall also be reviewed with departments of ecology, fish and wildlife, ~~((and))~~ affected Indian tribes, and interested parties, any of whom may request the department to hold an informal conference with the landowner.

(NOTE: The road maintenance and abandonment training manual and other materials made available by the department can be used for guidance in developing road maintenance and abandonment plans.)

\***(2) Active roads.** An active road is a forest road being actively used for hauling of logs, pulpwood, chips, or other major forest products or rock and other road building materials. To the extent necessary to prevent damage to public resources, the following maintenance shall be conducted on such roads:

(a) Culverts and ditches shall be kept functional.

(b) Road surface shall be maintained as necessary to minimize erosion of the surface and the subgrade.

(c) During and on completion of operations, road surface shall be crowned, outsloped, or water barred and berms removed from the outside edge except those intentionally constructed for protection of fills.

\***(3) Inactive roads.** An inactive road is a forest road on which commercial hauling is discontinued for 1 or more logging seasons, and the forest landowner desires continuation of access for fire control, forest management activities, Christmas tree growing operations, occasional or incidental use for minor forest products harvesting or similar activities on such inactive roads:

(a) Before the first winter rainy season following termination of active use, nonfunctional ditches and culverts shall be cleared and the road surface shall be crowned, outsloped, water barred or otherwise left in a condition not conducive to accelerated erosion or interrupt water movement within wetlands; and

(b) Thereafter, except as provided in (c) of this subsection, the landowner shall clear or repair ditches or culverts which he/she knows or should know to be nonfunctional and causing or likely to cause material damage to a public resource.

(c) The landowner shall not be liable for penalties or monetary damages, under the act, for damage occurring from a condition brought about by public use, unless he/she fails to make repairs as directed by a notice to comply.

\***(4) Additional culverts/maintenance.** If the department determines based on physical evidence that the above maintenance has been or will be inadequate to protect public resources and that additional measures will provide adequate protection it shall require the landowner or operator to either elect to:

(a) Install additional or larger culverts or other drainage improvements as deemed necessary by the department; or

(b) Agree to an additional road maintenance program. Such improvements in drainage or maintenance may be required only after a field inspection and opportunity for an informal conference.

\***(5) Abandoned roads.** An abandoned road is a forest road which the forest landowner has abandoned in accordance with procedures of (a) through (e) of this subsection.

Roads are exempt from maintenance only after (e) of this subsection is completed:

(a) Roads are outsloped, water barred, or otherwise left in a condition suitable to control erosion and maintain water movement within wetlands; and

(b) Ditches are left in a suitable condition to reduce erosion; and

(c) The road is blocked so that four wheel highway vehicles can not pass the point of closure at the time of abandonment; and

(d) Bridges, culverts, and fills on all waters are removed, except where the department determines other measures would provide adequate protection to public resources.

(e) The department shall determine whether the road has been abandoned according to procedures of this subsection. If the department determines the road is properly abandoned, it shall within thirty days notify the landowner in writing that the road is officially abandoned.

**\*(6) Brush control.** Chemical control of roadside brush shall not be done where chemicals will directly enter any Type 1, 2, or 3 or flowing Type 4 or 5 Water or Type A or B Wetlands. Refer to WAC 222-38-020 for additional information.

**\*(7) Road surface treatment.**

(a) Apply oil to the road surface only when the temperature is above 55 degrees F and during the season when there is a minimal chance of rain for the next 48 hours. Use of waste oil is subject to RCW 70.95I.060(5).

(b) Water the road surface prior to application of oil to assist in penetration.

(c) Construct a temporary berm along the road shoulder wherever needed to control runoff of the applied chemical.

(d) Take extreme care to avoid excess application of road chemicals. Shut off the flow at all bridges.

(e) When cleaning out chemical storage tanks or the application equipment tanks used for storage and application of road treatment materials, dispose of the rinse water fluids on the road surface or in a place safe from potential contamination of water.

(f) The use of dry road chemicals shall be in compliance with WAC 222-38-020.

**AMENDATORY SECTION** (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-30-040 Shade requirements to maintain stream temperature.** \*(1) Determination of adequate shade. The temperature prediction method in subsections (2) and (3) of this section shall be used to determine appropriate shade levels for flowing Type 1, 2, and 3 Waters to prevent excessive water temperatures which may have detrimental impact on aquatic resources.

**\*(2) Temperature prediction method.**

(a) In addition to the riparian management zone requirements, leave trees shall be retained in riparian management zones on flowing Type 1, 2, and 3 Waters ~~((as provided by))~~.

(b) Leave trees shall also be retained as needed within the first 50 feet horizontal distance from the ordinary high water mark along the first 500 feet of flowing Type 4 or 5 Waters above Type 1, 2, and 3 Waters in the salmonid listed

areas map in WAC 222-16-088. This provision, however, does not apply to landowners with an approved habitat conservation plan that has specific provisions for salmonids.

(c) The temperature prediction method is described in the board manual ((which)) and it includes the following considerations:

~~((a))~~ (i) Minimum shade retention requirements; and

~~((b))~~ (ii) Regional water temperature characteristics; and

~~((c))~~ (iii) Elevation; and

~~((d))~~ (iv) Temperature criteria defined for stream classes in chapter 173-201A WAC.

\*3) Leave tree requirements for shade. The method described in subsection (2) of this section shall be used to establish the minimum shade cover based on site specific characteristics. When site specific data indicate that preharvest conditions do not meet the minimums established by the method, no additional shade removal from riparian management zones will be allowed.

(4) **Waivers.** The department may waive or modify the shade requirements where:

(a) The applicant agrees to a staggered setting program producing equal or greater shade requirements to maintain stream temperature; or

(b) The applicant provides alternative means of stream temperature control satisfactory to the department; or

(c) The temperature method indicates that additional shade will not affect stream temperature.

**WSR 99-08-119**

**EMERGENCY RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed April 7, 1999, 10:03 a.m., effective April 22, 1999]

Date of Adoption: April 7, 1999.

Purpose: Adopt standards concerning the one-person medically needy income standard, the medically indigent program, and the SSI-related categorically needy income level.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0070 and 388-478-0080.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500.

Other Authority: Section 1924 (42 U.S.C. 1396R-5).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Implementation of federal increase in standards is required to be effective January 1, 1999, in order to continue receiving federal funds. The emergency adoption period is extended while the agency is in the process of permanent adoption.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Effective Date of Rule: April 22, 1999.

April 7, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

person lives. Area 1 is defined as the following counties: King, Pierce, Snohomish, Thurston, and Kitsap. Area 2 is all other counties. Beginning January 1, 1999, the CNIL monthly income standards are as follows:

	Area 1	Area 2
(a) Single person	<del>\$(521.00)</del> 527.00	<del>\$(500.55)</del> 506.55
(b) A legally married couple <u>who are</u> both eligible	<del>\$(762.00)</del> 772.00	<del>\$(741.00)</del> 751.00

(2) The countable resource standards for the SSI-related CN medical program are:

(a) One person	\$2,000
(b) A legally married couple	\$3,000

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-478-0070 Monthly income and countable resource standards for medically needy (MN) and medically indigent ((~~MN and~~) MI) programs.** (1) Beginning January 1, (~~1998~~) 1999, the medically needy income level (MNIL) and MI monthly income standards (~~to be applied to a medical assistance unit~~) are as follows:

(a) One person	<del>\$(524)</del> 527
(b) Two persons	\$592
(c) Three persons	\$667
(d) Four persons	\$742
(e) Five persons	\$858
(f) Six persons	\$975
(g) Seven persons	\$1,125
(h) Eight persons	\$1,242
(i) Nine persons	\$1,358
(j) Ten persons and more	\$1,483

(2) The MNIL standard for a person(s) meeting ((the)) institutional status requirements ((of chapter 388-513 WAC, a special MNIL is used. That standard)) is in WAC 388-513-1305(2).

(3) ((The MN and MI program)) Countable resource standards for the MN and MI programs are:

(a) One person	\$2,000
(b) A legally married couple	\$3,000
(c) For each additional family member add	\$50

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-478-0080 SSI-related ((~~CNIL medical monthly income~~) categorically needy income level (CNIL) and countable resource standards.** (1) The SSI-related CNIL standard is the same as the SSI monthly payment standard based upon the area of the state where the

EMERGENCY

**OFFICE OF THE CODE REVISER**  
**Quarterly Rule-Making Report**  
**Covering Registers 99-01 through 99-06**

<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
<b>ACCOUNTANCY, BOARD OF</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Permanent Rules Adopted	0	1	2
Number of Sections Adopted at Request of a Nongovernmental Entity	0	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	2
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	2
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	2
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>AGRICULTURE, DEPARTMENT OF</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Permanent Rules Adopted	14	3	1
Number of Rules Proposed for Permanent Adoption	17	38	14
Number of Sections Adopted at Request of a Nongovernmental Entity	8	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	4	3	0
Number of Sections Adopted on the Agency's own Initiative	6	3	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	8	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>BELLEVUE COMMUNITY COLLEGE</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Rules Proposed for Permanent Adoption	13	0	13
<b>BUILDING CODE COUNCIL</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Rules Adopted as Emergency Rules	0	0	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0

**MISC.**

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Other Alternative Rule Making	0	0	1
Number of Sections Adopted using Pilot Rule Making	0	0	0

**COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	2	0
Number of Rules Proposed for Permanent Adoption	8	0	7
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	2	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**COUNTY ROAD ADMINISTRATION BOARD**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	21	144	52
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	28	12
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**ECOLOGY, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	7	9
Number of Rules Withdrawn	0	1	0

**EDUCATION, STATE BOARD OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	114	13	85
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Proposed for Permanent Adoption	12	8	15
Number of Rules Withdrawn	2	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	1	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted on the Agency's own Initiative	35	18	7
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	36	17	7
Number of Sections Adopted using Pilot Rule Making	0	0	0

**EMPLOYMENT SECURITY DEPARTMENT**

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	3	0	3
Number of Rules Proposed for Permanent Adoption	20	5	12
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**EXECUTIVE ETHICS BOARD**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	5	20	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	5	20	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	5	20	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	5	20	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**FINANCIAL INSTITUTIONS, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	11	16
Number of Rules Adopted as Emergency Rules	2	0	0
Number of Rules Proposed for Permanent Adoption	0	2	18
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	4	11	16
Number of Sections Adopted using Negotiated Rule Making	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Other Alternative Rule Making	2	2	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**FISH AND WILDLIFE, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	20	31	7
Number of Rules Adopted as Emergency Rules	24	0	22
Number of Rules Proposed for Permanent Adoption	1	24	8
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	0	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	9	25	5
Number of Sections Adopted on the Agency's own Initiative	39	6	16
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**FOREST PRACTICES BOARD**

Type of Activity	New	Amended	Repealed
Number of Rules Withdrawn	0	2	0

**GAMBLING COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	0	0
Number of Sections Adopted using Negotiated Rule Making	1	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**GENERAL ADMINISTRATION, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	0	17
Number of Rules Proposed for Permanent Adoption	0	0	17
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**HEALTH, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	128	22	91
Number of Rules Proposed for Permanent Adoption	2	24	14
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	125	14	86
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	4	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	56	0	78
Number of Sections Adopted on the Agency's own Initiative	127	22	81
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	127	9	81
Number of Sections Adopted using Pilot Rule Making	0	0	0

**HIGHER EDUCATION COORDINATING BOARD**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	2	0
Number of Rules Proposed for Permanent Adoption	0	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**HORSE RACING COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	4	6	0
Number of Rules Proposed for Permanent Adoption	4	4	0
Number of Sections Adopted at Request of a Nongovernmental Entity	1	4	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	6	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	6	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

MISC.

