

Washington State Register

April 7, 2004

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CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

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

REPUBLICATION OF OFFICIAL DOCUMENTS

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

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of April 2004 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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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.

John G. Schultz
Chair, Statute Law Committee

Dennis W. Cooper
Code Reviser

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Chief Assistant Code Reviser

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Editor

Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

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

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

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

4. EFFECTIVE DATE OF RULES

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

5. EDITORIAL CORRECTIONS

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

2003-2004

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

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

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

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

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

⁴ A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 34.05.230 and 1.12.040.

REGULATORY FAIRNESS ACT

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

Small Business Economic Impact Statements (SBEIS)

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

Mitigation

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

When is an SBEIS Required?

When:

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

When is an SBEIS Not Required?

When:

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

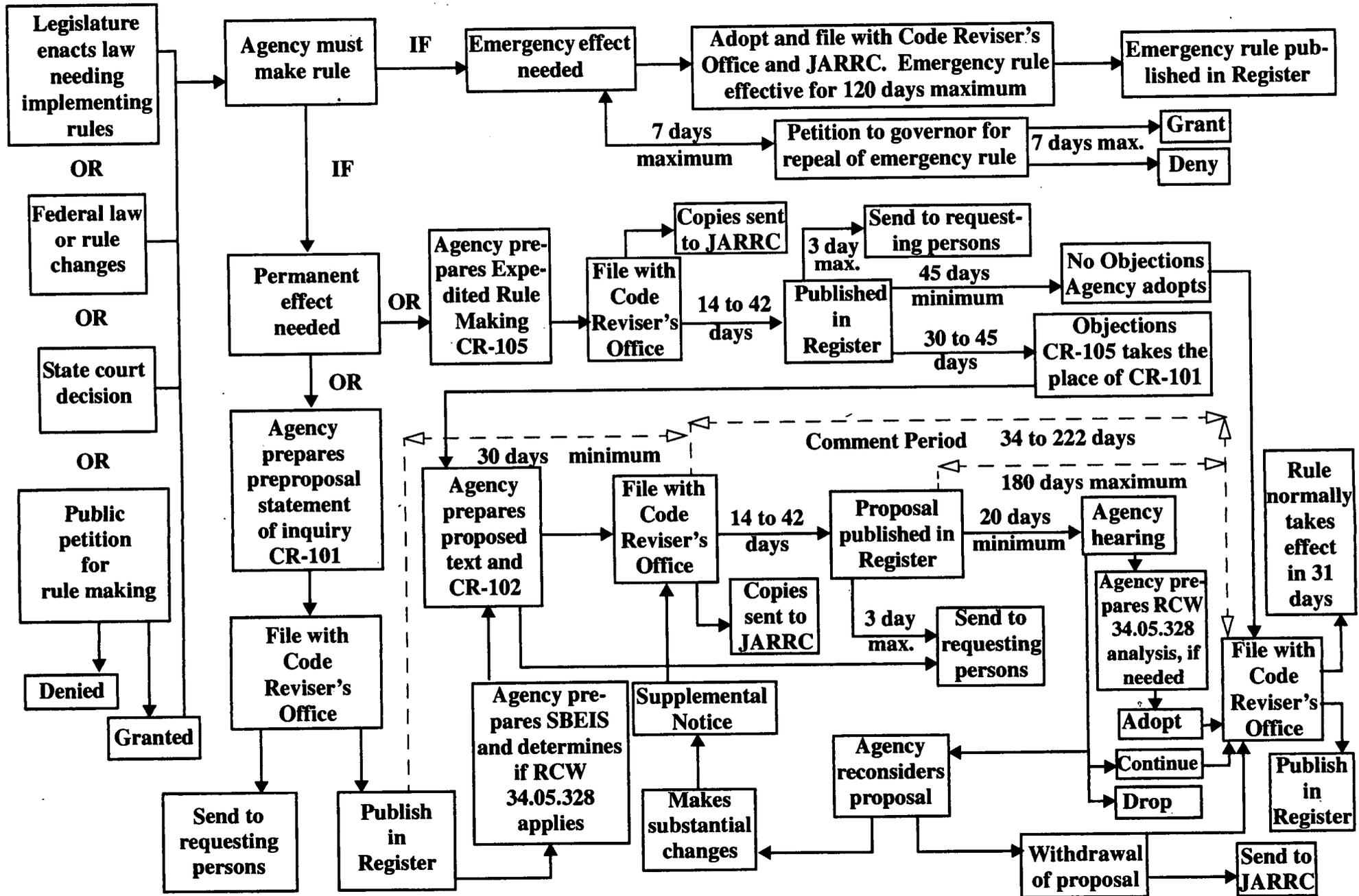
There is less than minor economic impact on business;

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

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

The rule is pure restatement of state statute.

RULE-MAKING PROCESS



WSR 04-07-010**WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

[Filed March 4, 2004, 2:24 p.m.]

The department is withdrawing the CR-101 for WAC 246-873-090 Hospital standards—Administration of drugs. The department filed the [pre]proposal on June 5, 2002, which was published as WSR 02-12-101 in the Washington State Register. After discussions with stakeholders and interested persons, it has been determined that rule making is not necessary, and guidelines were developed instead.

Individuals requiring information on this rule should contact Lisa Salmi, Health Professions Quality Assurance, Board of Pharmacy, at (360) 236-4828.

Mary C. Selecky
Secretary

WSR 04-07-015**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed March 4, 2004, 4:40 p.m.]

Subject of Possible Rule Making: Pull-tab games.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: We have received a petition for rule change from Bonanza Press, licensed manufacturer, requesting an amendment to allow carry over jackpots in event pull-tab series.

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 Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; or Robert Berg, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3449; or Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466.

Meeting Dates and Locations: On **April 9, 2004**, at the Phoenix Inn Suites, 415 Capitol Way North, Olympia, WA 98501, (360) 570-0555; on **May 14, 2004**, at the Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000; and on **July 9, 2004**, at the La Center Maple Hall, 108 Commercial Street, La Conner, WA 98257, (360) 466-3101.

March 3, 2004
Susan Arland
Rules Coordinator

WSR 04-07-018**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed March 5, 2004, 2:58 p.m.]

Subject of Possible Rule Making: Card rooms.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070 and 9.46.0282.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Various changes to card room rules, such as the use of logo cards, tip procedures, equipment, clarifications, housekeeping, etc.

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 Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; or Robert Berg, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3449; or Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466.

Meeting Dates and Locations: On **April 9, 2004**, Phoenix Inn Suites, 415 Capitol Way North, Olympia, WA 98501, (360) 570-0555; on **May 14, 2004**, at the Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000; and on **July 9, 2004**, at the La Conner Maple Hall, 108 Commercial Street, La Conner, WA 98257, (360) 466-3101.

March 4, 2004
Susan Arland
Rules Coordinator

WSR 04-07-022**WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed March 8, 2004, 4:08 p.m.]

The Economic Services Administration, Division of Child Support requests the withdrawal of preproposal statement of inquiry, filed as WSR 02-02-021 on December 21, 2001.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

PREPROPOSAL

WSR 04-07-036
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE

[Filed March 9, 2004, 2:18 p.m.]

Subject of Possible Rule Making: Commercial and recreational fishing rules in Hood Canal.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.04.012.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In recent years, the waters of Hood Canal have shown very low levels of dissolved oxygen. These low levels are causing mortality of fish and shellfish and inducing sublethal stress on the survivors. In 2002 and 2003 the director issued emergency rules that prohibited fishing for marine fish and some shellfish during the period of low dissolved oxygen. It is now necessary to enact these fishing closures on a permanent basis.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Greg Bargmann, Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501, (360) 902-2944, (360) 902-2825. Contact by May 6, 2004. Expected proposal filing on or after May 7, 2004.

March 9, 2004

Evan Jacoby
Rules Coordinator

ery stock entering the state, in order to locate and eradicate populations of the organism before they can become established.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state agencies regulate this subject. Although United States Department of Agriculture Animal and Plant Health Inspection Service regulates certain aspects of sudden oak death exclusion and eradication, the federal agency has no reporting requirements of this nature.

Process for Developing New Rule: Department staff will discuss the proposal with affected stakeholders. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Plant Protection Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094, e-mail mtoohey@agr.wa.gov; or Tom Wessels, Plant Services Program Manager, Washington State Department of Agriculture, Plant Protection Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094, e-mail twessels@agr.wa.gov.

March 9, 2004

Mary A. Martin Toohey
Assistant Director

WSR 04-07-045
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed March 10, 2004, 9:11 a.m.]

Subject of Possible Rule Making: Chapter 16-402 WAC, this proposal may establish reporting and record-keeping requirements for licensed nurseries for shipments of plants from outside the state. The proposal may also establish mandatory holding periods before plants from outside the state may be sold, distributed, or transported or delivered to another location, to allow for their inspection.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 15.13, 17.24 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Washington state has experienced several instances of entry into or presence in this state of nursery stock infested with phytophthora [phytophthora] ramorum, the causative organism of the invasive, exotic plant disease sudden oak death. Sudden oak death has a wide host range, including native species such as rhododendrons, Douglas fir and bigleaf maple and other common species such as camellia and pieris. Although evidence indicates the disease is not at this time established outside a few regulated nurseries, it is a serious economic and environmental threat. It may be necessary to implement inspection requirements for nurs-

WSR 04-07-054
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

[Filed March 11, 2004, 1:43 p.m.]

Subject of Possible Rule Making: Chapter 308-93 WAC, Vessel registration and certificates of title, to include but not limited to WAC 308-93-030 and 308-93-050.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 88.02.070 and 88.02.100.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Confusion between rule and law. To remove confusion between the rule and the law.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Law enforcement, Department of Natural Resources, and Department of Revenue.

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 by mail Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957,

or by phone (360) 902-3718, fax (360) 664-0831, TTY (360) 664-8885, e-mail kvasquez@dol.wa.gov.

March 11, 2004
Katherine Vasquez
for Steve Boruchowitz, Manager
Policy and Projects Office

lication by contacting Cindy Beckman, DSHS Children's Administration, P.O. Box 45710, phone (360) 902-7977, fax (360) 902-0894, e-mail cbec300@dshs.wa.gov.

March 11, 2004
Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-059

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

(Children's Administration)

[Filed March 11, 2004, 4:30 p.m.]

Subject of Possible Rule Making: Children's Administration will be adopting a new subchapter within chapter 388-25 WAC (and revising other rules as applicable) that allows implementation of the intent of ESSB 6387 directing the department to begin making state supplementary payments to specifically eligible individuals. Children's Administration began participation for eligible foster children January 1, 2004.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, chapter 371, Laws of 2002 (2001-2003 Supplemental Budget - ESSB 6387), RCW 74.04.600, 74.04.620, 74.13.031.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department was directed by the 2002 Washington state legislature to begin paying an income supplement, called the state supplementary payment (SSP). The agencies directed by the legislature to participate (ESA, DDD, MAA, ADSA) have not been able to meet the federal requirement for maintenance of effort, so Children's Administration began participation January 1, 2004. The implementation of this program within Children's Administration requires the adoption of new rules within chapter 388-25 WAC (and other rules as applicable).

Children's [Administration] will coordinate rule development with the DSHS Aging and Disability Services Administration, Medical Assistance Administration, Division of Developmental Disabilities, and Economic Services Administration.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The federal Social Security Administration publishes regulations under the Social Security Act and Federal Public Law 92-603 for states that provide an SSP program, and oversees state compliance with federal state supplementation rules.

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

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

WSR 04-07-060

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

(Aging and Disability Services Administration)

[Filed March 11, 2004, 4:30 p.m.]

Subject of Possible Rule Making: WAC 388-71-0531 How many hours can my individual provider, agency provider, or personal aide work if I am receiving COPES, Medicaid personal care, or chore services?

Statutes Authorizing the Agency to Adopt Rules on this Subject: ESHB 2933, RCW 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Repealing WAC 388-71-0531 to comply with recently enacted legislation, ESHB 2933.

Process for Developing New Rule: At a later date, the department will file a proposed rule and proposed rule-making notice for publication in the State Register, invite public comments and hold a public hearing. The proposal will be sent to everyone on the mailing list to receive rule-making notices on this subject, and to anyone who requests the proposal.

If you want to be added to the mailing list, or want information about the development of this rule, please contact the person listed below.

This notice and all DSHS rule-making notices, proposed rules and adopted rules are available on the internet at <http://www1.dshs.wa.gov/msa/rpau/>.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tiffany Sevruk, Home and Community Services, P.O. Box 45600, Olympia, WA 98504-0600, (360) 725-2538, fax (360) 407-7582, e-mail sevruta@dshs.wa.gov.

March 11, 2004
Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-061

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

(Aging and Disability Services Administration)

[Filed March 11, 2004, 4:31 p.m.]

Subject of Possible Rule Making: Amending private duty nursing rules in WAC 388-71-0900 through 388-71-0965 and related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.520; 42 C.F.R. 440.80.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules are necessary to clarify the intent of WAC 388-71-0900 through 388-71-0965. ASDA will coordinate rule development with DSHS - Medical Assistance, Children's Services and the Division of Developmental Disabilities.

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

Process for Developing New Rule: DSHS invites the interested public to review and provide input on the development of these rules. Draft material and information about how to participate may be obtained by contacting the department representative below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sue McDonough, Aging and Disability Services Administration, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2533, TTY (800) 737-7931, fax (360) 438-8633, e-mail mcdonosc@dshs.wa.gov.

March 9, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-062

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Economic Services Administration)

[Filed March 11, 2004, 4:31 p.m.]

Subject of Possible Rule Making: The Division of Child Support (DCS) seeks to establish rules and procedures for enforcing medical child support obligations using the National Medical Support Notice. Affected sections: WAC 388-14A-4100, 388-14A-4110, 388-14A-4120, 388-14A-4130; possible new sections and possible amendments and repeal of related sections as necessary. (Note, this CR-101 is being filed in conjunction with emergency rules effective March 22, 2004.)

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.20A.310, 26.18.170; section 401 of HR 3130, Child Support Performance and Incentives Act of 1998; 45 C.F.R. 303.31.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The federal government has created a new National Medical Support Notice and has required state child support enforcement agencies to use the notice when enforcing medical support obligations.

Process for Developing New Rule: DCS engages in modified collaborative rule making. Those persons wishing to participate in developing the new rules are encouraged to contact Nancy Koptur at the DSHS Division of Child Support (DCS) Headquarters as soon as possible. DCS will post information regarding this rule development project and others on its website, which can be found at www.wa.gov/dshs/

dc, or on the DSHS Economic Services Administration's regulatory improvement website, which can be found at <http://www-app2.wa.gov/dshs/esa/extpolicy/blue.asp>. DSHS/DCS encourages the public to take part in developing the rules. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice proposed rule making, and will send the proposal to everyone currently on the mailing list and to anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nancy Koptur, DCS Rules Coordinator, Division of Child Support, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507-9162, phone (360) 664-5065 or 1-800-457-6202, fax (360) 664-5209, e-mail nkoptur@dshs.wa.gov, TTY/TDD (360) 664-5011.

March 9, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-073

PREPROPOSAL STATEMENT OF INQUIRY HORSE RACING COMMISSION

[Filed March 15, 2004, 9:32 a.m.]

Subject of Possible Rule Making: Eligibility of veterinarians to hold a license to train horses while holding a veterinarian's license.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission has been asked by a nongovernmental entity to consider eliminating the current prohibition against a veterinarian from also holding a license to train. This preproposal statement of inquiry is offered to allow the process of further study and stakeholder input to begin on this subject.

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

March 12, 2004

R. M. Leichner
Executive Secretary

WSR 04-07-079

**PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE AUTHORITY
(Public Employees Benefits Board)
[Order 04-01—Filed March 15, 2004, 4:37 p.m.]**

Subject of Possible Rule Making: Reviewing rules related to continuation of Public Employees Benefits Board (PEBB) benefits and amending rules related to premium refunds and appeals.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Health Care Authority will be reviewing all requirements in Title 182 WAC related to continuation of PEBB coverage to clarify and streamline administration of the PEBB program. WAC 182-16-040 will be amended to comply with PBOR requirements. Other amendments will also be considered.

Process for Developing New Rule: Stakeholder mailing 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 Barbara Scott, Health Care Authority, 676 Woodland Square Loop S.E., P.O. Box 42684, Olympia, WA 98504-2684, phone (360) 923-2642, fax (360) 923-2602.

March 12, 2004
Melodie Bankers
Rules Coordinator

WSR 04-07-080

**PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE AUTHORITY
(Public Employees Benefits Board)
[Order 04-02—Filed March 15, 2004, 4:38 p.m.]**

Subject of Possible Rule Making: Eligibility requirements for local government employees and dependents.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Health Care Authority will be reviewing eligibility in chapter 182-12 WAC to streamline administration of the Public Employees Benefits Board program.

Process for Developing New Rule: Stakeholder mailing 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 Barbara Scott, Health Care Authority, 676 Woodland Square Loop S.E., P.O. Box 42684, Olympia, WA 98504-2684, phone (360) 923-2642, fax (360) 923-2602.

March 12, 2004
Melodie Bankers
Rules Coordinator

WSR 04-07-085

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed March 16, 2004, 10:25 a.m.]**

Subject of Possible Rule Making: WAC 388-450-0500 Income from the community jobs program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 78.08A.340, 74.04.050, and 74.04.057.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule is being amended by the Division of Employment and Assistance Programs to simplify program language and clarify how the department uses income from community jobs to determine TANF and Basic Food assistance benefits.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ian Horlor, Program Manager, Division of Employment and Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 413-3247, fax (360) 413-3493, e-mail horloit@dshs.wa.gov.

March 12, 2004
Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-086

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed March 16, 2004, 10:25 a.m.]**

Subject of Possible Rule Making: WAC 388-434-0005 Eligibility reviews and recertifications, elimination of the signature requirement for medical eligibility reviews.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.09.510, 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department will delete references to the requirement that a medical eligibility review be signed by at least one parent in the household. This would allow DSHS clients the flexibility of meeting the eligibility review requirement by submitting a completed form (hard copy or electronic) or completing an in-person or telephone interview.

MAA will coordinate development of the rule with the DSHS Division of Employment and Assistance Programs.

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

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below. The department will distribute draft material for an internal and external review process before proposing the rule for formal comment and a public hearing. All comments are taken into consideration before issuance of the final rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary Wood, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1329, fax (360) 664-0910, e-mail woodme@dshs.wa.gov, TDD 1-800-848-5429.

March 15, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-087

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed March 16, 2004, 10:26 a.m.]

Subject of Possible Rule Making: Vision services, chapter 388-544 WAC. MAA plans to reorganize the vision care rules to ensure consistency with other MAA program rules, to clarify current program policy, to add coverage for disposable contact lenses, and to discontinue or limit coverage for glass lenses. During the course of this review, MAA may identify additional changes that are required in order to improve clarity or to update policy.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.09.080, 74.09.510, 74.09.520, and 42 C.F.R. 440.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: MAA is planning to change its vision care program policy regarding glass lenses because of their increased cost and declining availability. The industry standard of practice is moving towards all plastic lenses and moving away from the yearly replacement of contact lenses and towards disposable replacement contact lenses. MAA will work with identified stakeholders to develop new vision care rules to closer align with industry standards.

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

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this rule. Draft material and informa-

tion about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Wendy Boedigheimer, Rules Program Manager, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1306, fax (360) 586-9727, e-mail boediwl@dshs.wa.gov, TDD 1-800-848-5429.

March 15, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-088

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed March 16, 2004, 10:26 a.m.]

Subject of Possible Rule Making: WAC 388-502-0160 Billing a client, and possibly other related WAC sections.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.530, ESSB 5404 (section 109, chapter 25, Laws of 2003 1st sp.s., and accompanying detailed budget notes), 42 C.F.R. 447.50, 42 C.F.R. 447.54.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The 2003 legislature directed the Medical Assistance Administration (MAA) to take steps to reduce expenditures so that total program costs do not exceed the annual appropriation authority. Suggested cost-saving methods included reduction of rates, elimination of adult vision care, and elimination of adult hearing services. As an alternative to eliminating services, MAA will implement client copayments, as allowed under 42 C.F.R. 447.54, for adult vision services and adult medical supplies and equipment (which includes durable medical equipment (DME), non-DME, and prosthetics and orthotics).

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Wendy Boedigheimer, Rules Program Manager, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1306, fax (360) 586-9727, e-mail boediwl@dshs.wa.gov, TDD 1-800-848-5429.

March 15, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-105**PREPROPOSAL STATEMENT OF INQUIRY
LAKE WASHINGTON
TECHNICAL COLLEGE**

[Filed March 18, 2004, 9:25 a.m.]

Subject of Possible Rule Making: Student services policies and procedures.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.50.140.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: 1. Student conduct requirements imposed upon the college by inclusion of WAOL agreement.

2. Changes in Washington state liability and public access of state facilities.

3. Alignment of conduct procedures with Washington State Administration Procedure Act.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: State Board for Community and Technical Colleges (SBCTC), WAOL.

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 Dennis B. Long, Vice-President of Student Services, phone (425) 739-8102, fax (425) 739-8299, Lake Washington Technical College, 11605 132nd Avenue N.E., Kirkland, WA 98034.

March 16, 2004

L. Michael Metke, Ed.D.

President

WSR 04-07-111**WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed March 18, 2004, 4:23 p.m.]

The Medical Assistance Administration would like to withdraw the preproposal statement of inquiry WSR 01-03-095 filed on January 18, 2001.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-112**WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed March 18, 2004, 4:24 p.m.]

The Economic Services Administration, Division of Child Support requests the withdrawal of the following preproposal statement of inquiries: WSR 97-09-111 filed on April 23, 1997; WSR 98-03-078 filed on January 21, 1998; WSR 98-12-106 filed on June 3, 1998; and WSR 98-20-035 filed on September 29, 1998.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-113**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed March 18, 2004, 4:25 p.m.]

Subject of Possible Rule Making: New rules in chapter 388-14A WAC regarding the collection of interest on past-due child support obligations under the Uniform Interstate Family Support Act (UIFSA), and amendments and/or repeal of related existing rules as necessary.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 26.21.016.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Under UIFSA, Washington is required to enforce interest on unpaid support arrears at the request of another state. Washington does not enforce interest on Washington orders, but must enforce interest on non-Washington orders. These rules establish the procedures whereby the amount of interest can be established in an administrative proceeding.

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 Division of Child Support (DCS) engages in modified collaborative rule making. Those persons wishing to participate in developing the new rules are encouraged to contact Nancy Koptur at the DSHS/DCS Headquarters as soon as possible. DCS will post information regarding this rule development project and others on its website, which can be found at www.wa.gov/dshs/dcs, or on the DSHS Economic Services Administration's policy review website, which can be found at <http://www1.dshs.wa.gov/esa/extpolicy/>. DSHS/DCS encourages the public to take part in developing the rules. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making, and will send the proposal to everyone currently on the mailing list and to anyone else who requests a copy.

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

lication by contacting Nancy Koptur, DCS Rules Coordinator, Division of Child Support, P.O. Box 9162, Mailstop 45860, phone (360) 664-5065, e-mail nkoptur@dshs.wa.gov, 1-800-457-6202, fax (360) 664-5055, TTY/TDD (360) 664-5011.

March 18, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-114

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

[Filed March 18, 2004, 4:26 p.m.]

Subject of Possible Rule Making: Chapter 388-551 WAC, Alternatives to hospital services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.09.520 and 74.08.090; 42 C.F.R. 418.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Medical Assistance Administration is incorporating language from current written agreements with hospice care centers into the hospice services WAC; the pediatric palliative care program is being incorporated into rule; also, the proposed rules are being reviewed to clarify and update current sections relating to hospice services rules in chapter 388-551 WAC.

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 the WACs. 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 Kathy Sayre, Rules Program Manager, Medical Assistance Administration, Olympia, Washington 98504-5533, phone (360) 725-1342, fax (360) 586-9727, TTY 1-800-848-5429, e-mail sayrek@dshs.wa.gov.

March 18, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-115

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

[Filed March 18, 2004, 4:27 p.m.]

Subject of Possible Rule Making: Chapter 388-535 WAC, Dental-related services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.500, 74.09.520.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To update and clarify current policy regarding the children's dental program; to update and clarify other sections in the dental-related services chapter.

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

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

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

March 18, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-129

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY**

[Order 04-03—Filed March 22, 2004, 3:25 p.m.]

Subject of Possible Rule Making: This rule making will create chapter 173-518 WAC, Elwha Dungeness instream resources protection and watershed management program. The proposed rule will establish instream flows for the Dungeness River mainstem, tributaries and independent drainages, and tributaries to the Elwha River. The rule will also provide a quantity of ground water that may be available for future water use, and set up a framework to implement the water management strategies described in the Elwha Dungeness (WRIA 18) watershed plan.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 90.842 RCW, Watershed planning; chapter 90.54 RCW, Water Resources Act of 1971; chapter 90.22 RCW, Minimum water flows and levels; chapter 90.03 RCW, Water code; chapter 90.44 RCW, Regulation of public ground waters; chapter 77.55 RCW, Construction projects in state waters (hydraulic code); chapter 18.104 RCW, Water well construction; chapter 43.21A RCW, Department of Ecology; chapter 43.21C RCW, State environmental policy; chapter 90.42 RCW, Water resources management; and chapter 90.08 RCW, Stream patrolmen.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Elwha Dungeness water inventory resource area is one of the only designated "water-critical" watersheds in western Washington without an instream flow rule. The adoption of this rule is needed to fulfill the statutory requirements of chapters 90.54 and 90.82 RCW; implement those obligations ecology agreed to in the watershed plan that have to be addressed through regulations;

protect instream resources and ESA-listed fish; allow ecology to proceed with water right decisions; and provide a quantity of ground water and set up a framework in order to implement the watershed plan's management strategies.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other agencies have the authority to regulate this subject. However, consultation will occur with the Washington Departments of Fish and Wildlife, Community, Trade and Economic Development, Health, and Agriculture, and representatives of the Jamestown S'Klallam and Lower Elwha Klallam Tribes, as part of our outreach process.

Process for Developing New Rule: During the rule-making process, ecology will share draft language with the Dungeness River and Elwha Morse management teams; Washington Departments of Fish and Wildlife, Community, Trade and Economic Development, Health, and Agriculture; the Jamestown S'Klallam and Lower Elwha Klallam Tribes; and other interested parties. Ecology will prepare press releases, focus sheets and other explanatory materials for distribution to mailing and e-mail lists. In addition, ecology will also create a web page for the rule proposal, and offer workshops on the rule. Finally, ecology will hold one or more public hearings to solicit comments on the formal rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lynne Geller, Department of Ecology, Water Resources Program, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6450, lgel461@ecy.wa.gov, fax (360) 407-7162.

March 22, 2004

Joe Stohr

Water Resources Program Manager

WSR 04-07-154

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 23, 2004, 1:45 p.m.]

Subject of Possible Rule Making: Chapter 296-24 WAC, General safety and health standards; chapter 296-56 WAC, Longshore, stevedore and related waterfront operations; and WAC 296-155-617 Servicing multipiece and single-piece rim wheels.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WISHA is proposing to rewrite and clarify requirements relating to the split rims standard. This rule making is part of our long-term goal to rewrite our general occupational safety and health rules. We will also update references to these rules throughout the rest of WISHA's standards. This proposal will move all split rim requirements relating to general industries from chapter 296-24 WAC, General safety and health, and place them in a new chapter.

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: The department must adopt rules identical to or at-least-as-effective-as OSHA rules as required by the OSHA/WISHA state plan agreement. Parties interested in the formulation of these rules for proposal may contact the individuals 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 Beverly Clark, Department of Labor and Industries, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5516, fax (360) 902-5529.

March 23, 2004

Paul Trause

Director

WSR 04-07-155

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 23, 2004, 1:46 p.m.]

Subject of Possible Rule Making: Chapter 296-62 WAC, General occupational health standards; chapter 296-841 WAC, Respiratory hazards; and WAC 296-24-67509 Dust hazards from abrasive blasting.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is proposing to rewrite and clarify requirements relating to benzene. The department is amending the rule in chapter 296-62 WAC to only apply to agriculture and proposing benzene as a new chapter. This rule making is part of our goal to rewrite all of WISHA's general occupational safety and health rules for clarity. The department may also incorporate federal changes and departmental interpretative policies and eliminate unnecessary requirements and outdated terminology. References will also be updated through other WISHA rules.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jamie Scibelli, Administrative Regulations Analyst, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-4568, fax (360) 902-5529, e-mail Scij235@lni.wa.gov.

March 23, 2004
Paul Trause
Director

WSR 04-07-156
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed March 23, 2004, 1:47 p.m.]

Subject of Possible Rule Making: Chapter 296-62 WAC, General occupational health standards and chapter 296-841 WAC, Respiratory hazards.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is proposing to rewrite and clarify requirements relating to arsenic. The department is amending the rule in chapter 296-62 WAC to only apply to agriculture and proposing arsenic as a new chapter. This rule making is part of our goal to rewrite all of WISHA's general occupational safety and health rules for clarity. The department may also incorporate federal changes and departmental interpretative policies and eliminate unnecessary requirements and outdated terminology. References will also be updated through other WISHA rules.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jamie Scibelli, Administrative Regulations Analyst, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, (360) 902-4568, fax (360) 902-5529, e-mail Scij235@lni.wa.gov.

March 23, 2004
Paul Trause
Director

WSR 04-07-157

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed March 23, 2004, 1:49 p.m.]

Subject of Possible Rule Making: Chapter 296-24 WAC, General safety and health standards and chapter 296-800 WAC, Safety and health core rules.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WISHA is proposing to rewrite and clarify requirements relating to the walking working surfaces standard. This rule making is part of our long-term goal to rewrite our general occupational safety and health rules. We will also update references to these rules throughout the rest of WISHA's standards. This proposal will move all walking working surfaces requirements relating to general industries from chapter 296-24 WAC, General safety and health, and place them in a new chapter. We may be making updates to chapter 296-800 WAC, Safety and health core rules.

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: The department must adopt rules identical to or at-least-as-effective-as OSHA rules as required by the OSHA/WISHA state plan agreement. Parties interested in the formulation of these rules for proposal may contact the individuals 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 Beverly Clark, Department of Labor and Industries, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5516, fax (360) 902-5529.

March 23, 2004
Paul Trause
Director

WSR 04-07-164

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed March 23, 2004, 3:40 p.m.]

Subject of Possible Rule Making: The Division of Employment and Assistance Programs will amend WAC 388-408-0015 Who must be in my assistance unit?

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: Current WAC does not make clear that every TANF (temporary assistance to needy families) assistance unit must contain either an "eligible child" or a pregnant woman, although such a rule informally governs current practice. As a result, the rule is not being interpreted as the department intended; amendments will clarify the rule.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tom Berry, Division of Employment and Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 413-3102, fax (360) 413-3493, e-mail berrytj@dshs.wa.gov.

March 23, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-165

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

[Filed March 23, 2004, 3:41 p.m.]

Subject of Possible Rule Making: WAC 388-478-0075 Medical programs—Monthly income standards based on federal poverty level (FPL).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.04.057, 74.04.050, and 74.09.530.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed amendment is necessary to adopt new federal poverty level (FPL) standards effective April 1, 2004.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department standards must comply with those published by the United States Department of Health and Human Services in the Federal Register, (Volume 69, Number 30) on February 13, 2004.

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below. The department will distribute draft material for an internal and external review process. All comments are taken into consideration before issuance of the final rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Joanie Scotson, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1330, fax (360) 586-0910, e-mail scotsjk@dshs.wa.gov, TDD 1-800-848-5429.

March 23, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-166

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)**

[Filed March 23, 2004, 3:42 p.m.]