<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
<b>HUMAN RIGHTS COMMISSION</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Rules Proposed for Permanent Adoption	17	18	28
<b>INSURANCE COMMISSIONER'S OFFICE</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Permanent Rules Adopted	0	2	1
Number of Rules Proposed for Permanent Adoption	2	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	2	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	2	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>LABOR AND INDUSTRIES, DEPARTMENT OF</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Permanent Rules Adopted	59	50	44
Number of Rules Adopted as Emergency Rules	1	1	0
Number of Rules Proposed for Permanent Adoption	117	102	13
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	43	1	4
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	11	20	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	3	0
Number of Sections Adopted on the Agency's own Initiative	48	39	44
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	12	21	38
Number of Sections Adopted using Pilot Rule Making	0	18	0
<b>LICENSING, DEPARTMENT OF</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Permanent Rules Adopted	9	50	32
Number of Rules Proposed for Permanent Adoption	3	23	18
Number of Rules Withdrawn	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	2	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	8	47	30
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	3	0
Number of Sections Adopted on the Agency's own Initiative	4	27	8
Number of Sections Adopted using Negotiated Rule Making	7	36	28

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Other Alternative Rule Making	1	19	4
Number of Sections Adopted using Pilot Rule Making	0	0	0

**LIQUOR CONTROL BOARD**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	8	3	0
Number of Rules Proposed for Permanent Adoption	0	5	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	8	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	1	1	0
Number of Sections Adopted on the Agency's own Initiative	7	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	8	3	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**LOTTERY COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	1	0
Number of Rules Proposed for Permanent Adoption	0	2	0
Number of Rules Withdrawn	0	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	2	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	1	0

**PARKS AND RECREATION COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	7	0
Number of Rules Proposed for Permanent Adoption	0	8	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	6	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	6	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**PERSONNEL RESOURCES BOARD/PERSONNEL, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	30	3
Number of Rules Adopted as Emergency Rules	0	9	0
Number of Rules Proposed for Permanent Adoption	2	27	3
Number of Rules Withdrawn	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	2	39	3
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	2	27	3
Number of Sections Adopted on the Agency's own Initiative	0	12	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	2	38	3
Number of Sections Adopted using Pilot Rule Making	0	0	0

**PUBLIC WORKS BOARD**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	3	0	0

**REVENUE, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	8	0
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Proposed for Permanent Adoption	1	7	10
Number of Sections Adopted at Request of a Nongovernmental Entity	0	2	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	1	1	0
Number of Sections Adopted on the Agency's own Initiative	1	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	1	9	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**SECRETARY OF STATE, OFFICE OF THE**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	3	0
Number of Rules Proposed for Permanent Adoption	13	17	2
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	3	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	1	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	1	0
Number of Sections Adopted on the Agency's own Initiative	0	3	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**SERVICES FOR THE BLIND, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	9	0
Number of Rules Proposed for Permanent Adoption	0	9	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**SOCIAL AND HEALTH SERVICES, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	27	50	5
Number of Rules Adopted as Emergency Rules	0	7	0
Number of Rules Proposed for Permanent Adoption	28	56	5
Number of Rules Withdrawn	1	0	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	9	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	24	30	5
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	6	0
Number of Sections Adopted in Order to Comply with Federal Statute	1	10	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	3	0
Number of Sections Adopted on the Agency's own Initiative	25	19	3
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	8	55	5
Number of Sections Adopted using Pilot Rule Making	18	1	0

**SPOKANE, COMMUNITY COLLEGES OF**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	0	1

**TOXICOLOGIST, STATE**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	6	10	0
Number of Rules Proposed for Permanent Adoption	6	10	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	6	10	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	2	0
Number of Sections Adopted on the Agency's own Initiative	6	10	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**TRANSPORTATION IMPROVEMENT BOARD**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	2	9	0

**TRANSPORTATION, COMMISSION AND DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	28	2
Number of Rules Proposed for Permanent Adoption	0	7	3
Number of Sections Adopted at Request of a Nongovernmental Entity	0	11	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	26	2
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	23	2
Number of Sections Adopted using Negotiated Rule Making	0	16	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**TREASURER, STATE**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	10	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	10	0	0
Number of Sections Adopted on the Agency's own Initiative	10	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**UNIVERSITY OF WASHINGTON**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	0	2
Number of Rules Proposed for Permanent Adoption	0	0	2
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	2

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	2
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	2
Number of Sections Adopted using Pilot Rule Making	0	0	0

**UTILITIES AND TRANSPORTATION COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	108	67	89
Number of Rules Proposed for Permanent Adoption	27	0	24
Number of Sections Adopted at Request of a Nongovernmental Entity	1	0	8
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	98	3	88
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	5	3	3
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	3	10	8
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	6	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**WASHINGTON STATE PATROL**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	13	1
Number of Rules Proposed for Permanent Adoption	0	6	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	11	1
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	11	1
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	13	1
Number of Sections Adopted using Pilot Rule Making	0	0	0

**WESTERN WASHINGTON UNIVERSITY**

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	0	2	0
Number of Rules Proposed for Permanent Adoption	0	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	2	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**TOTALS FOR THE QUARTER:**

Number of Permanent Rules Adopted	542	586	450
Number of Rules Adopted as Emergency Rules	30	21	26
Number of Rules Proposed for Permanent Adoption	298	425	237
Number of Rules Withdrawn	3	7	1
Number of Sections Adopted at Request of a Nongovernmental Entity	11	31	8
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	324	246	238
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	11	42	1
Number of Sections Adopted in Order to Comply with Federal Statute	6	13	3
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	83	80	87
Number of Sections Adopted on the Agency's own Initiative	324	246	192
Number of Sections Adopted using Negotiated Rule Making	8	52	28
Number of Sections Adopted using Other Alternative Rule Making	210	217	144
Number of Sections Adopted using Pilot Rule Making	18	19	0

**WSR 99-08-002**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**  
 (Division of Property Development)  
 [Memorandum—March 24, 1999]

The Department of General Administration and the Division of Property Development are pleased with the progress that has been made towards finalizing a joint Thurston County leasing strategy.

Listed below are the details for the next two Thurston County leasing strategies meetings:

When: April 16, 1999, and May 21, 1999  
 Where: Intercity Transit Boardroom  
 526 Pattison S.E.  
 Olympia, WA  
 Time: 3:00 - 5:00 p.m.

An agenda will be sent approximately ten days before each meeting date. Please park in the visitors parking area or at street level. We look forward to our continued discussions on this important issue.

**WSR 99-08-009**  
**NOTICE OF PUBLIC MEETINGS**  
**LOTTERY COMMISSION**  
 [Memorandum—March 25, 1999]

**Change in May Meeting Date for Lottery Commission.**

The next meeting of the Lottery Commission will be held on May 14, instead of May 21, 1999. The other scheduled 1999 meetings remain the same.

Thus, the meeting schedule for the remainder of 1999 will be:

May 14, 1999	Seattle
July 16, 1999	Vancouver
September 17, 1999	Spokane
November 19, 1999	Seattle

MISC.

**WSR 99-08-017**  
**NOTICE OF PUBLIC MEETINGS**  
**EASTERN WASHINGTON UNIVERSITY**

[Memorandum—March 29, 1999]

EASTERN WASHINGTON UNIVERSITY  
 BOARD OF TRUSTEES  
 April 2, 1999, 10:00 a.m.  
 Spokane Center  
 Second Floor Mall

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling the President's Office, (509) 359-2371.

**WSR 99-08-018**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**

[Memorandum—March 29, 1999]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, April 15, 1999, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 ext. 334 for information.

**WSR 99-08-027**  
**ATTORNEY GENERAL'S OFFICE**

[Filed March 30, 1999, 11:03 a.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION**  
**WASHINGTON ATTORNEY GENERAL**

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by April 28, 1999. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by April 28, 1999, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 586-4218, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

**99-03-06**      **Request by Elizabeth McLaughlin**  
**Chair, State Gambling Commission**

**Does the Gambling Commission have authority to adopt rules authorizing the use of video pull-tabs by licensees, and is it within the Commission's authority to limit use of pull-tabs to charitable and non-profit licensees?**

**WSR 99-08-042**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**

(Commission on Pesticide Registration)

[Memorandum—March 26, 1999]

**1999 REGULAR MEETING DATES FOR**  
**WASHINGTON STATE COMMISSION**  
**ON PESTICIDE REGISTRATION**

The Washington State Commission on Pesticide Registration (WSCPR) has determined a schedule for the remainder of its 1999 regular meetings. Per RCW 42.30.075, we are making this schedule available to the public through your office. Meetings commence at 10 a.m. and are open to the public.

Tuesday, May 11	Snoqualmie Pass
Wednesday, July 7	Yakima
Thursday, September 16	Puyallup
Wednesday, November 10	Walla Walla

The WSCPR accepts proposals to request funding at any time throughout the year. Proposals should be submitted fifteen days preceding the meeting at which they will be presented. Proposal format and examples of acceptable projects can be requested by contacting Alan Schreiber, or by accessing the commission web page at <http://wscpr.org>.

Should you have any further questions in regard to WSCPR proposals or meeting specifics please feel free to contact Alan Schreiber, Administrator, 4518 Desert Drive, Pasco, WA 99301, (509) 543-9757, fax 9758, [aschreib@cbvcp.com](mailto:aschreib@cbvcp.com); or Tanya Wojtowych, P.O. Box 273, Genesee, ID 83832, (208) 285-0121, fax 0165, [juliana@moscow.com](mailto:juliana@moscow.com).

**WSR 99-08-043**  
**RULES COORDINATOR**  
**WESTERN WASHINGTON UNIVERSITY**

[Filed March 31, 1999, 3:43 p.m.]

Please note that the address for the rules coordinator at Western Washington University is c/o President's Office, Mailstop 9000, Western Washington University, Belling-

ham, Washington 98225, phone (360) 650-3968, fax 650-6197.

Gloria A. McDonald  
Administrative Secretary  
Rules Coordinator

**WSR 99-08-061**  
**DEPARTMENT OF ECOLOGY**

[Filed April 2, 1999, 10:02 a.m.]

**Modification of Municipal Stormwater General Permits**

The Washington Department of Ecology has made a decision to modify each of the 3 watershed-based municipal stormwater general permits:

The National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permits for Stormwater Discharges from the Municipal Separate Storm Sewers Located in:

1. The Cedar-Green Water Quality Management Area and the Portion of the Kitsap Water Quality Management Area Located in King County.
2. The South Puget Sound Water Quality Management Area and the Portion of the Kitsap Water Quality Management Area Located in Pierce County.
3. The Snohomish Water Quality Management Area and the Portion of the Skagit Water Quality Management Area Located in Snohomish County.

These permits currently authorize discharges of stormwater from municipal separate storm sewers owned or operated by the following municipalities and state agency:

King County  
City of Seattle  
Snohomish County  
Pierce County  
City of Tacoma

Washington State Department of Ecology (WSDOT [WSDOE])

Each permit is modified the same way. The modification deletes the deadline for submitting an updated stormwater management program for the next permit term. The deadline for submitting an updated stormwater management program will become a requirement of the next permit. The issuance date of the permit modification is April 7, 1999. The effective date of the permit modification is May 7, 1999.

Ecology is modifying these permits under authority granted it by the State Water Pollution Control Act, chapter 90.48 RCW. Applicable provisions of that statute include: RCW 90.48.030 Jurisdiction of department; 90.48.162 Waste disposal permits required of counties, municipalities and public corporations; and 90.48.260 Federal Clean Water Act—Department designated as state agency, authority—Powers, duties, and functions.

Municipal stormwater permits are developed to meet the requirements of state statute and regulation and the requirements of section 402(p) of the federal Clean Water Act and regulations adopted by the EPA (Title 40 of the Code of Federal Regulations (CFR), Part 122). The federal laws require the entities named above to obtain an NPDES permit to discharge stormwater from a municipal separate storm sewer.

Complete Text of Permit Modification:

Special Condition S10. REPORTING REQUIREMENTS.

A. Each permittee shall prepare an annual report to be submitted no later than 60 days after the permit issuance anniversary date during each year of the permit.

1. The reports submitted at the end of years one, two, three and five shall be brief status reports adequately addressing each of the sections required under Special Condition S10.B., below. The report submitted at the end of year four shall include a detailed evaluation of the effectiveness of the stormwater management program, and the information requested under Special Condition S10.B., below, ~~and a proposed stormwater management program for the term of the next permit.~~ The report submitted at the end of year four together with a Notice of Intent as required under Special Condition S4, shall constitute permit reapplication.

B. The annual report shall include the following sections:

8. Status of watershed-wide coordination and activities which the permittee has undertaken individually or jointly as part of Special Condition S7.B.7. ~~The fourth year report shall include proposed management measures to enhance regional coordination and/or address regional stormwater problems that will be implemented by the group of permittees and/or individual permittees during the term of the next permit.~~

Permit Modification—Public Comment

Public notice of the proposed permit modification was done by publication in the State Register on February 3, 1999, mailing to more than 3,000 individuals, and conducting a public workshop and hearing on March 9, 1999.

No formal comments were received on the proposed permit modification.

For More Information:

For more information on the permit modification, or to obtain a copy of Fact Sheet, call (360) 407-6457. A copy can also be obtained by going to the following address: Department of Ecology, Ann Wessel, Water Quality Program, 300 Desmond Drive, Lacey, WA.

Appeals: Pursuant to the provisions of chapter 43.21B RCW, any person feeling aggrieved by the department's action with respect to this modification of the municipal stormwater general permits may file an appeal within 30 days of this notice. Appeals must be sent to: Pollution Control Hearings Board, P.O. Box 40903, Lacey, WA 98504-0903, or hand delivered to 4224 6th Avenue S.E., Building 2, Rowe Six, Lacey, WA.

Concurrently, a copy of the appeal must be sent to: The Department of Ecology, Water Quality Program, P.O. Box 47696, Olympia, WA 98504-7696.

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Any appeal must contain the following in accordance with the rules of the hearings board:

- a) The appellant's name and address;
- b) The date and number of the permit;
- c) A description of the substance of the permit modification that is the subject of the appeal;
- d) A clear, separate and concise statement of every error alleged to have been committed;
- e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and
- f) A statement setting forth the relief sought.

Ecology is an equal opportunity agency. If you have special accommodation needs or require this document in an alternative format, please contact Ann Wessel at (360) 407-6457 or (360) 407-6006 (TDD).

**WSR 99-08-067**

**NOTICE OF PUBLIC MEETINGS  
EDMONDS COMMUNITY COLLEGE**

[Memorandum—April 1, 1999]

EDMONDS COMMUNITY COLLEGE  
BOARD OF TRUSTEES  
NOTICE OF SPECIAL MEETINGS  
TO MEDIA/OTHER

April 20, 1999 Edmonds Community College board of trustees, special board meeting, Quadrant I-5 Corporate Park, 728 134th Street S.W., Suite 128, Everett, WA, 4:00 p.m. NOTE: CHANGE OF DATE AND LOCATION

**WSR 99-08-068**

**NOTICE OF PUBLIC MEETINGS  
EDMONDS COMMUNITY COLLEGE**

[Memorandum—April 2, 1999]

EDMONDS COMMUNITY COLLEGE  
BOARD OF TRUSTEES  
NOTICE OF SPECIAL MEETINGS  
TO MEDIA/OTHER

Revised

April 20, 1999 Edmonds Community College board of trustees, special board meeting, Quadrant I-5 Corporate Park, 728 134th Street S.W., Suite 128, Everett, WA, 4:00 p.m. Purpose: General routine college business. NOTE: CHANGE OF DATE AND LOCATION.

April 21, 1999\* Edmonds Community College Advisory Committee Recognition Reception, EdCC, Snohomish Hall, Room 304, Cascade Conference Room,

20000 68th Avenue West, Lynnwood, WA, 4:30 -6:00 p.m.

April 26, 1999\* Edmonds Community College Articulation Banquet, EdCC, Brier Hall, Room 105, Culinary Connections, 20000 68th Avenue West, Lynnwood, WA, 5:30 - 7:30 p.m.

\*This event is being scheduled as a special meeting, which is a study session where no action will be taken.

**WSR 99-08-076**

**NOTICE OF PUBLIC MEETINGS  
TRANSPORTATION IMPROVEMENT BOARD**

[Memorandum—April 2, 1999]

MEETING NOTICE FOR APRIL 1999  
TRANSPORTATION IMPROVEMENT BOARD  
KELSO, WASHINGTON

Sidewalk Committee, 1:00 p.m. - 2:00 p.m., Thursday, April 22, 1999, at the DoubleTree Hotel Kelso/Longview, 510 Kelso Drive, Kelso.

Increase Committee, 2:00 p.m. - 4:00 p.m., Thursday, April 22, 1999, at the DoubleTree Hotel.

Work Session, 4:00 p.m - 6:00 p.m., April 22, 1999, at the DoubleTree Hotel.

Board Meeting, 9:00 a.m., April 23, 1999, at the Double-Tree Hotel.

SPECIAL NEEDS: For special accommodations or to request an auxiliary aid, please contact the TIB at (360) 705-7300 by April 15, 1999.

The next scheduled meeting is May 28, 1999, in Walla Walla. A notice with further detail of the May meeting will be mailed May 7, 1999.

**WSR 99-08-083**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF  
NATURAL RESOURCES**

(National Heritage Advisory Council)

[Memorandum—March 31, 1999]

NOTICE OF MEETING  
FOR THE  
NATURAL HERITAGE ADVISORY COUNCIL  
1999

The Natural Heritage Advisory Council will meet on May 20, 1999, 9:30 a.m. to 4:00 p.m., at the Natural Resources Building, Room 175A, 1111 Washington Street, Olympia, WA.

Regular council business will include consideration of natural area preserve proposals, site proposals for the registry program and NAP management activities.

For further information contact the Department of Natural Resources, Washington Natural Heritage Program, Forest Resources Division, 1111 Washington Street S.E., P.O. Box 47016, Olympia, WA 98504-7016, (360) 902-1340.

MISC.

**WSR 99-08-126**  
**DEPARTMENT OF ECOLOGY**

[Filed April 7, 1999, 10:41 a.m.]

**Fiscal Year 1999 Total Maximum  
 Daily Load (TMDL) Priority List**

**Public Comments Invited on Water Cleanup List.**

The Washington Department of Ecology wants your comments on a list of priority water bodies we have tentatively chosen for water cleanup plans this year. The criteria for making these selections included the severity of the pollution, potential harm to human and aquatic health, impaired beneficial uses, and the potential for local support for pollution control activities. To help us select these waters, we met with groups in communities in four parts of the state last fall.

The entire list we chose from can be viewed on our website: <http://www.wa.gov/ecology/wq/303d/>.

Please address your comments on the enclosed priority list by May 10, 1999, to Ron McBride, Ecology, P.O. Box 47600, Olympia, WA 98504-7600, [rmcb461@ecy.wa.gov](mailto:rmcb461@ecy.wa.gov), phone (360) 407-6469, or fax (360) 407-6426.

Here is the proposed list of water bodies we plan to begin work on in 1999. The last two water bodies can be included only if the legislature and/or EPA provide additional funding. If not, those water bodies will have to wait until the next five-year cycle. The legislature is currently considering legislation that might affect these priorities.

The list shows each water body and the parameters of concern. Technical work would begin after July 1, 1999.

**Priority Water Bodies Proposed  
 for Cleanup Plans (TMDLs) in FY99**

WRIA	Water Body Name	Parameters that Exceed Water Quality Standards
18	Matriotti Creek/Dungeness River/Bay WQ Study	Fecal coliform
25	Longview ditches	Fecal coliform, dissolved oxygen, turbidity, lead
28	Gibbons Creek	Fecal coliform
28	Salmon Creek	Fecal coliform, temperature, turbidity
29	Wind River	Temperature
59	Colville Watershed (12 water bodies)	Fecal coliform, dissolved oxygen
5	*Stillaguamish River & Portage Creek	Fecal coliform, dissolved oxygen, turbidity, pH, ammonia, temperature, copper, lead, arsenic, and nickel.
30	*Little Klickitat River	Temperature

\*Proposed if funding becomes available.

**Explanation of Terms:**

WRIAs (water resource inventory areas) are large watersheds.

Although not necessarily agents of disease, fecal coliform bacteria indicate the presence of disease-carrying organisms, which live in the same environment as the fecal coliform bacteria. A certain minimum amount of dissolved oxygen must be present in water for aquatic life to survive.

Temperature is important because it governs the kinds of aquatic life that can live in a stream. For instance, streams must be cooler than 61 degrees Fahrenheit for salmon to successfully spawn.

Turbidity is a measure of water clarity - how much the material suspended in water decreases the passage of light through the water.

pH is a term used to indicate the alkalinity or acidity of a substance as ranked on a scale from 1.0 to 14.0. Neutral pH is 7.0. Acidity increases as the pH gets lower.

Ammonia typically comes from the decay of organic material such as dead plants or animals, or excrement from feedlots or sewage.

Arsenic is known to occur naturally in the soils of the Stillaguamish watershed. Part of the TMDL study would determine whether human activities in the area are increasing its release.

Copper, lead and nickel are metals that are harmful to fish and other aquatic life.

MISC.

**Table of WAC Sections Affected**

**KEY TO TABLE**

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

**Symbols:**

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

**Suffixes:**

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- XA = Expedited adoption
- XR = Expedited repeal
- No suffix means permanent action

**WAC #** Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

**WSR #** Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
4- 25-530	PREP	99-05-025	16- 54-030	AMD-P	99-03-084	16- 89-070	NEW-P	99-03-086
4- 25-750	PREP	99-05-026	16- 54-040	AMD-P	99-03-084	16- 89-080	NEW-P	99-03-086
4- 25-780	PREP	99-05-027	16- 54-071	AMD-P	99-03-084	16- 89-090	NEW-P	99-03-086
16- 05-005	REP-P	99-05-022	16- 54-082	AMD-P	99-03-084	16- 89-100	NEW-P	99-03-086
16- 05-005	REP	99-08-039	16- 54-101	AMD-P	99-03-084	16- 89-110	NEW-P	99-03-086
16- 05-010	AMD-P	99-05-022	16- 54-120	AMD-P	99-03-084	16- 89-120	NEW-P	99-03-086
16- 05-010	AMD	99-08-039	16- 54-135	AMD-P	99-03-084	16-108	PREP	99-03-045
16- 05-015	REP-P	99-05-022	16- 54-150	REP-P	99-03-084	16-108-010	AMD-P	99-07-118
16- 05-015	REP	99-08-039	16- 59	AMD-P	99-03-085	16-125	PREP	99-04-066
16- 05-020	REP-P	99-05-022	16- 59-001	AMD-P	99-03-085	16-142	PREP	99-04-067
16- 05-020	REP	99-08-039	16- 59-010	AMD-P	99-03-085	16-165-100	NEW-P	99-08-088
16- 05-025	REP-P	99-05-022	16- 59-020	AMD-P	99-03-085	16-165-110	NEW-P	99-08-088
16- 05-025	REP	99-08-039	16- 59-030	AMD-P	99-03-085	16-165-120	NEW-P	99-08-088
16- 05-030	REP-P	99-05-022	16- 59-060	AMD-P	99-03-085	16-165-130	NEW-P	99-08-088
16- 05-030	REP	99-08-039	16- 59-070	REP-P	99-03-085	16-165-140	NEW-P	99-08-088
16- 05-035	REP-P	99-05-022	16- 86	AMD-P	99-03-087	16-165-150	NEW-P	99-08-088
16- 05-035	REP	99-08-039	16- 86-005	AMD-P	99-03-087	16-165-160	NEW-P	99-08-088
16- 05-040	AMD-P	99-05-022	16- 86-015	AMD-P	99-03-087	16-167-010	AMD-P	99-07-117
16- 05-040	AMD	99-08-039	16- 86-017	AMD-P	99-03-087	16-167-020	AMD-P	99-07-117
16- 05-045	REP-P	99-05-022	16- 86-020	AMD-P	99-03-087	16-167-030	AMD-P	99-07-117
16- 05-045	REP	99-08-039	16- 86-030	AMD-P	99-03-087	16-167-040	AMD-P	99-07-117
16- 19-010	NEW-P	99-07-116	16- 86-040	AMD-P	99-03-087	16-167-050	AMD-P	99-07-117
16- 19-015	NEW-P	99-07-116	16- 86-055	AMD-P	99-03-087	16-200-695	AMD-P	99-04-093
16- 19-020	NEW-P	99-07-116	16- 86-060	AMD-P	99-03-087	16-200-695	AMD	99-08-037
16- 19-030	NEW-P	99-07-116	16- 86-070	AMD-P	99-03-087	16-200-705	AMD-P	99-04-093
16- 19-100	NEW-P	99-07-116	16- 86-080	AMD-P	99-03-087	16-200-705	AMD	99-08-037
16- 19-110	NEW-P	99-07-116	16- 86-090	AMD-P	99-03-087	16-200-7061	AMD-P	99-04-093
16- 19-120	NEW-P	99-07-116	16- 86-092	AMD-P	99-03-087	16-200-7061	AMD	99-08-037
16- 19-130	NEW-P	99-07-116	16- 86-093	REP-P	99-03-087	16-212	PREP	99-07-132
16- 19-140	NEW-P	99-07-116	16- 86-095	AMD-P	99-03-087	16-219-010	PREP	99-07-088
16- 19-200	NEW-P	99-07-116	16- 86-100	REP-P	99-03-087	16-219-016	PREP	99-07-086
16- 19-210	NEW-P	99-07-116	16- 88-010	REP-XR	99-07-114	16-219-100	PREP	99-07-111
16- 19-300	NEW-P	99-07-116	16- 88-020	REP-XR	99-07-114	16-219-105	PREP	99-07-111
16- 19-310	NEW-P	99-07-116	16- 88-030	REP-XR	99-07-114	16-228-320	REP-XR	99-04-006
16- 19-320	NEW-P	99-07-116	16- 88-040	REP-XR	99-07-114	16-228-320	REP	99-07-113
16- 19-330	NEW-P	99-07-116	16- 89-005	NEW-P	99-03-086	16-228-330	REP-XR	99-04-006
16- 30	AMD-XA	99-07-115	16- 89-010	NEW-P	99-03-086	16-228-330	REP	99-07-113
16- 30-001	REP-XA	99-07-115	16- 89-015	NEW-P	99-03-086	16-228-340	REP-XR	99-04-007
16- 30-010	AMD-XA	99-07-115	16- 89-020	NEW-P	99-03-086	16-228-340	REP	99-07-112
16- 30-100	REP-XA	99-07-115	16- 89-030	NEW-P	99-03-086	16-230	PREP	99-07-087
16- 54-010	AMD-P	99-03-084	16- 89-040	NEW-P	99-03-086	16-316-474	PREP	99-04-096
16- 54-016	AMD-P	99-03-084	16- 89-050	NEW-P	99-03-086	16-316-717	PREP	99-04-096
16- 54-020	AMD-P	99-03-084	16- 89-060	NEW-P	99-03-086	16-316-727	PREP	99-04-096