Subject of Possible Rule Making: The Division of Child Support (DCS) is amending WAC 388-14A-5000 and other related rules dealing with the distribution of child support payments to clarify DCS' ability to delay distribution of collections via Internal Revenue Service (IRS) offset for a period of no more than six months. DCS may adopt new rules or repeal others as required.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 26.23.035, 74.08.090, 74.20A.310, 45 C.F.R. 303.72 (h)(5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The IRS intercepts tax refunds of noncustodial parents who owe back child support; some of these refunds are from joint returns and the noncustodial parent's spouse may be entitled to some or all of the tax refund; when the IRS is required to return the intercepted refund to the "injured spouse," this can result in an overpayment of support, which can create a hardship for the custodial parent. By holding onto refunds for a period not to exceed six months, DCS will be better able to determine which refunds are subject to an injured spouse claim and thus avoid overpayments.

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

Process for Developing New Rule: DCS engages in modified collaborative rule making. Those persons wishing to participate in developing new rules are encouraged to contact Nancy Koptur at the DSHS Division of Child Support (DCS) Headquarters as soon as possible. DCS will post information regarding this rule development project and others on its website, which can be found at www.wa.gov/dshs/dcs, or on the DSHS Economic Services Administration's policy review website, which can be found at <http://www1.dshs.wa.gov/esa/extpolicy/>. DSHS/DCS encourages the public to take part in developing the rules. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making, and will send the proposal to everyone currently on the mailing list and to anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nancy Koptur, DCS Rules Coordinator, Division of Child Support, P.O. Box 9162, Mailstop 45860, phone (360) 664-5065, 1-800-457-6202, fax (360) 664-5055, e-mail nkoptur@dshs.wa.gov, TTY/TDD (360) 664-5011.

March 23, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-173

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed March 24, 2004, 9:15 a.m.]

Subject of Possible Rule Making: WAC 246-915-100
Approved physical therapy schools.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.74.023.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 18.74.030 directs that applicants hold a baccalaureate degree in physical therapy from a school that has been approved by the board. The current rule adopts the educational standards for United States physical therapy programs established by the American Physical Therapy Association and has been in effect since the inception of the American Physical Therapy Association's accreditation process in 1985. Rules are required to recognize and clarify the role of the Commission on Accreditation in Physical Therapy Education, the division within the American Physical Therapy Association responsible for establishing educational standards and developing appropriate systems for outcome measurements within United States physical therapy education programs.

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.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Department of Health, Kris Waidely, Program Manager, P.O. Box 47868, Olympia, WA 98504-7868, (360) 236-4847, (360) 664-9077.

February 13, 2004

Kris Waidely
Program Manager

WSR 04-07-174

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed March 24, 2004, 9:16 a.m.]

Subject of Possible Rule Making: WAC 246-915-105
Approved physical therapist assistant programs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.74.023.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The regulation of physical therapist assistants is not authorized under chapter 18.74 RCW. However, RCW 18.74.023(7) authorizes the Board of Physical Therapy to define and specify the education and training requirements of physical therapist assistants and physical therapy aides. Physical therapist assistants are technically educated at the two-year associates degree level. Given that physical therapist assistants are not required to work under direct supervision and frequently work in unsupervised settings such as home health and public schools, this rule is necessary to establish that assistants meet minimum educational qualifications in order to protect the public.

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.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Department of Health, Kris Waidely, Program Manager, P.O. Box 47868, Olympia, WA 98504-7868, (360) 236-4847, (360) 664-9077.

February 13, 2004

Kris Waidely
Program Manager

WSR 04-07-176

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed March 24, 2004, 9:21 a.m.]

Subject of Possible Rule Making: WAC 246-915-120
Applicants from unapproved schools.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.74.023.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The board recognizes that many foreign trained physical therapists may be qualified practitioners. Rather than universally exclude graduates of foreign physical therapy education programs from obtaining licensure in Washington, the board and participating stakeholders find it to be an equitable, safe option to require graduates of unapproved schools to show evidence of having obtained the minimum training and coursework required of graduates of approved physical therapy programs. Rules are required to establish the minimum coursework for physical therapy education for applicants that have graduated from

unapproved schools. The minimum coursework standard is derived from the coursework evaluation tool developed by the Federation of State Boards of Physical Therapy's Foreign Educated Physical Therapist Committee.

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.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Department of Health, Kris Waidely, Program Manager, P.O. Box 47868, Olympia, WA 98504-7868, (360) 236-4847, (360) 664-9077.

February 13, 2004
Kris Waidely
Program Manager

WSR 04-07-177

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed March 24, 2004, 9:22 a.m.]

Subject of Possible Rule Making: WAC 246-915-180 Professional conduct principles.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.74.023, 18.74.025.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current rule does not prohibit a physical therapist to self-evaluate and self-direct treatment. The board finds this practice to be unethical, resulting in excessive and unnecessary treatment costs. Self-evaluation and self-directed treatment creates a financial motivation for physical therapists to over diagnose and/or provide lengthy or unnecessary treatments. In one instance, a physical therapist diagnosed and prolonged the treatment of a condition that did not require physical therapy care, billing the insurance company in excess of \$4,000. The board was unable to protect the public by charging the physical therapist or taking corrective action to prevent the conduct from recurring because of the current rule language. Therefore, in order to protect the public from excessive charging and over-utilization of services, rules need to be established to prohibit self-evaluation and self-directed physical therapy treatment. Rules are also required to ensure that physical therapists only delegate physical therapy tasks to trained support personnel.

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.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Department of Health, Kris Waidely,

Program Manager, P.O. Box 47868, Olympia, WA 98504-7868, (360) 236-4847, (360) 664-9077.

February 13, 2004
Kris Waidely
Program Manager

WSR 04-07-178

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed March 24, 2004, 9:24 a.m.]

Subject of Possible Rule Making: WAC 246-915-050 Reinstatement.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.74.023.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: If a practitioner has allowed their license to expire for over three years and the practitioner has not been in active practice in another United States jurisdiction, the practitioner must successfully pass the examination as provided in RCW 18.74.035, and meet the requirements of chapter 246-12 WAC, Part 2. Rules are required to allow the board to waive reexamination and to impose any other requirements necessary to ensure professional competence before allowing the practitioner to reinstate their license to practice. In addition, rules are also required to change the current title of the rule from "expired license" to "reinstatement."

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.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Department of Health, Kris Waidely, Program Manager, P.O. Box 47868, Olympia, WA 98504-7868, (360) 236-4847, (360) 664-9077.

February 13, 2004
Kris Waidely
Program Manager

WSR 04-07-185

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 04-02—Filed March 24, 2004, 10:28 a.m.]

Subject of Possible Rule Making: This rule making will create chapter 173-517 WAC, Quilcene-Snow instream resources protection and water management program. Prior to drafting the rule language that will set instream flows in the Quilcene-Snow watershed, water resources inventory area (WRIA) 17, the Washington State Department of Ecology (ecology) will participate in a collaborative process involving the WRIA 17 planning unit, through which an

attempt will be made to reach consensus on instream flows and other potential water resource management tools.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 90.82 RCW, Watershed planning; chapter 90.54 RCW, Water Resources Act of 1971; chapter 90.22 RCW, Minimum water flows and levels; chapter 90.03 RCW, Water code; chapter 90.44 RCW, Regulation of public ground waters; and chapter 77.55 RCW, Construction projects in state waters (hydraulic code).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The adoption of this rule is needed to protect instream values within the Quilcene-Snow watershed, WRIA 17, including ESA listed fish:

Hood Canal Evolutionarily Significant Unit (ESU) summer chum - Threatened (date of listing 3/99);

Puget Sound chinook - Threatened (date of listing 3/99);

Puget Sound/Strait of Georgia coho - Candidate (date of listing 7/95);

Puget Sound Bull trout - Threatened (11/99).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Ecology has statutory authority under chapter 90.22 RCW to establish minimum instream water flows. Ecology will consult with Washington Department of Fish and Wildlife and affected tribes. In accordance with the provision of RCW 90.03.247, directs ecology to "consult with, and carefully consider the recommendations of, the department of fish and wildlife, the department of community, trade, and economic development, the department of agriculture, and representatives of the affected Indian tribes." We will also coordinate with the appropriate federal agencies, and other interested state and local agencies.

Process for Developing New Rule: During rule making, draft language will be shared with the local watershed planning unit; Washington Departments of Fish and Wildlife, Community, Trade and Economic Development, and Agriculture; tribes; and other interested parties. Ecology will prepare a focus sheet and distribute it to established mailing and e-mail lists. Ecology will also hold a public hearing to solicit comments from interested parties.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathleen Ensenat, Department of Ecology, Water Resources Program, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6780, kspa461@ecy.wa.gov, fax (360) 407-6574; or Phil Wiatrak, Department of Ecology, SWRO, Shorelands and Environmental Assistance Program, P.O. Box 47775, Olympia, WA 98504-7775, (360) 407-6652, pwia@ecy.wa.gov, fax (360) 407-6574.

For the latest updates on water resources issues, including the Quilcene-Snow rule-making process, sign up for the Department of Ecology water resources e-mail list: <http://listserv.wa.gov/archives/water-resources.html> or check out the water resources website at <http://www.ecy.wa.gov/programs/wr/wrhome.html>.

March 23, 2004

Joe Stohr

Water Resources Program Manager

WSR 04-07-189

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed March 24, 2004, 11:34 a.m.]

Subject of Possible Rule Making: The department will repeal all rules in chapter 388-78A WAC adopted under WSR 03-16-047 scheduled to take effect September 1, 2004, and will adopt new boarding home rules. The new rules will be consistent with 2004 legislation, and will respond to concerns raised by the boarding home industry.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.20.090, SSB 6225, SB 6160, SB 5733.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: New rules are needed to assure that chapter 388-78A WAC complies with recent changes in statute, to be responsive to the needs of department clients and to be responsive to concerns of the boarding home industry.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Washington State Department of Health is responsible for food service requirements, and review of construction plans through construction review services. Department of Health will be asked to comment on draft and proposed rules that might affect relevant subjects.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rules. Anyone with questions about these rules or who is interested in participating should contact the staff person indicated below. A draft of the rules will be distributed to interested parties for comment prior to formal filing the proposed rule for formal public comment and a public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Denny McKee, Program Manager, 640 Woodland Square Loop S.E., P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2590, 1-800-422-3263, fax (360) 438-7903, TTY (360) 493-2637, e-mail McKeeDD@dshs.wa.gov.

March 24, 2004

Jim Schnellman

for Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-07-195

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed March 24, 2004, 11:59 a.m.]

Subject of Possible Rule Making: WAC 246-915-040 Licensure by endorsement—Applicants from approved schools.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.74.023.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule is required for housekeeping purposes. The current rule has not been updated in at least ten years. Currently, if a licensee has not worked in physical therapy in the last two years they may be granted licensure by endorsement under certain conditions. The proposed rule changes the length of time a physical therapist has not worked from two to three years. The three-year term is consistent with the language outlined in chapter 246-12 WAC, Administrative procedures and requirements for credentialed health care providers. The rule also changes "continuing education" to "continuing competency." This language is consistent with current language outlined in WAC 246-915-085 Continuing competency.

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.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Department of Health, Kris Waidely, Program Manager, P.O. Box 47868, Olympia, WA 98504-7868, (360) 236-4847, (360) 664-9077.

February 13, 2004

Kris Waidely

Program Manager



WSR 04-07-031
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed March 9, 2004, 11:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-20-064.

Title of Rule: WAC 308-18-150 Private security guard company, private security guard unarmed and armed licensing fees.

Purpose: As a self-supporting program under RCW 43.240.086, the security guard program adjusts fees to be in alignment with expenses. Based on projected revenue and expenditures, the program is decreasing fees.

Other Identifying Information: The new proposed fees will be effective beginning July 1, 2004.

Statutory Authority for Adoption: Chapter 18.170 RCW.

Statute Being Implemented: Not applicable.

Summary: The proposed amendments will lower some private security guard licensing fees.

Reasons Supporting Proposal: In order to be in compliance with RCW 43.24.086 and operate within the state's budget.

Name of Agency Personnel Responsible for Drafting and Implementation: Mary Haglund, Olympia, (360) 664-6624; and Enforcement: Pat Brown, Olympia, (360) 664-6624.

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 private security guard program is in the general fund and is subject to cross-the-board GF reductions during times of budget shortfalls. The state operates with a balanced budget every year and cannot spend more money than is coming in. Currently, the state's spending surpassed its revenue and GF programs are required to reduce spending to keep the budget balanced. When the program reduces spending, it also must reduce fees to stay in compliance with the statutory requirement to be self-supporting.

Proposal Changes the Following Existing Rules: See below.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not have an economic impact to the licenses or stakeholders.

RCW 34.05.328 does not apply to this rule adoption. Because the Department of Licensing (DOL) is not one of the named agencies to which this rule applies. Agencies that are not named can apply this rule to themselves voluntarily. DOL has chosen not to do this.

Hearing Location: Department of Licensing, 405 Black Lake Boulevard, Building #2, Room #209, Olympia, WA 98507, on April 28, 2004, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Mary Haglund by April 27, 2004, TDD (360) 664-8885.

Submit Written Comments to: Mary Haglund, Department of Licensing, Public Protection Unit, P.O. Box 9649,

Olympia, WA 98507-9649, (360) 664-6624, fax (360) 570-7888.

Date of Intended Adoption: May 26, 2004.

March 3, 2004

Mykel D. Gable

Assistant Director

AMENDATORY SECTION (Amending WSR 02-07-068, filed 3/18/02, effective 7/1/02)

WAC 308-18-150 Private security guard company, private security guard, and armed private security guard fees. ~~((The following fees for a one-year period shall be charged by professional licensing services of the department of licensing:))~~ Licenses issued to private security guard companies and private security guards expire one year from the date of issuance and must be renewed each year. The fees are as follows:

Title of Fee	Fee
Private security guard company/principal:	
Application/ <u>includes first</u> examination	\$250.00
Reexamination	25.00
License renewal	250.00
Late renewal with penalty	350.00
<u>Change of principal/includes first examination</u>	<u>65.00</u>
<u>Principal armed endorsement</u>	<u>30.00</u>
((Certification	25.00))
Private security guard:	
Original license	((65.00))
	<u>53.00</u>
<u>Armed endorsement</u>	<u>30.00</u>
Transfer fee	((30.00))
	<u>20.00</u>
((Certified trainer examination/reexamination	25.00
Certified trainer renewal	15.00))
License renewal	((45.00))
	<u>40.00</u>
Late renewal with penalty	((65.00))
	<u>45.00</u>
<u>Certified trainer endorsement examination/reexamination</u>	<u>25.00</u>
<u>Certified trainer endorsement renewal</u>	<u>15.00</u>
((Certification	25.00
Armed private security guard:	
Original license	30.00
Transfer fee	30.00
Certified trainer examination/reexamination	25.00
Certified trainer renewal	15.00

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Title of Fee	Fee
License renewal	60.00
Late renewal with penalty	75.00
Certification	25.00
Change of principal:	
Unarmed principal	65.00
Armed principal	30.00))
Duplicate license	10.00

WSR 04-07-032
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed March 9, 2004, 11:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-20-066.

Title of Rule: WAC 308-17-150 Private investigator agency, private investigator and armed private investigator fees.

Purpose: As a self-supporting program under RCW 43.240.086, the private investigator program adjusts fees to be in alignment with expenses. Based on projected revenue and expenditures, the program is decreasing fees.

Other Identifying Information: The new proposed fees will be effective beginning July 1, 2004.

Statutory Authority for Adoption: Chapter 18.165 RCW.

Statute Being Implemented: Not applicable.

Summary: The proposed amendments will lower some private investigator licensing fees.

Reasons Supporting Proposal: In order to be in compliance with RCW 43.24.086 and operate within the state's budget.

Name of Agency Personnel Responsible for Drafting and Implementation: Mary Haglund, Olympia, (360) 664-6624; and Enforcement: Pat Brown, Olympia, (360) 664-6624.