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16-401	PREP	99-03-095	16-470-905	PREP	99-03-096	50-16-025	REP	99-08-123
16-401-019	AMD-P	99-07-126	16-470-905	AMD-P	99-07-125	50-16-030	REP-XR	99-04-073
16-401-020	AMD-P	99-07-126	16-470-910	PREP	99-03-096	50-16-030	REP	99-08-123
16-401-021	NEW-P	99-07-126	16-470-910	AMD-P	99-07-125	50-16-035	REP-XR	99-04-073
16-401-023	AMD-P	99-07-126	16-470-911	NEW-P	99-07-125	50-16-035	REP	99-08-123
16-401-025	AMD-P	99-07-126	16-470-915	PREP	99-03-096	50-16-040	REP-XR	99-04-073
16-401-026	NEW-P	99-07-126	16-470-915	AMD-P	99-07-125	50-16-040	REP	99-08-123
16-401-030	AMD-P	99-07-126	16-470-916	NEW-P	99-07-125	50-16-045	REP-XR	99-04-073
16-401-031	NEW-P	99-07-126	16-470-920	PREP	99-03-096	50-16-045	REP	99-08-123
16-401-040	AMD-P	99-07-126	16-470-920	AMD-P	99-07-125	50-16-050	REP-XR	99-04-073
16-401-041	NEW-P	99-07-126	16-470-921	NEW-P	99-07-125	50-16-050	REP	99-08-123
16-401-050	AMD-P	99-07-126	16-481	PREP	99-03-090	50-16-055	REP-XR	99-04-073
16-403	PREP	99-03-108	16-483	PREP	99-03-091	50-16-055	REP	99-08-123
16-406-001	PREP	99-04-094	16-532-020	AMD-P	99-02-063	50-16-060	REP-XR	99-04-073
16-406-020	PREP	99-04-094	16-545-010	NEW	99-02-064	50-16-060	REP	99-08-123
16-406-020	AMD-P	99-08-108	16-545-015	NEW	99-02-064	50-16-065	REP-XR	99-04-073
16-406-025	NEW-P	99-08-108	16-545-020	NEW	99-02-064	50-16-065	REP	99-08-123
16-406-030	PREP	99-04-094	16-545-030	NEW	99-02-064	50-16-070	REP-XR	99-04-073
16-406-030	AMD-P	99-08-108	16-545-040	NEW	99-02-064	50-16-070	REP	99-08-123
16-406-050	PREP	99-04-094	16-545-041	NEW	99-02-064	50-16-075	REP-XR	99-04-073
16-406-050	AMD-P	99-08-108	16-545-050	NEW	99-02-064	50-16-075	REP	99-08-123
16-412-010	REP-XR	99-08-112	16-545-080	NEW	99-02-064	50-16-080	REP-XR	99-04-073
16-412-020	REP-XR	99-08-112	16-561-010	AMD-P	99-07-108	50-16-080	REP	99-08-123
16-412-030	REP-XR	99-08-112	16-561-130	NEW-P	99-07-108	50-16-085	REP-XR	99-04-073
16-412-040	REP-XR	99-08-112	16-575-015	NEW-P	99-06-070	50-16-085	REP	99-08-123
16-412-050	REP-XR	99-08-112	16-604-010	REP	99-04-069	50-16-090	REP-XR	99-04-073
16-412-060	REP-XR	99-08-112	16-645-005	NEW-P	99-02-066	50-16-090	REP	99-08-123
16-424-010	REP-XR	99-08-112	16-645-005	NEW	99-06-072	50-16-095	REP-XR	99-04-073
16-424-020	REP-XR	99-08-112	16-645-010	NEW-P	99-02-066	50-16-095	REP	99-08-123
16-424-030	REP-XR	99-08-112	16-645-010	NEW	99-06-072	50-16-100	REP-XR	99-04-073
16-436	PREP	99-08-111	16-662-105	AMD-P	99-04-111	50-16-100	REP	99-08-123
16-448	PREP	99-08-110	16-662-105	AMD	99-07-056	50-16-105	REP-XR	99-04-073
16-451-010	REP-XR	99-08-112	16-662-110	AMD-P	99-04-111	50-16-105	REP	99-08-123
16-451-020	REP-XR	99-08-112	16-662-110	AMD	99-07-056	50-44-037	NEW-P	99-07-131
16-451-030	REP-XR	99-08-112	16-752	PREP	99-07-123	50-44-039	NEW-P	99-07-131
16-451-040	REP-XR	99-08-112	16-752-115	REP-XR	99-07-124	51-40-23110	REP-E	99-05-030
16-451-050	REP-XR	99-08-112	16-752-120	REP-XR	99-07-124	67-55-040	AMD	99-05-005
16-451-060	REP-XR	99-08-112	16-752-125	REP-XR	99-07-124	67-55-060	AMD	99-05-005
16-451-070	REP-XR	99-08-112	16-752-130	REP-XR	99-07-124	67-75-010	AMD	99-05-005
16-458	AMD-XA	99-08-113	16-752-135	REP-XR	99-07-124	67-75-020	AMD	99-05-005
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16-458-080	AMD-XA	99-08-113	16-752-146	REP-XR	99-07-124	67-75-042	AMD	99-05-005
16-458-085	AMD-XA	99-08-113	16-752-147	REP-XR	99-07-124	67-75-044	AMD	99-05-005
16-460-005	REP-XR	99-08-112	16-752-150	REP-XR	99-07-124	67-75-050	AMD	99-05-005
16-460-008	REP-XR	99-08-112	16-752-155	REP-XR	99-07-124	82-50-021	AMD-XA	99-07-128
16-460-040	REP-XR	99-08-112	16-752-160	REP-XR	99-07-124	130-16	PREP	99-08-060
16-460-080	REP-XR	99-08-112	16-752-165	REP-XR	99-07-124	131-16-450	PREP	99-04-029
16-460-100	REP-XR	99-08-112	16-752-170	REP-XR	99-07-124	131-16-450	AMD-E	99-07-057
16-461	PREP	99-03-108	25-12-010	REP-P	99-03-098	131-16-450	AMD-P	99-08-013
16-462	PREP	99-03-094	25-12-020	REP-P	99-03-098	131-46	PREP	99-08-057
16-462	AMD-XA	99-07-127	25-12-030	REP-P	99-03-098	132A	PREP	99-07-060
16-462-010	AMD-XA	99-07-127	25-12-040	REP-P	99-03-098	132H-168-010	REP-P	99-05-018
16-462-015	AMD-XA	99-07-127	25-12-050	REP-P	99-03-098	132H-168-020	REP-P	99-05-018
16-462-020	AMD-XA	99-07-127	25-12-060	REP-P	99-03-098	132H-168-030	REP-P	99-05-018
16-462-021	NEW-XA	99-07-127	25-12-070	REP-P	99-03-098	132H-168-040	REP-P	99-05-018
16-462-022	NEW-XA	99-07-127	25-12-110	NEW-P	99-03-098	132H-168-050	REP-P	99-05-018
16-462-025	AMD-XA	99-07-127	25-12-120	NEW-P	99-03-098	132H-168-060	REP-P	99-05-018
16-462-030	AMD-XA	99-07-127	25-12-130	NEW-P	99-03-098	132H-168-070	REP-P	99-05-018
16-462-035	AMD-XA	99-07-127	25-12-140	NEW-P	99-03-098	132H-168-080	REP-P	99-05-018
16-462-045	REP-XA	99-07-127	25-12-150	NEW-P	99-03-098	132H-168-080	REP-P	99-05-018
16-462-050	AMD-XA	99-07-127	25-12-160	NEW-P	99-03-098	132H-168-090	REP-P	99-05-018
16-462-055	AMD-XA	99-07-127	25-12-170	NEW-P	99-03-098	132H-168-990	REP-P	99-05-018
16-462-060	REP-XA	99-07-127	25-12-180	NEW-P	99-03-098	132H-168-9901	REP-P	99-05-018
16-470	PREP	99-03-092	50-16-020	REP-XR	99-04-073	132H-168-9902	REP-P	99-05-018
						132H-168-9903	REP-P	99-05-018

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132H-169-020	NEW-P	99-05-018	132K-125-100	NEW-P	99-07-109	162-16-090	REP-P	99-04-108
132H-169-030	NEW-P	99-05-018	132K-125-110	NEW-P	99-07-109	162-16-100	REP-P	99-04-108
132H-169-040	NEW-P	99-05-018	132K-125-120	NEW-P	99-07-109	162-16-110	REP-P	99-04-108
132H-169-050	NEW-P	99-05-018	132K-125-130	NEW-P	99-07-109	162-16-120	REP-P	99-04-108
132H-169-060	NEW-P	99-05-018	132K-125-140	NEW-P	99-07-109	162-16-130	REP-P	99-04-108
132H-169-070	NEW-P	99-05-018	132K-125-150	NEW-P	99-07-109	162-16-140	REP-P	99-04-108
132H-169-080	NEW-P	99-05-018	132K-125-160	NEW-P	99-07-109	162-16-150	REP-P	99-04-108
132H-169-090	NEW-P	99-05-018	132K-125-170	NEW-P	99-07-109	162-16-160	REP-P	99-04-108
132H-169-100	NEW-P	99-05-018	132K-125-180	NEW-P	99-07-109	162-16-170	REP-P	99-04-108
132H-169-110	NEW-P	99-05-018	132K-125-190	NEW-P	99-07-109	162-16-200	NEW-P	99-04-108
132H-169-120	NEW-P	99-05-018	132K-125-200	NEW-P	99-07-109	162-16-210	NEW-P	99-04-108
132H-169-130	NEW-P	99-05-018	132K-125-210	NEW-P	99-07-109	162-16-220	NEW-P	99-04-108
132K-16	PREP	99-04-028	132K-125-220	NEW-P	99-07-109	162-16-230	NEW-P	99-04-108
132K-16-010	REP-P	99-07-109	132K-125-230	NEW-P	99-07-109	162-16-240	NEW-P	99-04-108
132K-16-020	REP-P	99-07-109	132K-125-240	NEW-P	99-07-109	162-16-250	NEW-P	99-04-108
132K-16-030	REP-P	99-07-109	132K-125-250	NEW-P	99-07-109	162-16-260	NEW-P	99-04-108
132K-16-040	REP-P	99-07-109	132K-125-260	NEW-P	99-07-109	162-16-270	NEW-P	99-04-108
132K-16-050	REP-P	99-07-109	132K-125-270	NEW-P	99-07-109	162-16-280	NEW-P	99-04-108
132K-16-060	REP-P	99-07-109	132K-125-280	NEW-P	99-07-109	162-16-290	NEW-P	99-04-108
132K-16-070	REP-P	99-07-109	132K-125-290	NEW-P	99-07-109	162-22-010	AMD-P	99-04-108
132K-16-110	REP-P	99-07-109	132K-125-300	NEW-P	99-07-109	162-22-020	AMD-P	99-04-108
132K-16-120	REP-P	99-07-109	132K-125-310	NEW-P	99-07-109	162-22-025	NEW-P	99-04-108
132K-16-130	REP-P	99-07-109	132K-125-320	NEW-P	99-07-109	162-22-030	REP-P	99-04-108
132K-16-140	REP-P	99-07-109	132K-125-330	NEW-P	99-07-109	162-22-035	NEW-P	99-04-108
132K-16-150	REP-P	99-07-109	132K-125-340	NEW-P	99-07-109	162-22-040	REP-P	99-04-108
132K-16-160	REP-P	99-07-109	132K-125-350	NEW-P	99-07-109	162-22-045	NEW-P	99-04-108
132K-16-170	REP-P	99-07-109	132K-125-360	NEW-P	99-07-109	162-22-050	REP-P	99-04-108
132K-16-180	REP-P	99-07-109	132K-125-370	NEW-P	99-07-109	162-22-060	REP-P	99-04-108
132K-16-190	REP-P	99-07-109	132K-125-380	NEW-P	99-07-109	162-22-065	NEW-P	99-04-108
132K-16-200	REP-P	99-07-109	132K-125-390	NEW-P	99-07-109	162-22-070	REP-P	99-04-108
132K-16-210	REP-P	99-07-109	132K-125-400	NEW-P	99-07-109	162-22-075	NEW-P	99-04-108
132K-16-220	REP-P	99-07-109	132K-125-410	NEW-P	99-07-109	162-22-080	REP-P	99-04-108
132K-16-230	REP-P	99-07-109	132K-125-420	NEW-P	99-07-109	162-22-090	AMD-P	99-04-108
132K-16-240	REP-P	99-07-109	132K-125-430	NEW-P	99-07-109	162-22-100	AMD-P	99-04-108
132K-16-250	REP-P	99-07-109	132N-160	PREP	99-06-011	162-26-010	AMD-P	99-04-108
132K-16-260	REP-P	99-07-109	132P-33-010	AMD-P	99-08-019	162-26-020	REP-P	99-04-108
132K-16-270	REP-P	99-07-109	132P-33-020	AMD-P	99-08-019	162-26-030	REP-P	99-04-108
132K-16-280	REP-P	99-07-109	132P-33-080	AMD-P	99-08-019	162-26-035	REP-P	99-04-108
132K-16-290	REP-P	99-07-109	132P-33-100	AMD-P	99-08-019	162-26-040	AMD-P	99-04-108
132K-16-300	REP-P	99-07-109	132P-33-120	AMD-P	99-08-019	162-26-050	REP-P	99-04-108
132K-16-310	REP-P	99-07-109	132P-33-123	NEW-P	99-08-019	162-26-060	AMD-P	99-04-108
132K-16-320	REP-P	99-07-109	132P-33-125	NEW-P	99-08-019	162-26-070	AMD-P	99-04-108
132K-16-330	REP-P	99-07-109	132P-33-130	AMD-P	99-08-019	162-26-080	AMD-P	99-04-108
132K-16-340	REP-P	99-07-109	132P-33-150	AMD-P	99-08-019	162-26-090	REP-P	99-04-108
132K-16-350	REP-P	99-07-109	132P-33-155	NEW-P	99-08-019	162-26-100	AMD-P	99-04-108
132K-16-360	REP-P	99-07-109	132P-33-160	AMD-P	99-08-019	162-26-110	AMD-P	99-04-108
132K-16-370	REP-P	99-07-109	132P-33-170	AMD-P	99-08-019	162-26-120	AMD-P	99-04-108
132K-16-380	REP-P	99-07-109	132P-33-210	AMD-P	99-08-019	162-26-135	NEW-P	99-04-108
132K-16-390	REP-P	99-07-109	132P-33-220	AMD-P	99-08-019	162-26-140	AMD-P	99-04-108
132K-16-400	REP-P	99-07-109	132P-33-230	AMD-P	99-08-019	162-30-010	AMD-P	99-04-108
132K-16-410	REP-P	99-07-109	132P-33-260	AMD-P	99-08-019	162-30-020	AMD-P	99-04-108
132K-16-420	REP-P	99-07-109	132P-33-270	AMD-P	99-08-019	162-38-040	AMD-P	99-04-108
132K-16-430	REP-P	99-07-109	132P-276	PREP	99-05-041	162-38-100	AMD-P	99-04-108
132K-16-440	REP-P	99-07-109	132Q-12-010	REP-C	99-05-040	162-38-105	NEW-P	99-04-108
132K-16-450	REP-P	99-07-109	132X-10	PREP	99-06-032	162-38-110	AMD-P	99-04-108
132K-16-460	REP-P	99-07-109	132X-20	PREP	99-06-032	162-38-130	REP-P	99-04-108
132K-16-470	REP-P	99-07-109	132X-30	PREP	99-06-032	173-16-010	REP-P	99-08-124
132K-16-480	REP-P	99-07-109	132X-40	PREP	99-06-032	173-16-020	REP-P	99-08-124
132K-125-010	NEW-P	99-07-109	132X-50	PREP	99-06-032	173-16-030	REP-P	99-08-124
132K-125-020	NEW-P	99-07-109	132X-60	PREP	99-06-032	173-16-040	REP-P	99-08-124
132K-125-030	NEW-P	99-07-109	162-16-020	REP-P	99-04-108	173-16-050	REP-P	99-08-124
132K-125-040	NEW-P	99-07-109	162-16-030	REP-P	99-04-108	173-16-060	REP-P	99-08-124
132K-125-050	NEW-P	99-07-109	162-16-040	REP-P	99-04-108	173-16-064	REP-P	99-08-124
132K-125-060	NEW-P	99-07-109	162-16-050	REP-P	99-04-108	173-16-070	REP-P	99-08-124
132K-125-070	NEW-P	99-07-109	162-16-060	REP-P	99-04-108	173-16-200	REP-P	99-08-124
132K-125-080	NEW-P	99-07-109	162-16-070	REP-P	99-04-108	173-26-020	AMD-P	99-08-124

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173- 26-095	NEW-P	99-08-124	180- 20-055	REP	99-08-004	180- 82-304	NEW	99-04-008
173- 26-100	AMD-P	99-08-124	180- 20-060	REP	99-08-004	180- 82-306	NEW-W	99-08-081
173- 26-110	AMD-P	99-08-124	180- 20-070	REP	99-08-004	180- 82-308	NEW	99-04-008
173- 26-120	AMD-P	99-08-124	180- 20-075	REP	99-08-004	180- 82-310	NEW	99-04-008
173- 26-170	NEW-P	99-08-124	180- 20-080	REP	99-08-004	180- 82-312	NEW	99-04-008
173- 26-180	NEW-P	99-08-124	180- 20-101	AMD	99-08-004	180- 82-314	NEW	99-04-008
173- 26-190	NEW-P	99-08-124	180- 20-111	AMD	99-08-004	180- 82-315	NEW-P	99-04-110
173- 26-200	NEW-P	99-08-124	180- 20-115	AMD	99-08-004	180- 82-315	NEW	99-07-102
173- 26-210	NEW-P	99-08-124	180- 20-120	AMD	99-08-004	180- 82-316	NEW	99-04-008
173- 26-220	NEW-P	99-08-124	180- 20-150	REP	99-08-004	180- 82-317	NEW-P	99-04-110
173- 26-230	NEW-P	99-08-124	180- 22-150	PREP	99-04-083	180- 82-317	NEW	99-07-102
173- 26-240	NEW-P	99-08-124	180- 22-150	AMD-P	99-07-065	180- 82-318	NEW	99-04-008
173- 26-250	NEW-P	99-08-124	180- 25	PREP	99-06-074	180- 82-319	NEW-P	99-04-110
173- 26-260	NEW-P	99-08-124	180- 26	PREP	99-06-080	180- 82-319	NEW	99-07-102
173-201A	PREP	99-05-060	180- 27	PREP	99-06-079	180- 82-320	NEW	99-04-008
173-202-020	AMD-E	99-07-077	180- 27-082	NEW-W	99-03-026	180- 82-321	NEW-P	99-04-110
173-400	PREP	99-07-093	180- 27-083	NEW-W	99-03-026	180- 82-321	NEW	99-07-102
173-400-030	AMD-XA	99-04-097	180- 29	PREP	99-06-078	180- 82-322	NEW	99-04-008
173-400-040	AMD-XA	99-04-097	180- 29-095	PREP	99-04-086	180- 82-324	NEW	99-04-008
173-400-060	AMD-XA	99-04-097	180- 29-095	AMD-P	99-07-067	180- 82-326	NEW	99-04-008
173-400-070	AMD-XA	99-04-097	180- 31	PREP	99-06-077	180- 82-328	NEW	99-04-008
173-400-075	AMD-XA	99-04-097	180- 32	PREP	99-06-076	180- 82-330	NEW	99-04-008
173-400-104	AMD-XA	99-04-097	180- 33	PREP	99-06-075	180- 82-331	NEW	99-06-005
173-400-115	AMD-XA	99-04-097	180- 40-215	PREP	99-04-084	180- 82-332	NEW	99-04-008
173-405	PREP	99-07-093	180- 40-215	AMD-P	99-07-064	180- 82-334	NEW	99-04-008
173-410	PREP	99-07-093	180- 41-035	PREP	99-04-090	180- 82-336	NEW	99-04-008
173-425	AMD-P	99-07-110	180- 41-035	AMD-P	99-07-073	180- 82-338	NEW-W	99-08-081
173-425-010	AMD-P	99-07-110	180- 51-050	AMD-P	99-04-081	180- 82-339	NEW	99-04-008
173-425-020	AMD-P	99-07-110	180- 51-107	NEW-P	99-04-082	180- 82-340	NEW-W	99-08-081
173-425-030	AMD-P	99-07-110	180- 51-107	NEW-P	99-06-089	180- 82-342	NEW	99-04-008
173-425-040	AMD-P	99-07-110	180- 51-110	PREP	99-04-091	180- 82-343	NEW	99-04-008
173-425-050	AMD-P	99-07-110	180- 51-110	AMD-P	99-07-072	180- 82-344	NEW	99-04-008
173-425-060	AMD-P	99-07-110	180- 55-085	PREP	99-04-089	180- 82-346	NEW	99-04-008
173-425-070	AMD-P	99-07-110	180- 55-085	AMD-P	99-07-068	180- 82-348	NEW	99-04-008
173-425-080	AMD-P	99-07-110	180- 56-245	PREP	99-04-092	180- 82-349	NEW-P	99-04-110
173-425-090	REP-P	99-07-110	180- 56-245	AMD-P	99-07-071	180- 82-349	NEW	99-07-102
173-425-100	REP-P	99-07-110	180- 77A	PREP	99-04-046	180- 82-350	NEW	99-04-008
173-425-110	REP-P	99-07-110	180- 77A-028	AMD-P	99-07-049	180- 82-352	NEW	99-04-008
173-433	PREP	99-07-093	180- 77A-029	AMD-P	99-07-049	180- 82-354	NEW	99-04-008
173-434	PREP	99-07-093	180- 77A-080	NEW-P	99-07-049	180- 82-355	NEW	99-04-008
173-532-085	NEW-S	99-08-125	180- 78-155	PREP	99-04-087	180- 82-356	NEW	99-04-008
174-280-015	AMD-P	99-08-030	180- 78-155	AMD-P	99-07-070	180- 82-360	NEW	99-04-008
174-280-030	AMD-P	99-08-030	180- 78-207	PREP	99-04-087	180- 82-362	NEW-W	99-08-081
180- 08-015	NEW-P	99-04-079	180- 78-207	AMD-P	99-07-070	180- 85-075	AMD-E	99-05-002
180- 16-195	AMD-P	99-04-080	180- 78-210	PREP	99-04-087	180- 85-075	PREP	99-06-039
180- 16-215	PREP	99-04-088	180- 78-210	AMD-P	99-07-070	182- 25-030	PREP	99-08-107
180- 16-215	AMD-P	99-07-069	180- 79A-223	PREP	99-06-038	182- 25-040	PREP	99-05-077
180- 16-220	AMD-P	99-04-080	180- 79A-300	AMD	99-06-006	182- 25-085	PREP	99-05-077
180- 16-221	REP-XR	99-03-001	180- 79A-380	PREP	99-04-085	182- 25-085	NEW-P	99-08-106
180- 16-221	REP	99-07-054	180- 79A-380	AMD-P	99-07-066	182- 25-090	PREP	99-05-077
180- 16-222	REP-XR	99-03-001	180- 82	PREP	99-04-109	182- 25-090	AMD-P	99-08-106
180- 16-222	REP	99-07-054	180- 82-002	NEW	99-04-008	182- 25-100	AMD	99-07-078
180- 16-226	REP-XR	99-03-001	180- 82-004	NEW	99-04-008	182- 25-105	AMD	99-07-078
180- 16-226	REP	99-07-054	180- 82-105	NEW	99-04-008	182- 25-110	AMD	99-07-078
180- 16-231	REP-XR	99-03-001	180- 82-110	NEW	99-04-008	192- 04-170	AMD	99-08-073
180- 16-231	REP	99-07-054	180- 82-115	NEW	99-04-008	192- 04-190	AMD	99-08-073
180- 16-236	REP-XR	99-03-001	180- 82-120	NEW	99-04-008	192- 12-005	REP	99-08-073
180- 16-236	REP	99-07-054	180- 82-125	NEW	99-04-008	192- 12-072	REP-P	99-05-068
180- 16-238	REP-XR	99-03-001	180- 82-130	NEW	99-04-008	192- 12-141	REP	99-08-073
180- 16-238	REP	99-07-054	180- 82-200	NEW	99-04-008	192- 12-150	REP	99-08-073
180- 16-240	REP-P	99-04-080	180- 82-201	NEW	99-04-008	192- 12-182	REP	99-08-073
180- 18-055	NEW-P	99-04-082	180- 82-202	NEW	99-04-008	192- 12-330	AMD	99-08-073
180- 18-055	NEW-P	99-06-089	180- 82-204	NEW	99-04-008	192- 15-150	AMD	99-08-073
180- 20-011	NEW	99-08-004	180- 82-210	NEW	99-04-008	192- 16-051	REP-E	99-05-001
180- 20-034	AMD	99-08-004	180- 82-215	NEW	99-04-008	192- 16-052	REP-E	99-05-003
180- 20-035	REP	99-08-004	180- 82-300	NEW	99-04-008	192- 16-057	REP-E	99-05-003
180- 20-040	REP	99-08-004	180- 82-302	NEW-W	99-08-081	192- 23-002	REP	99-08-073