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 private investigator program is in the general fund and is subject to across-the-board GF reductions during times of budget shortfalls. The state operates with a balanced budget every year and cannot spend more money than is coming in. Currently, the state's spending surpassed its revenue and GF programs are required to reduce spending to keep the budget balanced. When the program reduces spending, it also must reduce fees to stay in compliance with the statutory requirement to be self-supporting.

Proposal Changes the Following Existing Rules: See below.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not have an economic impact to the licenses or stakeholders.

RCW 34.05.328 applies to this rule adoption. Because the Department of Licensing (DOL) is not one of the named agencies to which this rule applies. Agencies that are not named can apply this rule to themselves voluntarily. DOL has chosen not to do this.

Hearing Location: Department of Licensing, 405 Black Lake Boulevard, Building #2, Room #209, Olympia, WA 98507, on April 28, 2004, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Mary Haglund by April 27, 2004, TDD (360) 664-8885.

Submit Written Comments to: Mary Haglund, Department of Licensing, Public Protection Unit, P.O. Box 9649, Olympia, WA 98507-9649, (360) 664-6624, fax (360) 570-7888.

Date of Intended Adoption: May 26, 2004.

March 3, 2004

Mykel D. Gable
 Assistant Director

AMENDATORY SECTION (Amending WSR 02-11-098, filed 5/20/02, effective 10/1/02)

WAC 308-17-150 Private investigative agency, private investigator, and armed private investigator fees. ((The following fees for a one year period shall be charged by professional licensing services of the department of licensing:)) Licenses issued to private investigator agencies and private investigators expire one year from the date of issuance and must be renewed each year. The fees are as follows:

Title of Fee	Fee
Private investigative agency/principal fee:	
Application/examination/ <u>includes first examination</u>	\$ ((550.00)) <u>500.00</u>
<u>Principal armed endorsement</u>	<u>100.00</u>
Reexamination	25.00
License renewal	((450.00)) <u>300.00</u>
Late renewal ((with)) penalty	((600.00)) <u>See below*</u>
<u>Change of principal/includes first examination</u>	<u>150.00</u>
((Certification	<u>25.00))</u>
Private investigator:	
Original license	150.00
<u>Armed endorsement</u>	<u>100.00</u>
Transfer fee	25.00
((Certified trainer examination/ reexamination	<u>25.00</u>
<u>Certified trainer renewal</u>	<u>15.00))</u>
License renewal	150.00

Title of Fee	Fee
Late renewal with penalty	200.00
((Certification	25.00
Armed private investigator:	
Original license	100.00
Transfer fee	25.00))
Certified trainer endorsement examination/ reexamination	25.00
Certified trainer endorsement renewal	15.00
((License renewal	150.00
Late renewal with penalty	250.00
Certification	25.00
Change of unarmed qualified agent	150.00
Change of armed qualified agent	100.00))

*Private investigative agency license renewals filed after the license expiration date will be charged the master license service late renewal fee in compliance with RCW 19.02.085.

WSR 04-07-041
PROPOSED RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES

[Filed March 9, 2004, 4:03 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-02-044.

Title of Rule: Political subdivision fees.

Purpose: Establish the formula to calculate the fees paid by political subdivisions of the state to the Office of Minority and Women's Business Enterprises (OMWBE). This rule will not apply to nongovernmental parties.

Statutory Authority for Adoption: RCW 39.19.220.

Statute Being Implemented: RCW 39.19.220.

Summary: The fee charged to each political subdivision for the period July 1, 2003 - June 30, 2005, and subsequent bienniums unless revised by rule shall be based on the annual average of expenditures for capital projects, supplies and other services for previous bienniums as reflected in the state auditor's on-line BARS report, when available; except for transit districts where the data shall be taken from the *2001 Summary of Public Transportation Systems in Washington State*, and except for housing authorities, where the fee will be \$1 per low-income unit. The maximum amount charged to any political subdivision shall not exceed \$40,000 in a single biennium.

Reasons Supporting Proposal: Input from the political subdivisions established that the current billing formula was too narrow in focus and discouraged utilization of minority and women business enterprises. The proposed formula also contains a cap on the fee a subdivision will be charged.

Name of Agency Personnel Responsible for Drafting: Juan Huey-Ray, 406 South Water, P.O. Box 41160, Olympia,

WA 98504-1160, (360) 951-4916; Implementation and Enforcement: Carolyn Crowson, 406 South Water, P.O. Box 41160, Olympia, WA 98504-1160, (360) 753-9679.

Name of Proponent: Office of Minority and Women's Business Enterprises, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Effective July 1993, the Washington state legislature authorized OMWBE to charge political subdivisions for a portion of the costs related to the certification of businesses. The current formula developed by the political subdivisions allocates the costs among them, using a different formula, based upon the structure of the political subdivision (e.g., city, educational service district, port authority). The political subdivisions determined the current formula was too narrow in focus and encouraged jurisdictions not to use certified firms because the greater the use, the greater the fee was due to OMWBE. The proposed formula would expand the types of expenditures used to determine the fee; e.g., expenditures for goods and services will be included. The proposed formula will more fairly allocate the overall charge to the more than 400 political subdivisions now participating.

Proposal Changes the Following Existing Rules: The fee charged to each political subdivision for the period July 1, 2003 - June 30, 2005, and subsequent bienniums unless revised by rule shall be based on the annual average of expenditures for capital projects, supplies and other services for previous bienniums as reflected in the state auditor's on-line BARS report, when available; except for transit districts where the data shall be taken from the *2001 Summary of Public Transportation Systems in Washington State*, and except for housing authorities, where the fee will be \$1 per low-income unit. The maximum amount charged to any political subdivision shall not exceed \$40,000 in a single biennium.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no negative impact to small businesses by changing the formula by which the fee charged political subdivisions is calculated.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: U.S. Small Business Administration, 1200 Sixth Avenue, 17th Floor, Executive Conference Room, Seattle, on April 28, 2004, at 10:00 a.m. - 12:00 p.m.; and at the Tacoma Housing Authority, 902 South "L" Street, Tacoma, on May 5, 2004, at 2:00 - 4:00 p.m.

Assistance for Persons with Disabilities: Contact Cathy V. Canorro, (360) 704-1187 or ccanorro@omwbe.wa.gov by April 20, 2004.

Submit Written Comments to: Cathy Canorro, Rules Coordinator, Office of Minority and Women's Business Enterprises, P.O. Box 41160, Olympia, WA 98504-1160, phone (360) 704-1187, fax (360) 586-7079, by May 7, 2004.

Date of Intended Adoption: June 8, 2004.

March 9, 2004

Carolyn Crowson
 Director

AMENDATORY SECTION (Amending WSR 98-13-075, filed 6/15/98, effective 7/16/98)

WAC 326-02-034 Political subdivision fees. (1) It is the intent of the state legislature that political subdivisions within the state of Washington contribute to the costs of the state's certification program for minority and women's business enterprises. For the purpose of this section, political subdivisions means any city, town, county, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation within the state of Washington that administers a policy or program, or funds from whatever source, which requires or encourages the use of certified minority, women, or disadvantaged business enterprises.

(2) Effective July 1, 1993, the office shall allocate a portion of its biennial operational costs to political subdivisions. Each political subdivision shall pay a ~~((percentage))~~ proportionate share of this allocation based on the formula set forth in subsection ~~((3))~~ (4) of this section.

(3)(a) The fee charged to each political subdivision for the period, July 1, ~~((1997))~~ 2003 - June 30, ~~((1999))~~ 2005, and subsequent bienniums unless revised by rule, ~~((will be calculated as follows:~~

~~(a)(i) Cities with populations up to one thousand five hundred will not be charged.~~

~~(ii) Cities with populations of one thousand five hundred to twenty five thousand will be charged one hundred dollars each.~~

~~(iii) Cities with populations of twenty five thousand to fifty thousand will be charged two hundred dollars each.~~

~~(iv) Cities with populations over fifty thousand will be charged based on the formula set forth in subsection (4) of this section.~~

~~(b)(i) Counties with populations up to ten thousand will not be charged.~~

~~(ii) Counties with populations of ten thousand to one hundred thousand will be charged one hundred dollars each.~~

~~(iii) Counties with populations of one hundred thousand to five hundred thousand will be charged two hundred dollars each.~~

~~(iv) Counties with populations over five hundred thousand will be charged based on the formula set forth in subsection (4) of this section.~~

~~(c)(i) Ports with revenues up to two million dollars will not be charged.~~

~~(ii) Ports with revenues of two million dollars to ten million dollars will be charged two hundred dollars each.~~

~~(iii) Ports with revenues over ten million dollars will be charged based on the formula set forth in subsection (4) of this section.~~

~~(d)(i) Educational service districts and public school districts with enrollments up to one thousand will not be charged.~~

~~(ii) Educational service districts and public school districts with enrollments of one thousand to ten thousand will be charged one hundred dollars each.~~

~~(iii) Educational service districts and public school districts with enrollments of ten thousand to twenty thousand will be charged two hundred dollars each.~~

~~(iv) Educational service districts and public school districts with enrollments over twenty thousand will be charged based on the formula set forth in subsection (4) of this section.~~

~~(e)(i) Transit authorities with capital expenditures less than one hundred thousand dollars will not be charged.~~

~~(ii) Transit authorities with capital expenditures of one hundred thousand dollars to one million dollars will be charged one hundred dollars each.~~

~~(iii) Transit authorities with capital expenditures of one million dollars to ten million dollars will be charged two hundred dollars each.~~

~~(iv) Transit authorities with capital expenditures greater than ten million dollars will be charged based on the formula set forth in subsection (4) of this section.~~

~~(f)(i) Housing authorities that own or manage less than three hundred total units will not be charged.~~

~~(ii) Housing authorities that own or manage three hundred to nine hundred ninety nine total units will be charged one hundred dollars each.~~

~~(iii) Housing authorities that own or manage one thousand to four thousand nine hundred ninety nine total units will be charged two hundred dollars each.~~

~~(iv) Housing authorities that own or manage five thousand or more units will be charged based on the formula set forth in subsection (4) of this section.~~

~~(4) Each political subdivision not subject to a fixed fee under subsection (3) of this section shall report to the office the total dollars committed to certified businesses in construction (including direct awards, subcontracts, and related suppliers) during the previous biennium or its fiscal years ending in the previous biennium.~~

~~(a) The construction dollar commitment of each political subdivision will be divided by the sum of those commitments reported to calculate its proportionate share of the net allocation. The net allocation is the amount remaining after deduction of the amounts charged under subsection (3) of this section from the total allocated to all political subdivisions.~~

~~(b) The percentage calculated for each reporting political subdivision will be applied to the total due from all political subdivisions required to report to determine their respective fees. Provided, That the fee charged under this subsection shall be no less than the highest flat fee charged to a political subdivision in subsection (3) of this section.~~

~~(c) When a political subdivision fails to report as required by this section, the net allocation will be further reduced by an amount calculated as follows:~~

~~(i) The number of political subdivisions reporting will be divided by the total number of political subdivisions required to report at that time.~~

~~(ii) The resulting percentage will be used to calculate the portion of the net allocation due from the political subdivisions which is to be apportioned among those who reported. The balance of the net allocation will be charged equally among those who fail to report.~~

~~(5) After the initial billing, which will include the total amount due for the biennium beginning July 1, 1997, the office will mail invoices on a quarterly basis one month before the start of each quarter for the outstanding balance at that time. Payments shall be due within thirty calendar days~~

after receipt of the invoice.)) shall be based on the annual average of expenditures for capital projects, supplies and other services for fiscal years 1999-2001 as reflected in the state auditor's on-line BARS report, when available. Data on the annual average of capital expenditures by the transit districts during the relevant period will be taken from a report produced by the Washington state department of transportation entitled, *2001 Summary of Public Transportation Systems in Washington State*. Data on the annual average of expenditures by school districts and educational service districts will be obtained from the office of the superintendent of public instruction. The basis for the fee to be charged to the Housing Authorities is the number of low-income units owned or managed during the last fiscal year as reported to the U.S. Department of Housing and Urban Development. The maximum amount charged to any political subdivision shall not exceed \$40,000.00 in a single biennium.

(b) For the biennium beginning July 1, 2005, data from the previous biennium will be used to calculate the fee charged to each political subdivision.

(c) When insufficient data is available to calculate the average expenditures from the sources listed in (a) of this subsection, the office may either use other sources for the data or estimate the amount of relevant expenditures. In either event, the office shall allow the affected political subdivisions to offer alternative data on which to base its calculation. New political subdivisions will be charged based on the office's estimate of the annual average of relevant expenditures by the entity for the current biennium.

(d) After paying the fee, the political subdivisions may challenge the office about the accuracy of the data used to calculate the fee under (b) of this subsection. Upon verification by the state auditor, the fee may be revised and refund issued or additional fee assessed.

(e) Following the initial billing in each biennium, which will include the total amount due for the biennium beginning July 1, 2003, the office will mail invoices on a quarterly basis one month before the start of each quarter for the outstanding balance at that time. Payments shall be due within thirty calendar days after receipt of the invoice.

(4)(a) The following formula will be used to calculate the fees:

For the annual average of expenditures ranging from \$1m - \$50.99m, a sliding scale as follows: (\$1m - \$10m = \$100; \$11m - \$20m = \$150; \$21m - \$30m = \$200; \$31m - \$40m = \$250; \$41m - \$50m = \$300). For \$51m - \$99.99m, the formula will be the annual average of expenditures multiplied by .0001. At \$100m, a sliding scale resumes; beginning at \$10k and increasing in increments of \$5k for each additional \$100m in the annual average of expenditures; e.g., \$200m - \$299m = \$15k; \$300m - \$399m = \$20,000; etc. Fees will not be charged to any political subdivision with an average annual expenditure totaling less than \$1m during the period under review.

(b) The fee to Housing Authorities will be \$1 per low-income unit owned or managed during the last fiscal year.

(5) The office shall develop a policy and procedure for collection of any invoice that is not paid within thirty calendar days. The office shall distribute the collection policy and

procedure to all political subdivisions along with the initial and quarterly billings.

WSR 04-07-047

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed March 10, 2004, 9:28 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-10-079.

Title of Rule: Chapter 308-99 WAC, Vehicle reciprocity.

Purpose: 1. To meet the criteria set forth in Governor Locke's Executive Order 97-02.

2. To clarify rules and help make them more comprehensible.

Statutory Authority for Adoption: RCW 46.01.110.

Summary: WAC 308-99-020 Definitions, 308-99-040 Restrictions and conditions, and 308-99-060 Leased and rented vehicles.

Reasons Supporting Proposal: Meet criteria supporting Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: Katherine Iyall Vasquez, 1125 Washington Street S.E., Olympia, (360) 902-3718; Implementation and Enforcement: Deborah McCurley, 1125 Washington Street S.E., Olympia, (360) 902-3745.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rules set out definitions for vehicle reciprocity rules. Conditions are defined when vehicles properly registered in another state are exempt from Washington requirements. Special reciprocity conditions for rental and leased vehicles are provided.

The purpose of the rule is to allow those entitled to exemption to more easily attain one.

Proposal Changes the Following Existing Rules: Current rule language clarified to improve understanding. No significant changes are made.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on business in an industry.

RCW 34.05.328 does not apply to this rule adoption. The contents of the proposed rules clarifies language of a rule without changing its effect.

Hearing Location: Highways-Licenses Building, Conference Room 107, 1125 Washington Street S.E., Olympia, WA 98507, on April 29, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Katherine Iyall Vasquez by April 28, 2004, TTY (360) 664-8885 or (360) 902-3718.

Submit Written Comments to: Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by April 28, 2004.

PROPOSED

Date of Intended Adoption: May 25, 2004.

March 9, 2004

Katherine Vasquez
for Steve Borchowitz, Manager
Policy and Projects Office

AMENDATORY SECTION (Amending WSR 00-20-064, filed 10/3/00, effective 11/3/00)

WAC 308-99-020 Definitions. (1) **What is a resident?**

For the purposes of this section, a resident is a natural person who lives or shows intent to live in this state on more than a temporary or transient basis.

You will be ~~((presumed))~~ considered a resident if you meet ~~((any))~~ one of the following:

- (a) ~~((Become))~~ You are a registered voter in this state; or
- (b) ~~((Receiving))~~ You receive benefits under one of the Washington public assistance programs; or
- (c) ~~((Declaring that he or she is))~~ You declare that you are a resident for the purpose of obtaining a state license or tuition fees at resident rates.

A person may be a resident of this state even though the person has or claims residency or domicile in another state or intends to leave this state at some future time. A natural person will be ~~((presumed))~~ considered a resident if at least two of the following conditions are met:

- (i) ~~((Maintains))~~ You maintain a residence in this state for personal use;
- (ii) ~~((Has))~~ You have a Washington state driver's license or claim this state as a residence for obtaining Washington state hunting or fishing licenses;
- (iii) ~~((Uses))~~ You use a Washington state address for federal income tax or state ~~((income))~~ tax purposes;
- (iv) You have previously maintained a residence in this state for personal use and ~~((has))~~ have not established a permanent residence outside the state of Washington ~~((e.g.,))~~ for example, a person who retires and lives in a motor home or vessel which is not permanently attached to any property;
- (v) ~~((Claims))~~ You claim this state as residence for obtaining eligibility to hold a public office or for judicial actions;
- (vi) ~~((Claims this state as a residence for obtaining Washington state hunting or fishing licenses;~~
- (vii) ~~Receives tuition fees at resident rates in this state, unless the nonresident tuition fee differential is waived as a result of a state to state reciprocity program authorized under chapter 28B.15 RCW (College and university fees); or~~
- (viii) ~~Is))~~ You are a custodial parent with a child attending public schools in this state.

The department may consider factors other than those listed in this subsection to determine that a person intends to be located in and be a resident of this state ~~((and thus be a resident of this state, but such)).~~ However, the department may not consider those factors ~~((do not alone raise a presumption of))~~ alone to presume residency.

A ~~((corporation, trust or other entity created by a))~~ natural person who is a resident of Washington may not form a corporation, trust or other entity in another jurisdiction for the purpose of evading Washington vehicle registration ~~((shall be~~

~~deemed a resident of Washington for vehicle registration purposes)).~~

(2) **What are "military personnel"?** "Military personnel" means active duty members of the United States armed forces including the United States Coast Guard, commissioned officers of the public health service, personnel from National Oceanographic and Atmospheric Agency, and members of foreign military organizations assigned to this state on official duty. ~~((Coast guard personnel living in Washington and assigned to duty in the Portland area are also entitled to a nonresident military exemption.))~~

(3) **What is a "jurisdiction"?** "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or a state or province of a country.

(4) **What is "reciprocity"?** "Reciprocity" means an agreement with another jurisdiction granting mutual benefits, privileges, or exemptions from payment of vehicle registration fees. Reciprocity will only be extended to vehicles that are properly registered in another jurisdiction.

(5) **What is a "Washington public assistance program"?** "Washington public assistance program" is defined in RCW 46.16.028.

AMENDATORY SECTION (Amending WSR 03-04-092, filed 2/4/03, effective 3/7/03)

WAC 308-99-040 Restrictions and conditions. ~~((Is))~~ May a vehicle properly licensed or registered in another jurisdiction ~~((able to))~~ be operated in Washington without further registration requirements? Yes, as provided in RCW 46.85.060 and 46.85.080 the following conditions and restrictions apply:

(1) Nonresident students: The student must be in full-time attendance at ~~((an institution of higher learning))~~ a college or university in Washington accredited by the Northwest Association of Schools and Colleges or at a private vocational school as that term is defined by RCW 28C.10.020(7) and maintain their legal home of record at a location outside the state of Washington. ~~((Students))~~ Vehicles must be registered in ~~((their name))~~ the student's or in the name of their parent or legal guardian in the resident state of record. The student must carry ~~((in the vehicle,))~~ documentation issued by the ~~((institution))~~ college, university or vocational school that readily establishes the nonresident status. Employment incidental to the full-time student status is permitted. The spouse of a nonresident student has the same licensing privilege as long as the vehicle is registered to the student or jointly to the student and spouse, regardless of the spouse's legal residence or employment.

(2) Nonresident military personnel: Vehicles must be currently registered in the name of the military person at ~~((his/her))~~ their official home of record. A vehicle licensed at the last duty station may be operated until expiration of the registration at which time it must be licensed in the home of record or in Washington. The spouse of a nonresident military person has the same licensing privilege as long as the vehicle is registered to the military person or jointly to the military person and spouse, regardless of the spouse's legal residence or employment.

(3) Borrowed vehicle: A borrowed vehicle currently licensed in another jurisdiction may be operated by a Washington resident for a period not to exceed ten days in any one calendar year. If the period of use exceeds ten days the vehicle must be registered and licensed in Washington. This provision does not apply to business vehicles.

(4) Vehicles undergoing repairs: Commercial vehicles having a gross weight or combined gross weight of over 26,000 pounds and properly registered and licensed in another state or Canadian Province may enter Washington for purposes of repair under the following conditions:

(a) The vehicle must enter the state unladen and proceed immediately to the repair facility.

(b) The vehicle must immediately leave the state, unladen, upon completion of repairs.

(c) The vehicle cannot engage in any commercial activity while in Washington.

(d) The repair facility must be located within fifteen miles of the Washington border.

(e) While in Washington, the vehicle must carry the following documentation:

(i) An "out-of-state vehicle repair statement of fact." Blank forms are available from the department of licensing internet site at www.gov.wa/dol.

(ii) A copy of the vehicle repair work order issued by the repair facility before the vehicle enters Washington.

(f) The repair facility must maintain a copy of the "out-of-state vehicle repair statement of fact" and vehicle repair work order for a period of five years. The repair facility must make the forms available for inspection by state agency representatives.

AMENDATORY SECTION (Amending WSR 00-20-064, filed 10/3/00, effective 11/3/00)

WAC 308-99-060 Reciprocity for leased and rented vehicles. If there is no agreement or arrangement to the contrary, are rental or leased vehicles eligible for vehicle license reciprocity in the state of Washington? No, except for the classes of vehicles and circumstances indicated below:

(1) Passenger cars and motor homes currently (~~and properly~~) registered in another jurisdiction will be granted vehicle license reciprocity in this state if:

(a) The vehicle was rented by the vehicle operator from a location outside of the state of Washington;

(b) The vehicle was dropped off in Washington by the previous renter and is being rented for a one-way trip out of Washington; or

(c) The vehicle is registered under the provisions of Article XI, Section 1116 of the International Registration Plan.

(2) Trailers and semi-trailers with a gross vehicle weight in excess of 6,000 pounds, trucks, truck tractors, tractors, and road tractors that are currently (~~and properly~~) registered in other jurisdictions will be granted vehicle license reciprocity in this state if:

(a) The vehicle is rented from a location within another jurisdiction; and

(b) The vehicle registration certificate (cab card) or a photo copy (~~thereof~~) and a copy of the rental agreement is

carried in the rental vehicle or in the vehicle providing the motive power for a combination of vehicles.

WSR 04-07-051

WITHDRAWAL OF PROPOSED RULES GAMBLING COMMISSION

[Filed March 11, 2004, 10:56 a.m.]

On August 20, 2003, our agency filed a CR-102 under WSR 03-17-102. On January 28, 2004, a CR-102 continuance was filed under WSR 04-04-036, in the anticipation that the proposal would be held over for further discussion, after the original CR-102 expired. However, before the original CR-102 expired, the commission adopted the rule change. Therefore, we are requesting that the CR-102 continuance be withdrawn.

Susan Arland
Rules Coordinator and
Public Information Officer

WSR 04-07-081

WITHDRAWAL OF PROPOSED RULES STATE BOARD OF EDUCATION

(By the Code Reviser's Office)

[Filed March 16, 2004, 8:00 a.m.]

WAC 180-46-005, 180-46-010, 180-46-015, 180-46-020, 180-46-025, 180-46-030, 180-46-035, 180-46-040, 180-46-045, 180-46-050, 180-46-055 and 180-46-065, proposed by the State Board of Education in WSR 03-18-061 appearing in issue 03-18 of the State Register, which was distributed on September 17, 2003, 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 04-07-082

WITHDRAWAL OF PROPOSED RULES BUILDING CODE COUNCIL

(By the Code Reviser's Office)

[Filed March 16, 2004, 8:00 a.m.]

WAC 51-11-0602, 51-11-1006, 51-11-1132, 51-11-1310, 51-11-1312, 51-11-1322, 51-11-1323, 51-11-1331, 51-11-1334, 51-11-1411, 51-11-1413, 51-11-1414, 51-11-1416, 51-11-1423, 51-11-1432, 51-11-1433, 51-11-1436, 51-11-1437, 51-11-1440, 51-11-1454, 51-11-1513 and 51-11-1521, proposed by the Building Code Council in WSR 03-18-073 appearing in issue 03-18 of the State Register, which was distributed on September 17, 2003, 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 04-07-083

**WITHDRAWAL OF PROPOSED RULES
BUILDING CODE COUNCIL**

(By the Code Reviser's Office)

[Filed March 16, 2004, 8:00 a.m.]

WAC 51-51-2439 and 51-51-2802, proposed by the Building Code Council in WSR 03-18-077 appearing in issue 03-18 of the State Register, which was distributed on September 17, 2003, 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 04-07-084

**WITHDRAWAL OF PROPOSED RULES
BUILDING CODE COUNCIL**

(By the Code Reviser's Office)

[Filed March 16, 2004, 8:00 a.m.]

WAC 51-52-0504, proposed by the Building Code Council in WSR 03-18-078 appearing in issue 03-18 of the State Register, which was distributed on September 17, 2003, 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 04-07-089

**PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed March 16, 2004, 10:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-13-044 on June 11, 2003.

Title of Rule: Amending WAC 388-273-0025 Benefits you receive as a WTAP participant, 388-273-0030 How you can apply for WTAP, and 388-273-0035 What we reimburse the local telephone company.

Purpose: These rule changes are necessary to limit reimbursements to telephone companies in order to keep the Washington telephone assistance program (WTAP) fund within budget and to add community service voice mail

(CSVM) as a WTAP benefit as mandated by the 2003 legislative session, chapter 134, Laws of 2003.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 80.36.440.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, chapter 80.36 RCW, chapter 134, Laws of 2003.

Summary: These changes clarify the WTAP payment limit for reimbursable services; streamline billing procedures for the WTAP program; and add community service voice mail (CSVM) as a WTAP benefit.

Reasons Supporting Proposal: Since limiting the reimbursement levels by emergency rule on June 1, 2003, the fund has stabilized and monthly expenditures no longer exceed monthly revenues.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Ebben, 1009 College S.E., Lacey, WA 98504, (360) 413-3096.

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 Title of Rule, Purpose, Summary, and Reasons Supporting Proposal above.

Proposal Changes the Following Existing Rules: See Title of Rule, Purpose, Summary, and Reasons Supporting Proposal 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 04-08 issue of the Register.

A copy of the statement may be obtained by writing to Steve Ebben, Policy Analyst, Economic Services Administration, Division of Employment and Assistance Programs, Mailstop 45470, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 413-3096, fax (360) 413-3493.

RCW 34.05.328 applies to this rule adoption. These amendments meet the definition of significant legislative rules. A small business economic impact statement, which contains a cost benefit analysis, has been completed, and may be obtained from the person listed above.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on May 11, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 7, 2004, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaa@dsht.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaa@dsht.wa.gov, by 5:00 p.m., May 11, 2004.

Date of Intended Adoption: Not earlier than May 12, 2004.

March 12, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 04-08 issue of the Register.

WSR 04-07-092

PROPOSED RULES

DEPARTMENT OF TRANSPORTATION

[Filed March 16, 2004, 10:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-03-011.

Title of Rule: WAC 468-310-020 Contents of standard prequalification questionnaire and financial statement and 468-310-050 Classification and capacity rating.

Purpose: To implement the statutory direction to revise the financial prequalification rules for Washington state ferries' (WSF) design/build partnership for the construction of new auto ferries.

Statutory Authority for Adoption: RCW 47.60.816.

Statute Being Implemented: RCW 47.60.816.

Summary: RCW 47.60.810 et seq. authorizes the Washington State Department of Transportation to procure new auto ferries under a modified request for proposals process. RCW 47.60.816 states, in part: "The department shall modify the financial prequalification rules in chapter 468-310 WAC in order to maximize competition among otherwise qualified proposers." The proposed rule revisions are intended to implement such statutory direction.

Reasons Supporting Proposal: To implement the rule revisions required by the governing project statute for the new auto ferries, RCW 47.60.816.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Tim P. McGuigan, 2911 Second Avenue, Seattle, WA 98121-1012, (206) 515-3601.

Name of Proponent: Washington State Department of Transportation, Washington State Ferries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Purpose: The purpose of the rule is to implement the authorizing statute's direction to modify the financial prequalification rules in chapter 468-310 WAC to maximize competition for the partnership to design/build new auto ferries.

Effect: The intended effect is to maximize competition among qualified proposers for the new auto ferries project.

No other effects are anticipated. The rule revision is project specific.

Proposal Changes the Following Existing Rules: The rule revision in WAC 468-310-020 is a short phrase that refers to the new exception in WAC 468-310-050(8). See below.

The rule revision in WAC 468-310-050(7) modifies the financial prequalification requirements for the new ferries project to maximize competition. The revised rules allow prequalification applicants to submit evidence (e.g., a letter from a bank or surety co.) that they will have the ability to obtain contract security in the amount of \$13,000,000 if awarded the contract. This is less restrictive than the current prequalification rule which limits the prequalification capacity rating to ten times net worth subject to providing three years of audited financial statements.

The rule revision in WAC 468-310-050(8) reduces the number of audited financial statements required for project prequalification, from three years of audited financial statements (per WAC 468-310-020) to one year plus two annual financial statements (i.e., unaudited) for two more years in the past three years.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Washington State Ferries has reviewed RCW 19.85.030 and determined that the proposed rule does not impose more than minor costs on businesses in an industry. Only those businesses choosing to seek prequalification on the 2003 ferry procurement are covered by the proposed rule. The rule does not impose additional regulatory, reporting, recordkeeping, compliance, or additional professional services costs.

Further, the proposed rule will modify the financial prequalification criteria for the new auto ferries project only, making it less restrictive, and thus increase (not decrease) competition among qualified shipyards. There is no adverse impact or cost to the affected shipyards resulting from the proposed rule.

RCW 34.05.328 does not apply to this rule adoption. The proposed rule does not fit within the requirements of RCW 34.05.328.

Hearing Location: Henry M. Jackson Federal Building, 915 Second Avenue, 28th Floor, Olympic Room No. 2886, Seattle, WA, on April 27, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Washington State Ferries by April 26, 2004, TDD (206) 515-3600 or (206) 515-3601.

Submit Written Comments to: Tim P. McGuigan, Washington State Ferries' Director, Legal Services and Contracts, 2911 Second Avenue, Seattle, WA 98121-1012, fax (206) 515-3605, by April 26, 2004.

Date of Intended Adoption: April 27, 2004.

March 4, 2004

Mike Thorne

Director/CEO

Washington State Ferries

AMENDATORY SECTION (Amending Order 189, filed 1/11/99, effective 2/11/99)

WAC 468-310-020 Contents of standard prequalification questionnaire and financial statement. The standard prequalification questionnaire and financial statement shall be transmitted to the director of Washington state ferries. The contractor shall provide the following information:

(1) The name, address, phone number, contractor registration number and type of organization (corporation, copart-

nership, individual, etc.) of the contractor seeking prequalification.

(2) The contract size in dollars and the class or classes of work for which the contractor seeks prequalification (such as vessel dry-docking and hull repairs, vessel electrical repairs, etc.) as enumerated in WAC 468-310-050(6).

(3) Ownership of the contractor and if a corporation, the name of the parent corporation (if any) and any affiliated companies or subsidiaries.