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192-23-018	REP	99-08-073	220-33-01000P	NEW-E	99-06-031	220-57-25500C	NEW-E	99-08-046
192-24-001	REP	99-08-073	220-33-01000P	REP-E	99-06-031	220-57-31000A	NEW-E	99-08-046
192-24-010	REP	99-08-073	220-44-05000U	REP-E	99-08-045	220-57-31500G	NEW-E	99-08-046
192-24-020	REP	99-08-073	220-44-05000V	NEW-E	99-08-045	220-57-31900T	NEW-E	99-08-046
192-110-005	NEW	99-08-073	220-44-08000A	NEW-E	99-03-008	220-57-50500C	NEW-E	99-08-046
192-110-015	NEW	99-08-073	220-48-01500I	NEW-E	99-08-011	220-88B-010	REP-E	99-04-053
192-110-020	NEW	99-08-073	220-52-04600J	REP-E	99-08-048	220-88B-020	REP-E	99-04-053
192-110-050	NEW	99-08-073	220-52-04600K	REP-E	99-08-011	220-88B-030	REP-E	99-04-053
192-120-001	NEW	99-08-073	220-52-04600L	NEW-E	99-08-011	220-88B-040	REP-E	99-04-053
192-120-010	NEW	99-08-073	220-52-050	REP-E	99-04-053	220-88B-050	REP-E	99-04-053
192-120-020	NEW	99-08-073	220-52-07100I	REP-E	99-07-033	220-110-204	AMD-XA	99-05-023
192-120-030	NEW	99-08-073	220-52-07100J	NEW-E	99-07-033	220-110-205	AMD-XA	99-05-023
192-120-035	NEW	99-08-073	220-52-07100J	REP-E	99-08-010	220-130	AMD-P	99-05-075
192-120-040	NEW	99-08-073	220-52-07100J	NEW-E	99-08-010	220-130-010	AMD-P	99-05-075
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192-140-010	NEW	99-08-073	220-52-07300K	NEW-E	99-03-054	220-130-030	AMD-P	99-05-075
192-140-020	NEW	99-08-073	220-55-001	NEW	99-03-029	220-130-040	AMD-P	99-05-075
192-140-025	NEW	99-08-073	220-55-005	AMD	99-03-029	220-130-050	AMD-P	99-05-075
192-140-030	NEW	99-08-073	220-55-010	AMD	99-03-029	220-130-060	AMD-P	99-05-075
192-150-090	NEW	99-08-073	220-55-015	AMD	99-03-029	220-130-070	AMD-P	99-05-075
192-200-020	NEW	99-08-073	220-55-040	AMD	99-03-029	220-130-080	NEW-P	99-05-075
192-210-005	NEW-E	99-05-003	220-55-050	AMD	99-03-029	222-10-020	NEW-E	99-07-075
192-210-010	NEW-E	99-05-003	220-55-055	AMD	99-03-029	222-10-020	NEW-E	99-08-078
192-210-015	NEW-E	99-05-003	220-55-05500A	NEW-E	99-06-007	222-10-040	AMD-E	99-07-075
192-300-050	NEW-P	99-05-068	220-55-060	AMD	99-03-029	222-10-040	AMD-E	99-08-078
192-320-050	NEW-P	99-05-068	220-55-065	AMD	99-03-029	222-10-043	NEW-E	99-07-075
194-22	PREP	99-07-005	220-55-070	AMD	99-03-029	222-10-043	NEW-E	99-08-078
196-23	PREP	99-07-135	220-55-075	REP	99-03-029	222-12-090	AMD-E	99-07-074
196-23	PREP	99-07-136	220-55-100	AMD	99-03-029	222-12-090	AMD-E	99-08-077
196-24-058	PREP	99-07-134	220-55-105	AMD	99-03-029	222-16-010	AMD-E	99-07-075
196-24-060	PREP	99-02-073	220-55-110	AMD	99-03-029	222-16-010	AMD-E	99-08-078
196-24-085	PREP	99-02-071	220-55-115	AMD	99-03-029	222-16-030	AMD-E	99-07-074
196-24-090	PREP	99-02-075	220-55-120	AMD	99-03-029	222-16-030	AMD-E	99-08-077
196-24-092	PREP	99-02-076	220-55-125	AMD	99-03-029	222-16-050	AMD-E	99-07-075
196-24-095	PREP	99-02-077	220-55-155	REP	99-03-029	222-16-050	AMD-E	99-08-078
196-24-097	PREP	99-02-078	220-55-160	NEW	99-08-029	222-16-080	AMD-E	99-07-075
196-24-098	PREP	99-02-079	220-56-100	AMD	99-08-029	222-16-080	AMD-E	99-08-078
196-24-100	PREP	99-02-072	220-56-103	AMD	99-08-029	222-16-088	NEW-E	99-07-075
196-25-040	PREP	99-02-074	220-56-145	AMD	99-08-029	222-16-088	NEW-E	99-08-078
196-26-020	PREP	99-02-070	220-56-185	AMD	99-08-029	222-24-050	AMD-E	99-07-075
196-26-020	AMD-P	99-08-132	220-56-19100G	REP-E	99-05-061	222-24-050	AMD-E	99-08-078
204-24-050	AMD	99-06-023	220-56-19100G	NEW-E	99-05-061	222-30-040	AMD-E	99-07-075
204-80-020	AMD	99-02-045	220-56-255	AMD	99-08-029	222-30-040	AMD-E	99-08-078
208-464-010	REP	99-03-009	220-56-267	NEW	99-08-029	230-02-109	NEW-P	99-08-093
208-464-020	REP	99-03-009	220-56-270	AMD	99-08-029	230-02-110	AMD-P	99-08-093
208-464-030	REP	99-03-009	220-56-27000E	NEW-E	99-07-007	230-02-145	NEW-P	99-08-094
208-464-040	REP	99-03-009	220-56-28500S	NEW-E	99-07-006	230-02-400	REP-P	99-08-093
208-464-050	REP	99-03-009	220-56-28500S	REP-E	99-07-006	230-02-425	AMD-P	99-08-093
208-464-060	REP	99-03-009	220-56-310	AMD	99-08-029	230-04-022	AMD-P	99-08-093
208-464-070	REP	99-03-009	220-56-320	AMD	99-08-029	230-04-140	AMD-P	99-08-093
208-464-080	REP	99-03-009	220-56-330	AMD	99-08-029	230-04-203	AMD-P	99-08-093
208-464-090	REP	99-03-009	220-56-33000L	REP-E	99-08-011	230-04-204	AMD-P	99-08-093
208-480-010	REP	99-03-009	220-56-33000M	NEW-E	99-08-011	230-04-207	NEW-P	99-08-093
208-480-020	REP	99-03-009	220-56-33000M	REP-E	99-08-038	230-08-027	NEW-P	99-08-093
208-480-030	REP	99-03-009	220-56-33000N	NEW-E	99-08-038	230-08-040	AMD-P	99-08-093
208-480-040	REP	99-03-009	220-56-33000N	REP-E	99-08-058	230-08-090	AMD-P	99-08-093
208-480-050	REP	99-03-009	220-56-33000P	NEW-E	99-08-058	230-12-050	AMD-P	99-08-093
208-480-060	REP	99-03-009	220-56-350	AMD	99-08-029	230-12-072	NEW-P	99-08-093
208-480-070	REP	99-03-009	220-56-35000V	REP-E	99-07-008	230-12-345	NEW-P	99-08-093
220-16-225	AMD	99-08-029	220-56-35000W	NEW-E	99-07-008	230-20-058	NEW	99-03-103
220-32-05100J	NEW-E	99-04-059	220-56-35000X	NEW-E	99-08-047	230-20-115	AMD-P	99-08-094
220-32-05100J	REP-E	99-04-059	220-56-380	AMD	99-08-029	230-20-125	AMD-P	99-08-094
220-32-05100K	NEW-E	99-07-009	220-56-38000P	REP-E	99-07-008	230-20-230	AMD-P	99-08-094
220-32-05100K	REP-E	99-07-009	220-56-38000Q	NEW-E	99-07-008	230-20-242	AMD-P	99-08-094
220-32-05700A	NEW-E	99-08-048	220-57-16000R	NEW-E	99-07-006	230-40-010	AMD-P	99-08-093
220-33-01000N	NEW-E	99-05-055	220-57-17500N	NEW-E	99-08-046	230-40-015	AMD-P	99-08-093