(4) An accurate and complete record of the fifteen largest contracts in excess of ten thousand dollars performed by the contractor in whole or in part within the preceding three years both in Washington and elsewhere, including subcontracts, giving the contract amount, the date completed, the class of work, the name, address and phone number of the owner/agency representative, and any liquidated damages assessed against the contractor by an owner arising out of the performance of the contract.

(5) The principal officers and key employees showing the number of years each engaged in the class or classes of work for which the contractor seeks prequalification. The department may require resumes of such personnel as deemed proper for making its determination.

(6) Except as otherwise provided in WAC 468-310-050(8), a contractor requesting prequalification certification to perform work in excess of ten million dollars shall submit copies of its audited annual statements for the previous three years as audited by an independent certified public accountant which shall include comparative balance sheets and income statements, a statement of retained earnings, supporting schedules and notes attached thereto, and the opinion of the independent auditor. The financial statement shall not be more than twelve months old when submitted. Any wholly owned subsidiary corporation may file the latest consolidated financial statement of its parent corporation in lieu of a financial statement prepared solely for such subsidiary providing the financial statement otherwise meets the requirements of the preceding two sentences. If a consolidated financial statement is filed on behalf of a subsidiary corporation, a bid of the subsidiary corporation will be considered only if there is on file with the department a letter from the parent corporation guaranteeing performance by the subsidiary corporation of its contract with the department of transportation in an amount at least equal to the amount of the bid. A letter of guarantee by a parent corporation may cover a specific contract bid by its subsidiary or all contracts bid by its subsidiary within a stated period of time.

(7) A list of all major items of equipment to be used in those classes of work for which prequalification certification is requested including the original cost, age, location and condition of such equipment. The schedule shall show whether the equipment is owned, leased or rented. All major items of useful equipment should be listed even though fully depreciated but no obsolete or useless equipment should be included. In the event the contractor seeks prequalification certification to perform work on ferry vessels, the schedule shall also describe plant facilities of the contractor including shipyards, dry docks, repair facilities and other plant facilities.

(8) Such other information as may be required by the prequalification questionnaire.

AMENDATORY SECTION (Amending Order 189, filed 1/11/99, effective 2/11/99)

WAC 468-310-050 Classification and capacity rating. (1) Each contractor seeking prequalification under these rules will be classified for one or more of the classes of work listed in subsection 8 of this section and will be given a maximum capacity rating in accordance with its financial ability, the adequacy of its equipment and plant facilities to perform the class or classes of work for which it has sought prequalification, the extent of the contractor's experience in performing contracts of the class or classes for which prequalification is sought, and the adequacy of the experience and capability of the contractor's officers and key employees in performing contracts of the class or classes for which prequalification is sought. The maximum capacity rating will limit the quantity of uncompleted work which the contractor shall have under contract at any one time either as a prime contractor or a subcontractor.

(2) Except as provided in subsection (7) of this section, the maximum capacity rating for a contractor applying for a rating in excess of fifty thousand dollars will be ten times the contractor's net worth as set forth in the standard prequalification questionnaire and financial statement. A properly executed letter of credit from an acceptable financial institution may be considered as an asset increasing the contractor's maximum capacity rating by the amount of the credit, but without the use of a multiplier. The maximum capacity rating for a contractor not submitting an audited financial statement as provided in WAC 468-310-020(6) will be ten million dollars: Provided, That in all cases the contractor's maximum capacity rating may be reduced to an amount considered by the department to be within the contractor's actual capacity based upon its organization, personnel, equipment and plant, and experience.

(3) Consideration will be given to raising, by an amount not to exceed 50 percent, the maximum capacity rating of a contractor who qualifies with respect to actual capacity based upon organization, personnel, equipment and plant facilities, and experience, upon receipt of evidence of a current bonding capacity of such additional amount with a corporate surety. Such evidence shall be in the form of a letter of commitment executed by an officer of the surety who is authorized to bind the surety. Notwithstanding the provisions of this subsection, the maximum capacity rating for a contractor not submitting an audited financial statement as provided in WAC 468-310-020(6) will be ten million dollars.

(4) The certificate of prequalification issued by the department will establish a contractor's maximum capacity rating which will be subject to reduction by the total value of its current uncompleted work regardless of its location and with whom it may be contracted to determine the contractor's bidding capacity at the particular time.

(5) Notwithstanding the provisions of this section, a contractor will be allowed to submit a bid for an amount up to \$50,000 on a class or classes of work for which it is prequalified without regard to any financial maximum capacity rat-

ing or financial current capacity rating: Provided, That the contractor's current capacity may be reduced to an amount considered by the department to be within the contractor's actual capacity based upon its organization, personnel, equipment and plant facilities, and experience.

(6)(a) Construction, repair and maintenance work on ferry vessels for which prequalification certification under these rules may be granted are classified as follows:

- Class 81 Vessel construction and renovation;
- Class 82 Dry-docking and hull repairs;
- Class 83 Vessel metal fabrication repairs;
- Class 84 Vessel electrical repairs;
- Class 85 Vessel miscellaneous repairs;

(b) A contractor currently prequalified under RCW 47.28.070 to perform those classes of work required in the construction, improvement and repair of ferry terminal facilities will initially be deemed prequalified under these rules to perform such classes of work with the same capacity rating as approved by the department for highway related work.

(7) Notwithstanding the provisions of this section, proposers who wish to prequalify for the department's construction of new 130-auto ferries, pursuant to the department's 2003 request for proposals, must submit evidence of their ability, if awarded the contract, to obtain contract security in the amount of thirteen million dollars. The department estimates such amount to be adequate to protect one hundred percent of the department's estimated exposure to loss on the vessel construction contract, as calculated by the department prior to issuance of the request for proposals. Such amount shall be specified in the project request for proposals and is subject to modification by addendum during the request for proposals process. The actual contract security amount for the project construction contract will be a percentage of the successful proposer's total bid price. Such percentage shall be specified in the construction contract within the request for proposals. For the new 130-auto ferries contract, this provision applies in lieu of the maximum capacity rating formula specified in subsection (2) of this section.

(8) Notwithstanding the provisions of this section or WAC 468-310-020, proposers who wish to prequalify for the department's construction of new 130-auto ferries, pursuant to the department's 2003 request for proposals, shall, in addition to the evidence of contract security required in subsection (7) of this section, submit an audited financial statement for at least one year in the previous three years, plus annual financial statements for two additional years in the previous three years. The audited financial statement shall be performed by an independent certified public accountant which shall include comparative balance sheets and income statements, a statement of retained earnings, supporting schedules and notes attached thereto, and the opinion of the independent auditor. The form and quantity of financial statements shall be specified in the project request for proposals and is subject to modification by addendum during the request for proposals process. For the new 130-auto ferries contract, this provision applies in lieu of the quantity of audited financial statements specified in WAC 468-310-020.

WSR 04-07-093

PROPOSED RULES

STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

[Filed March 16, 2004, 3:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-01-146.

Title of Rule: Tuition charges for certain ungraded courses.

Purpose: Chapter 28B.50 RCW provides that the State Board for Community and Technical Colleges is responsible for establishing the fees charged for certain ungraded courses. The proposed changes clarify the definition of ungraded courses, modify the fee waiver and provide for college flexibility within certain parameters related to apprentice programs, and provide for the state board to set annually the fee to be charged for certain basic skills enrollments.

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

Statute Being Implemented: Section 603, chapter 371, Laws of 2002.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mary Alice Grobins, 319 S.E. 7th Avenue, Olympia, WA 98504-2495, (360) 704-4381.

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: This rule describes the ungraded classification of courses and sets the fees associated with these courses.

Proposal Changes the Following Existing Rules: This rule change: (1) Provides for a reduced waiver of fees and provides colleges more flexibility in establishing tuition waiver levels for apprentice programs and (2) provides for the annual setting of fees for basic skills programs including adult basic education, English as a second language and GED preparation. The proposed changes are intended to reduce the total tuition waived for ungraded courses and to establish a minimum fee for those enrolling in basic skills programs. Clarifies the definition of ungraded courses.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Yakima Valley Community College, P.O. Box 22520, 16th Avenue and Nob Hill Boulevard, Yakima, WA 98907, on May 6, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Del-Rae Oderman by April 30, 2004, fax (360) 586-6440.

Submit Written Comments to: Mary Alice Grobins, P.O. Box 42495, Olympia, WA 98504-2495, fax (360) 586-4610, by April 30, 2004.

Date of Intended Adoption: May 6, 2004.

March 16, 2004
DelRae Oderman
Executive Assistant
Agency Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-19-050, filed 9/10/03, effective 10/11/03)

WAC 131-28-026 Tuition charges for certain ungraded courses. (1) The state board shall designate ungraded courses. These courses may be offered at tuition rates that differ from the standard rates set by WAC 131-28-025. Ungraded shall mean courses not categorized by level of instruction and may be assigned degree credit or letter grades.

(2) Ungraded courses shall meet the following qualifications:

(a) ~~((The primary intent of offering the course is other than providing academic credit applicable to an associate or higher degree.~~

(b)) The course has a specialized purpose in that it is intended to meet the unique educational needs of a specific category or group of students.

((c)) (b) The course is offered for the purpose of providing the individual student with a discrete skill or basic body of knowledge ~~((other than))~~ that is intended to ~~((lead to initial employment))~~ enhance potential for initial or continued employment, parenting skills or retirement.

((d)) (c) The course cannot be administered as a contract course pursuant to WAC 131-28-027, 131-32-010, or 131-32-020.

~~((e) The course is not offered primarily as an integral part of any lower division curriculum or program.~~

(f)) (d) The course is not one specifically or primarily intended to satisfy requirements for receiving a high school diploma.

(3) Colleges may establish the amount of waiver for the following ungraded courses:

- (a) Farm management and small business management;
- (b) Emergency medical technician and paramedic continuing education;
- (c) Retirement;
- (d) Industrial first aid offered to satisfy WISHA and approved by the department of labor and industries;
- (e) Journeyperson training in cooperation with joint apprenticeship and training committees.

(4) The waiver amounts for the following ungraded courses shall conform with the following schedule:

(a) Adult basic education, English as a second language, GED preparation: ~~((No charge.))~~ An amount to be established by the state board.

(b) Parent education involving a cooperative preschool program: Eighty-five percent reduction from the standard per credit tuition and services activities fee charge.

(c) Courses offered for the purpose of satisfying related or supplemental educational requirements for apprentices ~~((indentured))~~ registered with the Washington state apprenticeship council or federal Bureau of Apprenticeship and Training: ~~((Two-thirds reduction from the standard per credit~~

~~tuition and services and activities fee charge.))~~ A college may waive up to one-half of the standard per credit tuition and services and activities fee. The college may convert the credit hour charge to a rounded amount per clock hour. Colleges may not deduct the tuition owed from training contract with apprentice organizations.

(5) Students taking both regular and ungraded courses will be charged separately for the courses.

(6) Application of this section shall be subject to administrative procedures established by the state director with respect to maximum credit values of such ungraded courses, curriculum, or any unique circumstances related to enrollment in such courses.

(7) Ungraded course fees received pursuant to this section shall be accounted for and deposited in local community college operating fee accounts established in RCW 28B.15-031.

(8) Ungraded course fees may be paid by the sponsoring entity rather than an individual student.

**WSR 04-07-095
PROPOSED RULES
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES**

[Filed March 16, 2004, 3:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-03-032.

Title of Rule: Exceptional faculty awards trust funds.

Purpose: Revision to existing rules related to this program required by passage of EHB 1403 by the 2003 legislature.

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

Statute Being Implemented: Section 603, chapter 371, Laws of 2002.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Bill Moore, 319 7th Avenue S.E., Olympia, WA 98504, (360) 704-4346; Implementation and Enforcement: Jan Yoshiwara, 319 7th Avenue S.E., Olympia, WA 98504, (360) 704-4353.

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: Revision to existing rules related to this program is required by the passage of EHB 1403 by 2003 legislature. The program has been changed in two ways: (a) The amount of matching grant fund increments has been reduced from \$25,000 to \$10,000, and (b) the biennial grant award limit of \$100,000 has been removed.

Proposal Changes the Following Existing Rules: Revision to existing rules related to the exceptional faculty award trust funds required by passage of EHB 1403 by the 2003 legislature.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Yakima Valley Community College, P.O. Box 22520, 16th Avenue and Nob Hill Boulevard, Yakima, WA 98907, on May 6, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact DelRae Oderman by April 30, 2004, fax (360) 586-6440.

Submit Written Comments to: Jan Yoshiwara, State Board for Community and Technical Colleges, P.O. Box 42495, Olympia, WA 98504-2495, fax (360) 586-0050, by April 30, 2004.

Date of Intended Adoption: May 6, 2004.

March 15, 2004
DelRae Oderman
Executive Assistant
Agency Rules Coordinator

AMENDATORY SECTION (Amending WSR 00-20-039, filed 9/28/00, effective 10/29/00)

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 or its foundation 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 or its foundation endowment fund shall be contingent upon certification by the college that no less than ~~((twenty-five))~~ ten thousand dollars of matching cash donations from private sources has been deposited in the college endowment fund.

(c) ~~((Grants to an individual college or its foundation shall not exceed: Four grants to each college, in any single biennium.~~

(d)) Award of requested grants to a college or its foundation 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 the rules of the state board for community and technical colleges and RCW 28B.50.835 through 28B.50.844. Further, if grant requests exceed available funds, the state board for community and technical college shall select the recipients.

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

~~((f))~~ (e) Each college shall establish procedures by which awards may be named in honor of a donor, benefactor, or honoree; may designate the use of funds to individuals, groups, or for the improvement of the faculty as a whole; and may renew or redesignate the award annually.

~~((g))~~ (f) At the end of each fiscal year, the state board for community and technical colleges will request an accounting from each of the participating colleges to include the amount of contributed endowment funds, their earnings,

type of investments, and uses made during the previous fiscal year.

~~((h))~~ (g) 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))~~ (h) Only individuals, groups, or the faculty as a whole, who hold 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 college endowment fund shall be subject to the following limitations:

The proceeds from the endowment fund shall be used to pay expenses for faculty awards, which may include faculty development activities, 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.

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

WSR 04-07-103
PROPOSED RULES
GAMBLING COMMISSION
[Filed March 17, 2004, 12:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-23-138.

Title of Rule: Promotions, WAC 230-12-045 Promotions for gambling activities—Conditions—Restrictions.

Purpose: Streamline.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

Summary: The amendment is not intended to change current requirements under the rule, it was rewritten to make it clearer and easier to understand.

Reasons Supporting Proposal: See Purpose above.

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

Name of Proponent: Staff, governmental.

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

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

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2); therefore, a small business economic impact statement is not required.

RCW 34.05.328 does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000, on May 14, 2004, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Shirley Corbett by May 1, 2004, TDD (360) 486-3637 or (360) 486-3447.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, fax (360) 486-3625, by May 1, 2004.

Date of Intended Adoption: May 14, 2004.

March 16, 2004

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 413, filed 5/16/02, effective 7/1/02)

~~WAC 230-12-045 **Gambling promotions** ((for gambling activities—Conditions—Restrictions)). (Licensees may conduct promotions connected with authorized gambling activities under the following conditions and restrictions:~~

Definitions.

~~(1) **Gambling promotions** are directly connected to a gambling activity. A promotion may offer cash, merchandise, and/or discounted coupons to encourage a player to begin or continue play in a gambling activity.~~

~~(2) **Promotional contests of chance** are defined in RCW 9.46.0356. These contests are designed for a business to advertise or promote its goods, wares, merchandise, or services. These contests must be open to all customers and there must always be a free method of entry.~~

Conditions.

~~(3) The following conditions apply to promotions:~~

~~(a) All players must have an equal opportunity to participate;~~

~~(b) A promotion may provide an initial opportunity to engage in a gambling activity for free or at a discount; and~~

~~(c) All rules or restrictions governing the promotions shall be conspicuously displayed in the gaming area and referred to on any promotional coupon or advertisement.~~

Restrictions.

~~(4) The following restrictions apply to promotions:~~

~~(a) Any promotion offered to an individual player shall not exceed five hundred dollars in actual cost, per item;~~

~~(b) Promotions shall not consist of schemes in which the prize or end result is an additional opportunity to engage in a gambling activity regulated by the Washington state gambling commission; and~~

~~(c) Gambling activities and related promotions shall not be combined in any way with promotional contests of chance, as defined in RCW 9.46.0356.) Licensees may conduct gambling promotions to encourage players to participate in a~~

gambling activity under the following conditions and restrictions:

(1) The following conditions apply:

(a) All players must have an equal opportunity to participate;

(b) Licensee must establish criteria to determine how promotional items will be distributed to players. The criteria must not include distribution based on an element of chance, such as a drawing or spinning wheel, except as authorized under WAC 230-20-242.

(c) All rules or restrictions must be conspicuously displayed in the gaming area and included on promotional materials or advertisements.

(2) The following restrictions apply:

(a) Promotional items must not exceed a cost of five hundred dollars per item;

(b) Promotional items awarded based on the outcome of a gambling activity must not be an additional opportunity to engage in a gambling activity regulated by the commission;

(c) Gambling activities and related gambling promotions must not be combined in any way with a promotional contest of chance, as defined in RCW 9.46.0356.

WSR 04-07-121
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed March 19, 2004, 12:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-04-100.

Title of Rule: Workers' compensation classification plan, chapter 296-17 WAC, General reporting rules, classifications, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance.

Purpose: The department is amending the definition of occupational disease as defined in WAC 296-17-870 as a result of requests from external customers.

Statutory Authority for Adoption: RCW 51.04.020 General authority, 51.16.035 Classification plan/base rate.

Statute Being Implemented: RCW 51.16.035.

Summary: Amend one experience rating rule relating to the definition of occupational disease defined in WAC 296-17-870.

Reasons Supporting Proposal: RCW 51.16.035 requires that the department maintain actuarial solvency of the industrial insurance (workers' compensation) funds and maintain a classification plan. The department has received requests from external customers to amend the definition of occupational disease as defined in WAC 296-17-870.

Name of Agency Personnel Responsible for Drafting: Ken Woehl, Tumwater, Washington, (360) 902-4775; Implementation: Kathy Kimbel, Tumwater, Washington, (360) 902-4739; and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The department is required by RCW 51.16.035 to establish and maintain a workers' compensation insurance classification plan that classifies all occupations or industries within the state, and to set basic rates of premium for all classifications. The department proposes to revise one experience rating rule to amend the definition of occupational disease as contained in WAC 296-17-870. This change is a request from external customers to amend the definition of occupational disease as it relates to experience rating of a business.

Proposal Changes the Following Existing Rules: The department proposes to amend one experience rating rule that defines the definition of occupational disease as contained in WAC 296-17-870.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Regulatory Fairness Act (RFA), chapter 19.85 RCW, requires that the economic impact of proposed regulations be analyzed in relation to small business, and outlines the information that must be included in a small business economic impact statement (SBEIS). Preparation of an SBEIS is required when a proposed rule has the potential of placing a more than minor economic impact on business.

However, since the proposed rule would not place a more than minor economic impact on business, the preparation of a comprehensive SBEIS is not required.

RCW 34.05.328 does not apply to this rule adoption. RCW 51.16.035 requires the Department of Labor and Industries to establish a classification plan to include general reporting rules, risk classification definitions, and premium rates for all classifications in accordance with recognized principles of insurance.

The rule is significant under RCW 34.05.328, however, this rule is exempt from the significant rule-making criteria because RCW 34.05.328 (5)(b)(vi) establishes that rules that set or adjust fees or rates pursuant to legislative standards are exempt from the criteria outlined in RCW 34.05.328.

Hearing Location: Tumwater Labor and Industries Office, 7273 Linderson Way S.W., Room S119, Tumwater, WA 98504-4851, on April 27, 2004, at 8 a.m.

Assistance for Persons with Disabilities: Contact Office of Information and Assistance by April 27, 2004, TDD (360) 902-5797.

Submit Written Comments to: Department of Labor and Industries, Ken Woehl, Classification Services Section, P.O. Box 44148, Olympia, WA 98504-4148, or e-mail to WOEH235@lni.wa.gov or fax (360) 902-4729, by April 27, 2004.

Date of Intended Adoption: April 30, 2004.

March 19, 2004

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 03-24-066, filed 12/1/03, effective 1/1/04)

WAC 296-17-870 Evaluation of actual losses. Except as provided in the following subsections of this paragraph, actual losses shall include all payments as of the "valuation date" for each claim arising from an accident occurring during the experience period. Losses for claims open as of the valuation date may also include a reserve for future payments. Actual losses on claims for accidents occurring outside of the experience period shall not be included.

(1) **Valuation date.** The valuation date shall be on and include December 31, one year and one day immediately preceding the effective date of premium rates as set forth in WAC 296-17-895. For experience modifications effective January 1, 1990, and thereafter, the valuation date shall be June 1, seven months immediately preceding the effective date of premium rates.

(2) **Retroactive adjustments - revision of losses between valuation dates.** No claim value shall be revised between valuation dates and no retroactive adjustment of an experience modification shall be made because of disputation concerning the judgment of the claims examiner or because of subsequent developments except as specifically provided in the following cases:

(a) In cases where loss values are included or excluded through mistake other than error of judgment.

(b) In cases where a third party recovery is made, subject to subsection (4)(a) of this section.

(c) In cases where the claim qualifies as a second injury claim under the provisions of RCW 51.16.120.

(d) In cases where a claim, which was previously evaluated as a compensable claim, is closed and is determined to be noncompensable (ineligible for benefits other than medical treatment).

(e) In cases where a claim is closed and is determined to be ineligible for any benefits.

In the above specified cases retroactive adjustment of the experience modification shall be made for each rating in which the claim was included. Retroactive adjustments will not be made for rating periods more than ten years prior to the date on which the claim status was changed.

(3) **Average death value.** Each fatality occurring to a worker included within the mandatory or elective coverage of Title 51 RCW shall be assigned the "average death value." The "average death value" shall be the average incurred cost for all such fatalities occurring during the experience period. The average death value is set forth in WAC 296-17-880 (Table II).

(4) **Third-party recovery - effect on experience modification.**

(a) For claims with injury dates prior to July 1, 1994, a potential claim cost recovery from action against a third party, either by the injured worker or by the department, shall not be considered in the evaluation of actual losses until such time as the third-party action has been completed. If a third-party recovery is made after a claim had previously been used in an experience modification calculation, the experience modification shall be retroactively adjusted. The department shall compute a percentage recovery by dividing the current valuation of the claim into the amount recovered or recover-

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able as of the recovery date, and shall reduce both primary and excess losses previously used in the experience modification calculation by that percentage.

(b) For claims with injury dates on or after July 1, 1994, if the department determines that there is a reasonable potential of recovery from an action against a third party, both primary and excess values of the claim shall be reduced by fifty percent for purposes of experience modification calculation, until such time as the third-party action has been completed. This calculation shall not be retroactively adjusted, regardless of the final outcome of the third-party action. After a third-party recovery is made, the actual percentage recovery shall be applied to future experience modification calculations.

(c) For third-party actions completed before July 1, 1996, the claim shall be credited with the department's net share of the recovery, after deducting attorney fees and costs. For third-party actions completed on or after July 1, 1996, the claim shall be credited with the department's gross share of the recovery, before deducting attorney fees and costs.

(d) Definitions:

(i) As used in this section, "recovery date" means the date the money is received at the department or the date the order confirming the distribution of the recovery becomes final, whichever comes first.

(ii) As used in this section, "recoverable" means any amount due as of the recovery date and/or any amount available to offset case reserved future benefits.

(5) **Second injury claims.** The primary and excess values of any claim which becomes eligible for second injury relief under the provisions of RCW 51.16.120, as now or hereafter amended, shall be reduced by the percentage of relief granted.

(6) **Occupational disease claims.** When a claim results from an employee's exposure to an occupational disease hazard, the "date of injury," for the purpose of experience rating, will be the date the disability was diagnosed and that gave rise to the filing of a claim for benefits. ~~((The cost of a claim for occupational disease will be prorated among the state fund employers who contributed to the condition. All exposure associated with nonstate fund employers will be excluded from the pro rata calculation. To determine the percentage of liability that an employer is responsible for, the department will divide the amount of time the employee worked for the employer that exposed the employee to the hazard by the total length of state fund employment attributable to the occupational disease hazard.~~

~~State fund employers will be charged their pro rata share of an occupational disease claim when:~~

~~• They exposed the worker to the hazard that gave rise to the occupational disease;~~

~~• Responsible for at least ten percent of the state fund injurious exposure; and~~

~~• The injurious exposure falls within the experience rating period.))~~ The cost of any occupational disease claim, paid from the accident fund and medical aid fund and arising from exposure to the disease hazard under two or more employers, shall be prorated to each period of employment involving exposure to the hazard. Each insured employer who had employed the claimant during the experience period, and for

at least ten percent of the claimant's exposure to the hazard, shall be charged for his/her share of the claim based upon the prorated costs.

(7) **Maximum claim value.** No claim shall enter an employer's experience record at a value greater than the "maximum claim value." The maximum claim value is set forth in WAC 296-17-880 (Table II).

(8) **Catastrophic losses.** Whenever a single accident results in the deaths or total permanent disability of three or more workers employed by the same employer, costs charged to the employer's experience shall be limited as required by RCW 51.16.130.

(9) **Acts of terrorism.** Whenever any worker insured with the state fund sustains an injury or occupational disease as a result of an incident certified to be an act of terrorism under the U.S. Terrorism Risk Insurance Act of 2002, the costs of the resulting claim shall be excluded from the experience rating computation of the worker's employer.

(10) **Claims filed by preferred workers.** The costs of subsequent claims filed by certified preferred workers will not be included in experience calculations, as provided in WAC 296-16-010.

WSR 04-07-122
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed March 19, 2004, 12:50 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-04-098.

Title of Rule: Workers' compensation classification plan, chapter 296-17 WAC, General reporting rules, classifications, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance.

Purpose: Agency proposes to revise the general reporting rules and classification plan applicable to chapter 296-17 WAC for workers' compensation insurance, underwritten by the Department of Labor and Industries. Specifically, to amend one general reporting rule, establish one new risk classification definition rule and amend one base rate table.

Statutory Authority for Adoption: RCW 51.04.020 General authority, 51.16.035 Classification plan/base rate.

Statute Being Implemented: RCW 51.16.035.

Summary: Proposal establishes modifications to the general reporting rules, classification definitions, and rating table as contained in the workers' compensation classification plan to include:

Amend general reporting rules, WAC 296-17-31013 Construction industry rule, clarify construction debris clean-up and erection of scaffolding.

Amend rating rules, WAC 296-17-895 Base rate table, establish new rate for classification 5302 - computer service business.

New risk classification rules, WAC 296-17-67701 Classification 5302, establish new risk classification for computer service businesses.

Reasons Supporting Proposal: RCW 51.16.035 requires that the department maintain actuarial solvency of the industrial insurance (workers' compensation) funds and maintain a classification plan. Adjustments to the classification and rating plan reflect changes in Washington industries. Revisions to the general reporting rules and risk classification definitions are being amended to provide greater detail and clarity to the rules.

Name of Agency Personnel Responsible for Drafting: Ken Woehl, Tumwater, Washington, (360) 902-4775; Implementation: Kathy Kimbel, Tumwater, Washington, (360) 902-4739; and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The department is required by RCW 51.16.035 to establish and maintain a workers' compensation insurance classification plan that classifies all occupations or industries within the state, and to set basic rates of premium for all classifications. The department proposes to revise the general reporting rules and classification plan. The rule proposals are intended to better clarify certain general reporting rules, to distribute the costs fairly among employers, and to ensure actuarial solvency. This includes classification definitions applicable to chapter 296-17 WAC for workers' compensation insurance underwritten by the Department of Labor and Industries.

These changes are brought about by various elements: (1) The department has conducted a review of certain classifications and determined that certain revisions are needed; (2) the addition of new emerging industries to the classification plan; (3) requests from stakeholders for certain changes or clarification in rules; and (4) to continue to clarify, while providing adequate detail, in compliance with clear rule writing.

Proposal Changes the Following Existing Rules: The department proposes to amend one general reporting rule, establish one new risk classification definition, and amend one base rate table applicable to chapter 296-17 WAC.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Regulatory Fairness Act (RFA), chapter 19.85 RCW, requires that the economic impact of proposed regulations be analyzed in relation to small business, and outlines the information that must be included in a small business economic impact statement (SBEIS). Preparation of an SBEIS is required when a proposed rule has the potential of placing a more than minor economic impact on business.

However, since the proposed rule would not place a more than minor economic impact on business, the preparation of a comprehensive SBEIS is not required.

RCW 34.05.328 does not apply to this rule adoption. RCW 51.16.035 requires the Department of Labor and Industries to establish a classification plan to include general reporting rules, risk classification definitions, and premium rates for all classifications in accordance with recognized principles of insurance.

The rule is significant under RCW 34.05.328, however, this rule is exempt from the significant rule-making criteria because RCW 34.05.328 (5)(b)(vi) establishes that rules that set or adjust fees or rates pursuant to legislative standards are exempt from the criteria outlined in RCW 34.05.328.

Hearing Location: Tumwater Labor and Industries Office, 7273 Linderson Way S.W., Room S119, Tumwater, WA 98504-4851, on May 3, 2004, at 1 p.m.

Assistance for Persons with Disabilities: Contact Office of Information and Assistance by May 3, 2004, TDD (360) 902-5797.

Submit Written Comments to: Department of Labor and Industries, Ken Woehl, Classification Services Section, P.O. Box 44148, Olympia, WA 98504-4148, or e-mail to WOEH235@lni.wa.gov or fax (360) 902-4729, by May 3, 2004.

Date of Intended Adoption: May 25, 2004.

March 19, 2004

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 01-23-059, filed 11/20/01, effective 1/1/02)

WAC 296-17-31013 Building construction. (1) Does this same classification approach apply to building and construction contractors?

Yes, but it may not appear that way without further explanation. We classify contractors by phase and type of construction since it is common for each contract to vary in scope.

Example: A contractor who builds and remodels private residences may frame the structure and work on no other phases of the project. On another job the same contractor may do only the interior finish carpentry. On still another job the contractor may install a wood deck or build a garden arbor. Each of these carpentry activities is covered by a different classification code. To ensure that contractor businesses receive the same treatment as other businesses, we assign classifications according to the phases and types of construction they contract to perform. Since some contractors specialize in one area of construction, such as plumbing, roofing, insulation, or electrical services, this classification approach mirrors that of nonbuilding contractor businesses. The policy of assigning several basic classifications to contractors engaged in multiple phases of construction may seem to be in conflict with the classification approach used for nonbuilding contractor businesses, but we have simply used the multiple business classification approach.

If we have assigned multiple classifications to your construction business you should take special care in maintaining the records required in the auditing and recordkeeping section of this manual. If we discover that you have failed to keep the required records we will assign all worker hours for which the records were not maintained to the highest rated classification applicable to the work that was performed.

(2) Who does this rule apply to?

If you are a building, construction or erection contractor and we have assigned one or more of the following classifications to your business, this rule applies to you: 0101, 0103,

0104, 0105, 0107, 0108, 0201, 0202, 0210, 0212, 0214, 0217, 0219, 0301, 0302, 0303, 0306, 0307, 0403, 0502, 0504, 0506, 0507, 0508, 0509, 0510, 0511, 0512, 0513, 0514, 0516, 0517, 0518, 0519, 0521, 0540, 0541, 0550, 0551, 0601, 0602, 0603, 0607, 0608, and 0701.

(3) Can I have a single classification assigned to my business to cover a specific construction project?

Yes, to simplify recordkeeping and reporting requirements we will assign a single classification to cover an entire project.

(4) How do I request the single classification for one of my construction projects?