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230- 40-050	AMD-P	99-08-093	232- 28-02240	AMD-P	99-05-063	245- 02-180	DECOD	99-04-049
230- 40-060	REP-P	99-08-093	232- 28-248	AMD-P	99-05-063	246- 05-001	REP	99-03-062
230- 40-070	AMD-P	99-08-093	232- 28-264	AMD-P	99-05-063	246- 05-010	REP	99-03-062
230- 40-120	AMD-P	99-08-093	232- 28-271	AMD-P	99-05-063	246- 05-020	REP	99-03-062
230- 40-125	AMD-P	99-08-093	232- 28-273	AMD-P	99-05-063	246- 05-030	REP	99-03-062
230- 40-130	AMD-P	99-08-093	232- 28-280	AMD-P	99-05-063	246- 25	PREP	99-04-050
230- 40-150	REP-P	99-08-093	232- 28-281	AMD-P	99-05-063	246- 25-010	RECOD	99-04-049
230- 40-160	REP-P	99-08-093	232- 28-619	AMD	99-08-029	246- 25-020	RECOD	99-04-049
230- 40-200	AMD-P	99-08-093	232- 28-61900B	NEW-E	99-04-060	246- 25-025	RECOD	99-04-049
230- 40-225	AMD-P	99-08-093	232- 28-61900B	REP-E	99-04-060	246- 25-030	RECOD	99-04-049
230- 40-400	AMD-P	99-08-093	232- 28-61900C	NEW-E	99-06-020	246- 25-035	RECOD	99-04-049
230- 40-550	NEW-P	99-08-093	232- 28-61900D	NEW-E	99-07-006	246- 25-040	RECOD	99-04-049
230- 40-552	NEW-P	99-08-093	232- 28-61900D	REP-E	99-07-006	246- 25-045	RECOD	99-04-049
230- 40-554	NEW-P	99-08-093	232- 28-61900E	NEW-E	99-08-046	246- 25-050	RECOD	99-04-049
230- 40-556	NEW-P	99-08-093	232- 28-61900E	REP-E	99-08-046	246- 25-100	RECOD	99-04-049
230- 40-558	NEW-P	99-08-093	232- 32-010	REP-P	99-05-076	246- 25-110	RECOD	99-04-049
230- 40-560	NEW-P	99-08-093	232- 32-020	REP-P	99-05-076	246- 25-115	RECOD	99-04-049
230- 40-562	NEW-P	99-08-093	232- 32-030	REP-P	99-05-076	246- 25-120	RECOD	99-04-049
230- 40-564	NEW-P	99-08-093	232- 32-040	REP-P	99-05-076	246- 25-125	RECOD	99-04-049
230- 40-566	NEW-P	99-08-093	232- 32-050	REP-P	99-05-076	246- 25-130	RECOD	99-04-049
230- 40-568	NEW-P	99-08-093	232- 32-060	REP-P	99-05-076	246- 25-131	RECOD	99-04-049
230- 40-600	NEW-P	99-08-093	232- 32-070	REP-P	99-05-076	246- 25-135	RECOD	99-04-049
230- 40-610	NEW-P	99-08-093	236- 12-065	PREP	99-08-086	246- 25-140	RECOD	99-04-049
230- 40-800	NEW-P	99-08-093	236- 12-470	PREP	99-08-086	246- 25-145	RECOD	99-04-049
230- 40-810	NEW-P	99-08-093	236- 12-500	PREP	99-08-086	246- 25-150	RECOD	99-04-049
230- 40-815	NEW-P	99-08-093	236- 47-001	REP	99-06-001	246- 25-155	RECOD	99-04-049
230- 40-820	NEW-P	99-08-093	236- 47-002	REP	99-06-001	246- 25-160	RECOD	99-04-049
230- 40-825	NEW-P	99-08-093	236- 47-003	REP	99-06-001	246- 25-165	RECOD	99-04-049
230- 40-830	NEW-P	99-08-093	236- 47-004	REP	99-06-001	246- 25-170	RECOD	99-04-049
230- 40-833	NEW-P	99-08-093	236- 47-005	REP	99-06-001	246- 25-175	RECOD	99-04-049
230- 40-835	NEW-P	99-08-093	236- 47-006	REP	99-06-001	246- 25-180	RECOD	99-04-049
230- 40-840	NEW-P	99-08-093	236- 47-007	REP	99-06-001	246-100-042	AMD-XA	99-06-091
230- 40-845	NEW-P	99-08-093	236- 47-008	REP	99-06-001	246-205-990	AMD-P	99-07-120
230- 40-850	NEW-P	99-08-093	236- 47-009	REP	99-06-001	246-217-001	REP-P	99-08-097
230- 40-855	NEW-P	99-08-093	236- 47-010	REP	99-06-001	246-217-002	REP-P	99-08-097
230- 40-860	NEW-P	99-08-093	236- 47-011	REP	99-06-001	246-217-005	NEW-P	99-08-097
230- 40-865	NEW-P	99-08-093	236- 47-012	REP	99-06-001	246-217-010	AMD-P	99-08-097
230- 40-870	NEW-P	99-08-093	236- 47-013	REP	99-06-001	246-217-011	REP-P	99-08-097
230- 40-875	NEW-P	99-08-093	236- 47-014	REP	99-06-001	246-217-015	NEW-P	99-08-097
230- 40-880	NEW-P	99-08-093	236- 47-015	REP	99-06-001	246-217-020	REP-P	99-08-097
230- 40-885	NEW-P	99-08-093	236- 47-016	REP	99-06-001	246-217-025	NEW-P	99-08-097
230- 40-890	NEW-P	99-08-093	236- 47-017	REP	99-06-001	246-217-030	REP-P	99-08-097
230- 40-900	REP-P	99-08-093	240- 10-030	AMD-P	99-08-109	246-217-035	NEW-P	99-08-097
230- 50-010	AMD-P	99-08-093	245- 02-010	DECOD	99-04-049	246-217-040	REP-P	99-08-097
232- 12-001	AMD	99-03-029	245- 02-020	DECOD	99-04-049	246-217-045	NEW-P	99-08-097
232- 12-001	AMD	99-08-029	245- 02-025	DECOD	99-04-049	246-217-050	REP-P	99-08-097
232- 12-017	AMD	99-08-024	245- 02-030	DECOD	99-04-049	246-217-060	AMD-P	99-08-097
232- 12-01701	AMD	99-08-024	245- 02-035	DECOD	99-04-049	246-217-070	AMD-P	99-08-097
232- 12-018	AMD	99-08-029	245- 02-040	DECOD	99-04-049	246-221-265	AMD	99-05-013
232- 12-047	AMD-P	99-05-064	245- 02-045	DECOD	99-04-049	246-221-280	AMD	99-05-012
232- 12-054	AMD-P	99-05-064	245- 02-050	DECOD	99-04-049	246-222-030	AMD	99-05-012
232- 12-069	REP	99-03-029	245- 02-100	DECOD	99-04-049	246-243-040	AMD	99-05-012
232- 12-072	NEW	99-03-029	245- 02-110	DECOD	99-04-049	246-243-090	AMD	99-05-012
232- 12-157	AMD	99-03-029	245- 02-115	DECOD	99-04-049	246-254-070	AMD-P	99-07-120
232- 12-166	AMD	99-03-029	245- 02-120	DECOD	99-04-049	246-254-080	AMD-P	99-07-120
232- 12-189	AMD	99-03-029	245- 02-125	DECOD	99-04-049	246-254-090	AMD-P	99-07-120
232- 12-241	REP	99-03-029	245- 02-130	DECOD	99-04-049	246-254-100	AMD-P	99-07-120
232- 12-31500F	NEW-E	99-08-063	245- 02-131	DECOD	99-04-049	246-282-990	AMD-P	99-07-120
232- 12-619	AMD	99-03-029	245- 02-135	DECOD	99-04-049	246-290-001	AMD	99-07-021
232- 12-619	AMD	99-08-029	245- 02-140	DECOD	99-04-049	246-290-002	NEW	99-07-021
232- 12-830	NEW	99-03-029	245- 02-145	DECOD	99-04-049	246-290-010	AMD	99-07-021
232- 16-810	AMD-P	99-05-063	245- 02-150	DECOD	99-04-049	246-290-020	AMD	99-07-021
232- 21-101	REP	99-05-024	245- 02-155	DECOD	99-04-049	246-290-025	AMD	99-07-021
232- 28-02201	AMD-P	99-05-063	245- 02-160	DECOD	99-04-049	246-290-030	AMD	99-07-021
232- 28-02203	AMD-P	99-05-063	245- 02-165	DECOD	99-04-049	246-290-035	NEW	99-07-021
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246-320-815	NEW	99-04-052	246-359-740	NEW	99-03-065	246-834-990	PREP	99-06-090
246-320-990	NEW	99-04-052	246-359-750	NEW	99-03-065	246-838-040	REP	99-08-104
246-320-99902	NEW	99-04-052	246-359-760	NEW	99-03-065	246-840-020	AMD-P	99-06-092
246-358-600	NEW-P	99-08-098	246-359-800	NEW	99-03-065	246-840-050	AMD-P	99-08-099
246-358-610	NEW-P	99-08-098	246-359-990	NEW	99-03-065	246-840-070	AMD-P	99-08-099
246-358-620	NEW-P	99-08-098	246-560-001	AMD	99-03-043	246-840-090	AMD-P	99-08-099
246-358-630	NEW-P	99-08-098	246-560-002	NEW	99-03-043	246-840-125	PREP	99-03-066
246-358-640	NEW-P	99-08-098	246-560-010	AMD	99-03-043	246-840-740	NEW	99-04-051
246-358-650	NEW-P	99-08-098	246-560-011	NEW	99-03-043	246-843-060	REP	99-03-069
246-358-660	NEW-P	99-08-098	246-560-025	NEW	99-03-043	246-843-200	REP	99-03-068
246-358-670	NEW-P	99-08-098	246-560-035	NEW	99-03-043	246-843-220	REP	99-03-067
246-358-680	NEW-P	99-08-098	246-560-040	AMD	99-03-043	246-843-225	REP	99-03-067
246-359-001	NEW	99-03-065	246-560-045	NEW	99-03-043	246-845-990	AMD-P	99-02-057
246-359-005	NEW	99-03-065	246-560-050	AMD	99-03-043	246-845-990	AMD	99-08-101
246-359-010	NEW	99-03-065	246-560-060	AMD	99-03-043	246-847-990	AMD-P	99-02-057
246-359-020	NEW	99-03-065	246-560-065	NEW	99-03-043	246-847-990	AMD	99-08-101
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246-359-040	NEW	99-03-065	246-560-075	NEW	99-03-043	246-849-990	AMD	99-08-101
246-359-050	NEW	99-03-065	246-560-077	NEW	99-03-043	246-850-060	NEW-P	99-03-083
246-359-060	NEW	99-03-065	246-560-085	NEW	99-03-043	246-850-060	NEW	99-07-122
246-359-070	NEW	99-03-065	246-802-990	AMD-P	99-02-057	246-851-990	AMD-P	99-02-057
246-359-080	NEW	99-03-065	246-802-990	AMD	99-08-101	246-851-990	AMD	99-08-101
246-359-090	NEW	99-03-065	246-808-101	REP-XR	99-03-061	246-915-990	AMD-P	99-02-057
246-359-100	NEW	99-03-065	246-808-301	REP-XR	99-03-061	246-915-990	AMD	99-08-101
246-359-110	NEW	99-03-065	246-808-320	REP-XR	99-03-061	246-918-115	NEW-P	99-07-121
246-359-120	NEW	99-03-065	246-808-330	REP-XR	99-03-061	246-918-116	NEW-P	99-07-121
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246-359-140	NEW	99-03-065	246-808-350	REP-XR	99-03-061	246-919-630	NEW-P	99-07-121
246-359-150	NEW	99-03-065	246-808-360	REP-XR	99-03-061	246-919-640	NEW-P	99-07-121
246-359-160	NEW	99-03-065	246-808-370	REP-XR	99-03-061	246-922-010	AMD-P	99-08-100
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246-359-210	NEW	99-03-065	246-808-990	AMD-P	99-02-057	246-924-990	AMD	99-08-101
246-359-220	NEW	99-03-065	246-808-990	AMD	99-08-101	246-926-990	AMD-P	99-02-057
246-359-230	NEW	99-03-065	246-810-990	AMD-P	99-02-057	246-926-990	AMD	99-08-101
246-359-240	NEW	99-03-065	246-810-990	AMD	99-08-101	246-928-990	AMD-P	99-02-057
246-359-250	NEW	99-03-065	246-817-990	AMD-P	99-02-057	246-928-990	AMD	99-08-101
246-359-300	NEW	99-03-065	246-817-990	AMD	99-08-101	246-930-499	REP	99-07-018
246-359-310	NEW	99-03-065	246-822-990	AMD-P	99-02-057	246-930-990	AMD-P	99-02-057
246-359-320	NEW	99-03-065	246-822-990	AMD	99-08-101	246-930-990	AMD	99-08-101
246-359-330	NEW	99-03-065	246-828-045	NEW	99-08-102	246-935-140	REP-XR	99-02-080
246-359-340	NEW	99-03-065	246-828-105	AMD-XA	99-08-096	250-61-060	AMD	99-06-022
246-359-350	NEW	99-03-065	246-828-110	REP	99-07-020	250-61-090	AMD	99-06-021
246-359-400	NEW	99-03-065	246-828-120	REP	99-07-020	251-01-014	NEW-P	99-02-054
246-359-405	NEW	99-03-065	246-828-130	REP	99-07-020	251-01-014	NEW	99-05-042
246-359-410	NEW	99-03-065	246-828-140	REP	99-07-020	251-01-015	AMD-P	99-02-054
246-359-420	NEW	99-03-065	246-828-150	REP	99-07-020	251-01-015	AMD	99-05-042
246-359-430	NEW	99-03-065	246-828-160	REP	99-07-020	251-01-040	AMD-P	99-02-054
246-359-440	NEW	99-03-065	246-828-170	REP	99-07-020	251-01-040	AMD	99-05-042
246-359-500	NEW	99-03-065	246-828-180	REP	99-07-020	251-01-190	AMD-P	99-02-054
246-359-510	NEW	99-03-065	246-828-190	REP	99-07-020	251-01-190	AMD	99-05-042
246-359-520	NEW	99-03-065	246-828-200	REP	99-07-020	251-01-330	REP-P	99-02-054
246-359-530	NEW	99-03-065	246-828-210	REP	99-07-020	251-01-330	REP	99-05-042
246-359-540	NEW	99-03-065	246-828-230	REP	99-07-020	251-01-400	AMD-P	99-02-054
246-359-550	NEW	99-03-065	246-828-240	REP	99-07-020	251-01-400	AMD	99-05-042
246-359-560	NEW	99-03-065	246-828-250	REP	99-07-020	251-01-420	REP-P	99-02-054
246-359-565	NEW	99-03-065	246-828-260	REP	99-07-020	251-01-420	REP	99-05-042
246-359-570	NEW	99-03-065	246-828-290	AMD	99-08-103	251-01-440	AMD-P	99-02-054
246-359-575	NEW	99-03-065	246-828-310	REP	99-07-020	251-01-440	AMD	99-05-042
246-359-580	NEW	99-03-065	246-828-340	REP	99-07-019	251-17-090	AMD-P	99-02-054
246-359-590	NEW	99-03-065	246-830-990	AMD-P	99-02-057	251-17-090	AMD	99-05-042
246-359-600	NEW	99-03-065	246-830-990	AMD	99-08-101	251-23-010	AMD-P	99-02-054
246-359-700	NEW	99-03-065	246-834-050	NEW	99-03-064	251-23-010	AMD	99-05-042
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251-23-040	AMD	99-05-042	292-100-040	AMD	99-06-073	296-46-930	AMD	99-05-052
251-23-050	AMD-P	99-02-054	292-100-050	AMD	99-06-073	296-46-940	AMD	99-05-052
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251-23-060	AMD	99-05-042	292-100-080	AMD	99-06-073	296-50	PREP	99-06-040
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260-44-120	AMD	99-05-049	292-100-150	AMD	99-06-073	296-54-509	AMD-P	99-08-072
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260-48-600	AMD	99-06-026	292-100-170	AMD	99-06-073	296-54-51110	NEW-P	99-08-072
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275-27-213	NEW	99-04-071	296-31-085	NEW	99-07-004	296-54-543	AMD-P	99-08-072
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284-43-130	AMD-P	99-03-007	296-45-215	AMD-XA	99-04-078	296-54-553	AMD-P	99-08-072
284-43-810	NEW-P	99-03-006	296-45-325	AMD-XA	99-04-078	296-54-555	AMD-P	99-08-072
284-43-810	NEW-P	99-03-007	296-45-455	AMD-XA	99-04-078	296-54-557	AMD-P	99-08-072
286-26-100	PREP	99-08-092	296-45-901	AMD-XA	99-04-078	296-54-55710	NEW-P	99-08-072
286-26-100	AMD-P	99-08-114	296-46-090	AMD	99-05-052	296-54-55720	NEW-P	99-08-072
292-100-005	NEW	99-06-073	296-46-23040	AMD	99-05-052	296-54-55730	NEW-P	99-08-072
292-100-006	NEW	99-06-073	296-46-370	AMD	99-05-052	296-54-559	AMD-P	99-08-072
292-100-007	NEW	99-06-073	296-46-495	AMD	99-05-052	296-54-561	AMD-P	99-08-072
292-100-010	AMD	99-06-073	296-46-50002	AMD	99-05-052	296-54-563	AMD-P	99-08-072

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296-54-569	AMD-P	99-08-072	296-59	PREP	99-02-083	296-62-3070	AMD	99-07-097
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296-54-57335	NEW-P	99-08-072	296-62-07712	AMD-P	99-08-071	296-62-30915	NEW	99-07-097
296-54-57340	NEW-P	99-08-072	296-62-07713	AMD-P	99-08-071	296-62-30920	NEW	99-07-097
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296-54-577	AMD-P	99-08-072	296-62-07737	AMD-P	99-08-071	296-62-3100	AMD	99-07-097
296-54-579	AMD-P	99-08-072	296-62-130	AMD	99-07-063	296-62-31005	NEW	99-07-097
296-54-581	AMD-P	99-08-072	296-62-300	AMD	99-07-097	296-62-31010	NEW	99-07-097
296-54-58110	NEW-P	99-08-072	296-62-30001	NEW	99-07-097	296-62-31015	NEW	99-07-097
296-54-58120	NEW-P	99-08-072	296-62-30003	NEW	99-07-097	296-62-31020	NEW	99-07-097
296-54-58130	NEW-P	99-08-072	296-62-3010	AMD	99-07-097	296-62-3110	AMD	99-07-097
296-54-583	AMD-P	99-08-072	296-62-30105	NEW	99-07-097	296-62-31105	NEW	99-07-097
296-54-585	AMD-P	99-08-072	296-62-30110	NEW	99-07-097	296-62-31110	NEW	99-07-097
296-54-587	AMD-P	99-08-072	296-62-30115	NEW	99-07-097	296-62-3112	REP	99-07-097
296-54-589	AMD-P	99-08-072	296-62-30120	NEW	99-07-097	296-62-3120	AMD	99-07-097
296-54-58910	NEW-P	99-08-072	296-62-30125	NEW	99-07-097	296-62-3130	AMD	99-07-097
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296-54-58940	NEW-P	99-08-072	296-62-30140	NEW	99-07-097	296-62-31315	NEW	99-07-097
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296-54-591	AMD-P	99-08-072	296-62-30210	NEW	99-07-097	296-62-31335	NEW	99-07-097
296-54-593	AMD-P	99-08-072	296-62-30215	NEW	99-07-097	296-62-3138	AMD	99-07-097
296-54-59310	NEW-P	99-08-072	296-62-30220	NEW	99-07-097	296-62-3140	AMD	99-07-097
296-54-59320	NEW-P	99-08-072	296-62-30225	NEW	99-07-097	296-62-31405	NEW	99-07-097
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296-54-99009	REP-P	99-08-072	296-62-30535	NEW	99-07-097	296-62-41020	NEW	99-07-097
296-54-99010	REP-P	99-08-072	296-62-3060	AMD	99-07-097	296-62-41021	NEW	99-07-097
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296-62-41030	NEW	99-07-097	296-79-27011	AMD-P	99-06-071	296-104-115	PREP	99-05-021
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296-62-41047	NEW	99-07-097	296-79-29013	AMD-P	99-06-071	296-104-170	PREP	99-05-021
296-62-41060	NEW	99-07-097	296-79-29015	AMD-P	99-06-071	296-104-285	REP-P	99-04-036
296-62-41061	NEW	99-07-097	296-79-29017	AMD-P	99-06-071	296-104-285	REP	99-08-049
296-62-41063	NEW	99-07-097	296-79-29019	REP-P	99-06-071	296-104-502	PREP	99-05-021
296-62-41080	NEW	99-07-097	296-79-29021	AMD-P	99-06-071	296-104-700	AMD-P	99-04-036
296-62-41081	NEW	99-07-097	296-79-29023	AMD-P	99-06-071	296-104-700	AMD	99-08-049
296-62-41082	NEW	99-07-097	296-79-29025	REP-P	99-06-071	296-115	PREP	99-02-083
296-62-41084	NEW	99-07-097	296-79-29027	AMD-P	99-06-071	296-150C	PREP	99-05-078
296-62-41085	NEW	99-07-097	296-79-29029	AMD-P	99-06-071	296-150C-0140	NEW-P	99-08-129
296-62-41086	NEW	99-07-097	296-79-29031	AMD-P	99-06-071	296-150C-0320	AMD-P	99-08-129
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296-65	PREP	99-02-083	296-79-29035	AMD-P	99-06-071	296-150C-0810	AMD-P	99-08-129
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296-65-010	AMD-P	99-08-071	296-79-300	AMD-P	99-06-071	296-150C-1080	AMD-P	99-08-129
296-65-012	AMD-P	99-08-071	296-79-310	AMD-P	99-06-071	296-150C-1345	NEW-P	99-08-129
296-65-020	AMD-P	99-08-071	296-79-31001	AMD-P	99-06-071	296-150C-1545	NEW-P	99-08-129
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296-67	PREP	99-02-083	296-79-31007	REP-P	99-06-071	296-150F	PREP	99-05-078
296-78	PREP	99-02-083	296-79-31009	AMD-P	99-06-071	296-150F-0050	NEW-P	99-08-129
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296-79	PREP	99-02-083	296-79-31013	REP-P	99-06-071	296-150F-0320	AMD-P	99-08-129
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296-79-090	AMD-P	99-06-071	296-86A-074	AMD-P	99-08-128	296-150M-0140	NEW-P	99-08-129
296-79-100	AMD-P	99-06-071	296-86A-075	AMD-P	99-08-128	296-150M-0306	AMD-P	99-08-129
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296-79-140	AMD-P	99-06-071	296-104-002	PREP	99-05-021	296-150M-0610	AMD-P	99-08-129
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296-79-160	AMD-P	99-06-071	296-104-015	PREP	99-05-021	296-150M-0615	NEW-P	99-08-129
296-79-170	AMD-P	99-06-071	296-104-017	PREP	99-05-021	296-150M-0640	AMD-P	99-08-129
296-79-180	AMD-P	99-06-071	296-104-018	PREP	99-05-021	296-150M-0655	NEW-P	99-08-129
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296-150T-0070	NEW-P	99-08-130	296-401A-140	AMD	99-05-052	308- 66-190	AMD	99-02-0
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296-150T-0120	NEW-P	99-08-130	308- 10-045	AMD-XA	99-05-004	308- 78-030	PREP	99-08-127
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296-150T-0140	NEW-P	99-08-130	308- 12-320	AMD	99-08-062	308- 78-045	PREP	99-08-127
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296-150T-0210	NEW-P	99-08-130	308- 12-326	AMD	99-08-062	308- 78-060	PREP	99-08-127
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296-150T-0230	NEW-P	99-08-130	308- 19-020	AMD-P	99-08-087	308- 78-080	PREP	99-08-127
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296-150T-0500	NEW-P	99-08-130	308- 19-220	AMD-P	99-08-087	308- 93-560	REP	99-07-041
296-150T-0510	NEW-P	99-08-130	308- 19-230	AMD-P	99-08-087	308- 93-570	REP	99-07-041
296-150T-0520	NEW-P	99-08-130	308- 19-240	AMD-P	99-08-087	308- 93-580	REP	99-07-041
296-150T-0530	NEW-P	99-08-130	308- 19-250	AMD-P	99-08-087	308- 93-590	REP	99-07-041
296-150T-0540	NEW-P	99-08-130	308- 19-300	AMD-P	99-08-087	308- 93-600	REP	99-07-041
296-150T-0550	NEW-P	99-08-130	308- 19-400	AMD-P	99-08-087	308- 93-620	REP	99-03-002
296-150T-0580	NEW-P	99-08-130	308- 19-410	AMD-P	99-08-087	308- 96A	PREP	99-07-040
296-150T-0590	NEW-P	99-08-130	308- 19-420	AMD-P	99-08-087	308- 96A	PREP-W	99-07-079
296-150T-0600	NEW-P	99-08-130	308- 19-430	NEW-P	99-08-087	308- 96A-080	PREP	99-03-003
296-150T-0700	NEW-P	99-08-130	308- 19-440	NEW-P	99-08-087	308- 96A-085	PREP	99-03-003
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388-444-0040	AMD	99-07-024	388-527-2790	AMD-P	99-07-025	388-550-4500	PREP	99-06-084
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388-450-0050	AMD-P	99-06-098	388-535-1000	REP	99-07-023	388-550-5100	PREP	99-06-083
388-450-0106	PREP	99-03-040	388-535-1010	NEW	99-07-023	388-550-5110	PREP	99-06-083
388-450-0116	PREP	99-03-040	388-535-1050	AMD	99-07-023	388-550-5120	PREP	99-06-083
388-450-0195	AMD-E	99-05-046	388-535-1060	NEW	99-07-023	388-550-5150	PREP	99-06-083
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388-550-5400	PREP	99-06-083	392-121-10604	REP	99-08-008	434-261-080	AMD	99-08-089
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388-551-1300	NEW-P	99-05-073	392-172	PREP	99-06-049	434-334-065	AMD	99-08-115
388-551-1310	NEW-P	99-05-073	399-30-032	NEW-P	99-05-062	434-334-070	AMD-P	99-05-034
388-551-1315	NEW-P	99-05-073	399-30-033	NEW-P	99-05-062	434-334-070	AMD	99-08-115
388-551-1320	NEW-P	99-05-073	399-30-034	NEW-P	99-05-062	434-334-075	AMD-P	99-05-034
388-551-1330	NEW-P	99-05-073	415-108-671	REP-XR	99-08-074	434-334-075	AMD	99-08-115
388-551-1340	NEW-P	99-05-073	415-112-561	REP-XR	99-08-074	434-334-080	DECOD-P	99-05-034
388-551-1350	NEW-P	99-05-073	415-115-070	REP-XR	99-08-074	434-334-080	AMD-P	99-05-034
388-551-1360	NEW-P	99-05-073	419-14-135	NEW-P	99-07-131	434-334-080	DECOD	99-08-115
388-551-1400	NEW-P	99-05-073	419-14-140	NEW-P	99-07-131	434-334-080	AMD	99-08-115
388-551-1410	NEW-P	99-05-073	434-55-060	AMD-XA	99-05-038	434-334-082	NEW-P	99-05-034
388-551-1500	NEW-P	99-05-073	434-55-065	AMD-XA	99-05-038	434-334-082	NEW	99-08-115
388-551-1510	NEW-P	99-05-073	434-130-090	AMD-XA	99-05-039	434-334-085	AMD-P	99-05-034
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388-552-200	NEW-P	99-08-122	434-260	AMD-P	99-07-043	434-334-100	AMD-P	99-05-034
388-552-210	NEW-P	99-08-122	434-260-010	AMD-P	99-07-043	434-334-100	AMD	99-08-115
388-552-220	NEW-P	99-08-122	434-260-020	AMD-P	99-07-043	434-334-105	AMD-P	99-05-034
388-552-230	NEW-P	99-08-122	434-260-030	AMD-P	99-07-043	434-334-105	AMD	99-08-115
388-552-240	NEW-P	99-08-122	434-260-040	AMD-P	99-07-043	434-334-110	AMD-P	99-05-034
388-552-300	NEW-P	99-08-122	434-260-050	AMD-P	99-07-043	434-334-110	AMD	99-08-115
388-552-310	NEW-P	99-08-122	434-260-060	AMD-P	99-07-043	434-334-115	REP-P	99-05-034
388-552-320	NEW-P	99-08-122	434-260-070	REP-P	99-07-043	434-334-115	REP	99-08-115
388-552-330	NEW-P	99-08-122	434-260-080	AMD-P	99-07-043	434-334-120	RECOD-P	99-05-034
388-552-340	NEW-P	99-08-122	434-260-110	AMD-P	99-07-043	434-334-120	RECOD	99-08-115
388-552-350	NEW-P	99-08-122	434-260-120	AMD-P	99-07-043	434-334-125	NEW-P	99-05-034
388-552-360	NEW-P	99-08-122	434-260-130	AMD-P	99-07-043	434-334-125	NEW	99-08-115
388-552-370	NEW-P	99-08-122	434-260-140	AMD-P	99-07-043	434-334-130	NEW-P	99-05-034
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388-552-400	NEW-P	99-08-122	434-260-160	AMD-P	99-07-043	434-334-135	NEW	99-08-115
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390-14-020	PREP	99-06-052	434-260-210	REP-P	99-07-043	434-334-150	NEW-P	99-05-034
390-14-025	PREP	99-06-053	434-260-215	REP-P	99-07-043	434-334-150	NEW	99-08-115
390-14-030	PREP	99-06-054	434-260-220	AMD-P	99-07-043	434-334-155	NEW-P	99-05-034
390-14-035	PREP	99-06-055	434-260-225	NEW-P	99-07-043	434-334-155	NEW	99-08-115
390-14-040	PREP	99-06-056	434-260-230	REP-P	99-07-043	434-334-160	NEW-P	99-05-034
390-14-045	PREP	99-06-057	434-260-235	NEW-P	99-07-043	434-334-160	NEW	99-08-115
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456- 12-040	REP-P	99-08-091	458- 65-020	REP	99-08-007	474- 10-040	NEW	99-03-004
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456- 12-050	REP-P	99-08-091	458- 65-030	REP	99-08-007	474- 10-060	NEW	99-03-004
456- 12-055	NEW-P	99-08-091	458- 65-040	REP-XR	99-04-018	474- 10-070	NEW	99-03-004
456- 12-060	REP-P	99-08-091	458- 65-040	REP	99-08-007	474- 10-080	NEW	99-03-004
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456- 12-080	REP-P	99-08-091	460- 24A-145	NEW	99-03-052	478-140-010	AMD-P	99-08-056
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456- 12-115	NEW-P	99-08-091	468- 34-020	AMD-W	99-08-082	478-140-060	REP-P	99-08-056
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458- 12-320	REP-XR	99-04-017	468- 38-170	REP	99-07-098	479- 16-098	AMD	99-08-021
458- 12-326	PREP	99-05-069	468- 38-210	REP-XR	99-04-058	479- 20-007	AMD-P	99-03-089
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458- 12-330	PREP	99-05-069	468- 51-010	AMD	99-06-034	479- 20-020	AMD-P	99-03-089
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458- 12-337	PREP	99-05-069	468- 51-040	AMD	99-06-034	479- 20-025	AMD	99-08-021
458- 12-338	PREP	99-05-069	468- 51-060	AMD	99-06-034	479- 20-037	AMD-P	99-03-089
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458- 20-131	AMD	99-08-090	468- 51-110	AMD	99-06-034	479-510-450	NEW-P	99-03-088
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480-09-100	AMD	99-05-031	480-92-080	AMD	99-05-016	480-110-750	NEW-W	99-07-053
480-09-101	NEW	99-05-031	480-92-090	AMD	99-05-016	480-110-760	NEW-W	99-07-053
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480-09-120	AMD	99-05-031	480-92-110	AMD	99-05-016	480-110-780	NEW-W	99-07-053
480-09-125	AMD	99-05-031	480-100	PREP	99-08-105	480-110-790	NEW-W	99-07-053
480-09-130	AMD	99-05-031	480-110-011	REP-W	99-07-053	480-120-139	AMD-P	99-07-107
480-09-135	AMD	99-05-031	480-110-016	REP-W	99-07-053	480-120-144	NEW	99-05-015
480-09-140	AMD	99-05-031	480-110-018	REP-W	99-07-053	480-120-151	NEW	99-05-015
480-09-150	AMD	99-05-031	480-110-021	REP-W	99-07-053	480-120-152	NEW	99-05-015
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480-09-210	AMD	99-05-031	480-110-026	REP-W	99-07-053	480-120-154	NEW	99-05-015
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480-09-230	AMD	99-05-031	480-110-031	REP-W	99-07-053	480-121-010	AMD-P	99-07-106
480-09-340	AMD	99-05-031	480-110-032	REP-W	99-07-053	480-121-020	AMD-P	99-07-106
480-09-390	AMD	99-05-031	480-110-036	REP-W	99-07-053	480-121-030	AMD-P	99-07-106
480-09-400	AMD	99-05-031	480-110-041	REP-W	99-07-053	480-121-040	AMD-P	99-07-106
480-09-410	AMD	99-05-031	480-110-046	REP-W	99-07-053	480-121-050	REP-P	99-07-106
480-09-420	AMD	99-05-031	480-110-051	REP-W	99-07-053	480-121-060	NEW-P	99-07-106
480-09-425	AMD	99-05-031	480-110-056	REP-W	99-07-053	480-121-070	NEW-P	99-07-106
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480-146-050	REP-P	99-03-073	490-500-200	PREP	99-06-081			
480-146-050	REP	99-08-054	490-500-205	PREP	99-06-081			
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