You should send your request to the attention of your policy manager at the address below:

Department of Labor and Industries
P.O. Box 44144
Olympia, Washington 98504-4144

(5) If I have asked for a single classification on one of my construction projects, how do you determine which classification will apply?

You must supply us with a description of the project and a break down of the total number of hours of exposure by phase of construction that you are responsible for.

Example: You notify us that your company will be responsible for all plumbing and iron erection work on a commercial building site. You have requested a single classification for this project. In your request you tell us that you estimate that it will take one thousand work hours to perform all the plumbing work and five hundred work hours to do the steel erection work.

With this information we will estimate the premiums by classification.

Example: We determine that the plumbing work is covered under classification 0306 and the steel erection work is covered under classification 0518. Assume that classification 0306 has an hourly premium rate of \$1.50 and classification 0518 has an hourly premium rate of \$2.55. We estimate the total premium on this job to be \$2,775 (1,000 hours x \$1.50 = \$1,500 + 500 hours x \$2.55 = \$1,275).

Our next step in this process is to develop an average hourly rate for the project. We will use this information to select the single classification which will apply to this project.

Example: We will take the estimated premium (\$2,775) and divide this number by the estimated hours (1,500) and arrive at an average hourly rate of \$1.85.

To select the single classification that will apply to a construction project, we will compare the average hourly rate that we have computed to the rates of the classifications applicable to the project. We will select the classification whose hourly rate is the closest to the average hourly rate that we computed from the information you supplied us with.

Example: From the information you supplied, we have determined that the average hourly rate for this project is \$1.85. We also know that the rate for the plumbing classification (0306) is \$1.50 per hour and the rate for steel erection is \$2.55 per hour. We would assign classification 0306 as the single classification applicable to this project.

(6) How will I know what classification will apply to my construction project?

We will send you a written notice which will specify the basic classification and premium rate that will apply to this project.

(7) If I have asked for a single classification to cover one of my construction projects, am I required to use the single classification which you gave me?

No, but you should call your policy manager to verify what other classifications would apply to the project. The name and phone number of your policy manager can be found on your quarterly premium report or your annual rate notice. For your convenience you can call us at (360) 902-4817 and we will put you in contact with your assigned policy manager.

(8) I am a general construction or erection contractor, I subcontract all my work and have no employees of my own. Do I have to report to the department of labor and industries?

No, since you do not have employees, you do not need to report to the department of labor and industries. You should be aware that the workers' compensation insurance laws of Washington include certain independent contractors as workers. If we determine that an independent contractor that you used qualifies as a covered worker, you will be responsible for the premium due for their work time. You can also be held responsible for premiums due to labor and industries if you subcontract with an unregistered contractor and they fail to pay premiums on behalf of their employees. It is in your best interest to make sure that your subcontractors are registered contractors by contacting us at 1-800-647-0982.

(9) Am I required to keep any special records of subcontractors that I use?

Yes, you are required to keep certain information about the subcontractors that you use. The information required is:

- Subcontractor's legal name;
- Contractor registration number and expiration date;
- UBI number (or labor and industries account ID number).

If you supply materials to a subcontractor, also keep a record of the:

- Amount of material supplied;
- Project name or location;
- Date material was supplied; and
- Completion date of contracted work.

Failure to maintain these records may result in the subcontractor being considered a covered worker for whom you must report hours.

(10) What classification should I use to report construction site cleanup by my employees? You should report the cleanup of construction debris in the same classification that applied to the work which generated the debris unless another classification treatment is provided for in other rules. For example, if you are a roofing contractor and you have an employee pick up roofing debris at the construction (project) site, you would report the employee involved in the site cleanup in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction"

struction" assigned to your business, you would report site cleanup in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single-family wood frame dwelling, you would report construction site cleanup by your employees in classification 0510 "wood frame building construction."

(11) I am a construction site clean-up contractor, my employees only pick up construction debris, we do no construction work, what classification do I report site cleanup in? If your employees are cleaning a construction site where a wood frame building was erected, you would report their work time in classification 0510 "wood frame building construction." If your employees are cleaning a construction site where a nonwood frame building was erected, you would report their work time in classification 0518 "nonwood frame building construction." If your employees are cleaning other nonbuilding construction sites, you would report their work time in the same classification that applied to the construction work that generated the nonbuilding construction debris. For example, if you are doing site cleanup for a concrete contractor that was involved in pouring and finishing sidewalks and driveways, you would report the work time of your employees involved in this construction site clean-up project in classification 0217 "concrete flat-work."

(12) What classification should I use to report the work time of my employees when they are involved in the set up of scaffolding, hoists, cranes, towers or elevators at a construction site? We use the same classification treatment for this type of work as we do with construction site cleanup. For example, if you are a roofing contractor and you have an employee set up scaffolding at the construction (project) site, you would report the employee involved in the set up of scaffolding in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction" assigned to your business, you would report the set up of scaffolding at the construction in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single-family wood frame dwelling, you would report scaffolding set up by your employees in classification 0510 "wood frame building construction." Helicopter services that are engaged to assist in lifting beams, air conditioning units, statues and other objects onto buildings or structures are to be reported separately in classification 6803.

(13) Is preoccupancy cleanup of a building by my employees classified the same as debris cleanup at a construction site? Since your understanding of what preoccupancy clean-up work is may be different from ours, we need to share with you our understanding before we can answer this question. Our understanding in this area is that preoccupancy cleanup occurs after the building is finished. The clean-up work consists of washing paint and overspray from windows, vacuuming carpets, washing floors and fixtures, and dusting woodwork, doors and cabinets. If you have employees whose duties are limited to this type of cleaning,

we will allow you to report their work time in classification 6602 "janitors."

(14) If I have an employee who does some construction work, construction site cleanup and preoccupancy cleanup, can I divide their work time between the janitor and a construction classification? No, we will not permit you to divide the work time of an employee between the janitor classification and a construction classification. If you have an employee who does preoccupancy clean-up work for you, and that employee also performs other nonpreoccupancy clean-up work for you such as construction work, shop work or construction site debris clean-up work, then you must report all of their work time in the applicable construction or nonshop classification.

NEW SECTION

WAC 296-17-67701 Classification 5302. 5302-00 Computer consulting, programming, software and website development, and internet service providers (ISPs), N.O.C.

Applies to establishments engaged in providing computer consulting - primarily recommending and designing hardware systems and/or software for the needs of the contracting entity. Consultants may provide training on software programs and hardware systems. Programming may include creating or maintaining programs using computer language code. Activities include product conceptualization, design of the blueprint, creating flowcharts, coding the program, beta testing, etc. Included is website development.

Software development firms design and develop "packaged" software for sale in retail stores for mainframe systems or PCs, or they may develop general application programs, educational, entertainment or games software. Additional program aspects could include musical and sound code applications, visual representation and animation artists.

Internet service providers offer business and commercial computer users access to the internet by various telephony, digital and wireless means. Most ISPs charge subscribers a monthly or annual fee. Some may offer a variety of free web-related services as part of a total package—i.e., search engines, e-mail address, personal web page, quick links to popular websites, twenty-four hour customer service and technical support and instant messaging. Tech support is generally engaged in troubleshooting and will frequently walk users through whatever steps are needed to correct a computer problem. Some ISPs have technical professionals who assist clients by designing, upgrading, and/or maintaining their business website or home page. This classification includes clerical office and outside sales personnel who travel from one office environment to another.

This classification excludes adjustments, service, or repairs to business machines for others which are to be reported separately in classification 4107; computer technical support staff for firms not in the computer industry are inclusive within that firm's primary class, i.e., a law firm's computer support staff are inclusive within class 5301-11; warehouse operations, product storage and handling are to be reported separately in classification 6407; retail store activities are to be reported separately in classification 6406; CD

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copy/write scanning are to be reported separately in classification 6506; software documentation, operating instruction, reference materials and mail order catalogues by businesses with printing press operations are to be reported separately in classification 4101; electrical rewiring when performed by a specialty contractor not in the business to install computer equipment is to be reported separately in classification 0608; assembly and repair of premanufactured parts into operative computer components, shop only, is to be reported separately in classification 3602; business that has instructors/trainers (only) is to be reported in either 4904 or 6303 depending on training room location.

AMENDATORY SECTION (Amending WSR 03-24-066, filed 12/1/03, effective 1/1/04)

WAC 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry. Industrial insurance accident fund and medical aid fund base rates by class of industry shall be as set forth below.

Class	Base Rates Effective January 1, 2004	
	Accident Fund	Medical Aid Fund
0101	1.5814	0.7743
0103	1.7560	1.0231
0104	1.0798	0.5941
0105	1.4448	0.9613
0107	1.2655	0.7206
0108	1.0798	0.5941
0112	0.7788	0.4591
0201	2.7967	1.3868
0202	3.8070	2.0165
0210	1.4498	0.6811
0212	1.2948	0.6731
0214	1.4592	0.7138
0217	1.3036	0.6971
0219	1.0750	0.7601
0301	0.5567	0.4307
0302	2.2802	0.9416
0303	2.1458	0.9612
0306	1.1713	0.5736
0307	0.9965	0.5767
0308	0.5270	0.4263
0403	1.6656	1.2385
0502	1.7909	0.8089
0504	1.3821	0.8266
0506	5.5423	3.0267
0507	3.1811	1.8865
0508	2.4737	1.0339
0509	1.8702	0.8009
0510	1.6703	0.9807

Class	Base Rates Effective January 1, 2004	
	Accident Fund	Medical Aid Fund
0511	1.8921	0.9897
0512	1.4169	0.7795
0513	0.9884	0.5366
0514	1.7316	1.0394
0516	1.6703	0.9807
0517	1.6780	1.0950
0518	1.8366	0.9328
0519	1.9295	1.0901
0521	0.6989	0.4450
0601	0.6461	0.3862
0602	0.7255	0.4146
0603	1.1661	0.5393
0604	0.9048	0.7316
0606	0.4319	0.3655
0607	0.4193	0.3175
0608	0.3621	0.2512
0701	2.5501	0.8175
0803	0.4758	0.3517
0901	1.8366	0.9328
1002	1.0578	0.7479
1003	0.8656	0.6100
1004	0.5325	0.3268
1005	8.3826	4.4172
1007	0.3697	0.2374
1101	0.6527	0.4899
1102	1.4175	0.7790
1103	1.1092	0.8062
1104	0.4796	0.4454
1105	1.0193	0.7100
1106	0.3168	0.3134
1108	0.6003	0.4657
1109	1.2172	0.9398
1301	0.7260	0.3982
1303	0.2359	0.1719
1304	0.0242	0.0194
1305	0.3640	0.2850
1401	0.4888	0.4061
1404	0.6507	0.5258
1405	0.4630	0.3620
1407	0.6507	0.5258
1501	0.5898	0.3839
1507	0.5258	0.3512
1701	1.0139	0.5815
1702	2.2784	1.0454

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Base Rates Effective
January 1, 2004Base Rates Effective
January 1, 2004

Class	Base Rates Effective January 1, 2004		Class	Base Rates Effective January 1, 2004	
	Accident Fund	Medical Aid Fund		Accident Fund	Medical Aid Fund
1703	1.0410	0.3854	3412	0.5755	0.3539
1704	1.0139	0.5815	3414	0.5520	0.3888
1801	0.5893	0.3974	3415	0.7473	0.5298
1802	0.6768	0.4355	3501	1.0049	0.7260
2002	0.6934	0.5787	3503	0.2692	0.2962
2004	0.8083	0.6479	3506	1.3008	0.5776
2007	0.4262	0.3258	3509	0.3666	0.3533
2008	0.3220	0.2403	3510	0.3547	0.2989
2009	0.3158	0.3162	3511	0.6851	0.5304
2101	0.7157	0.5397	3512	0.3102	0.2838
2102	0.5026	0.4361	3513	0.4529	0.4138
2104	0.2749	0.2907	3602	0.1106	0.1023
2105	0.6066	0.4813	3603	0.4591	0.3661
2106	0.4257	0.3452	3604	0.8039	0.6965
2201	0.2517	0.1986	3605	0.5317	0.3611
2202	0.7279	0.5211	3701	0.2780	0.2292
2203	0.4299	0.4196	3702	0.4132	0.3523
2204	0.2517	0.1986	3708	0.6358	0.4386
2401	0.4450	0.3439	3802	0.1591	0.1422
2903	0.6146	0.5552	3808	0.4550	0.3078
2904	0.6859	0.5526	3901	0.1328	0.1528
2905	0.5029	0.4761	3902	0.4252	0.3863
2906	0.3469	0.2639	3903	1.0296	0.9966
2907	0.4824	0.4221	3905	0.1328	0.1528
2908	1.0443	0.7208	3906	0.4828	0.4052
2909	0.3880	0.3364	3909	0.2477	0.2366
3101	1.0798	0.6249	4002	1.4293	0.7720
3102	0.2780	0.2292	4101	0.2771	0.2120
3103	0.5594	0.4228	4103	0.3652	0.4111
3104	0.6477	0.4140	4107	0.1533	0.1235
3105	0.7218	0.6194	4108	0.1366	0.1195
3303	0.4072	0.3326	4109	0.2105	0.1737
3304	0.4851	0.4488	4201	0.7318	0.3596
3309	0.4086	0.3370	4301	0.6271	0.5697
3402	0.5131	0.3800	4302	0.5894	0.4574
3403	0.2011	0.1529	4304	0.8819	0.7071
3404	0.5017	0.4108	4305	1.3133	0.7131
3405	0.3030	0.2306	4401	0.3790	0.3197
3406	0.1946	0.1855	4402	0.7470	0.6336
3407	0.6760	0.4481	4404	0.4702	0.4284
3408	0.1647	0.1198	4501	0.1791	0.1584
3409	0.1400	0.1350	4502	0.0387	0.0385
3410	0.2301	0.2230	4504	0.0931	0.1040
3411	0.4844	0.3267	4601	0.6942	0.5520

PROPOSED

PROPOSED

Class	Base Rates Effective January 1, 2004		Class	Base Rates Effective January 1, 2004	
	Accident Fund	Medical Aid Fund		Accident Fund	Medical Aid Fund
4802	0.2337	0.2024	6103	0.0673	0.0798
4803	0.2168	0.2237	6104	0.3592	0.3227
4804	0.5433	0.4452	6105	0.2903	0.2119
4805	0.2414	0.2437	6107	0.1032	0.1306
4806	0.0483	0.0468	6108	0.3710	0.3912
4808	0.4569	0.3766	6109	0.0898	0.0712
4809	0.3475	0.3139	6110	0.4754	0.3989
4810	0.1253	0.1330	6201	0.3725	0.2394
4811	0.2220	0.2256	6202	0.6046	0.5298
4812	0.3461	0.2991	6203	0.0708	0.1013
4813	0.1526	0.1368	6204	0.1278	0.1223
4900	0.3773	0.2508	6205	0.2342	0.2049
4901	0.0746	0.0543	6206	0.2116	0.1761
4902	0.0957	0.0748	6207	0.9203	1.0906
4903	0.1176	0.0846	6208	0.1942	0.2291
4904	0.0280	0.0252	6209	0.2548	0.2471
4905	0.2850	0.3019	6301	0.1353	0.0832
4906	0.0959	0.0747	6302	0.1506	0.1407
4907	0.0450	0.0396	6303	0.0651	0.0572
4908	0.0830	0.1583	6304	0.2883	0.3111
4909	0.0371	0.0696	6305	0.0848	0.0943
4910	0.4052	0.3337	6306	0.2906	0.2495
5001	5.6626	2.5112	6308	0.0547	0.0484
5002	0.6043	0.4230	6309	0.1578	0.1568
5003	2.0838	0.9576	6402	0.2798	0.2622
5004	1.0382	0.7851	6403	0.1352	0.1383
5005	0.7259	0.4013	6404	0.1730	0.1758
5006	1.9405	0.9896	6405	0.5698	0.4319
5101	0.9430	0.6911	6406	0.0873	0.0926
5103	0.6953	0.6625	6407	0.2469	0.2313
5106	0.6953	0.6625	6408	0.3740	0.3030
5108	0.9034	0.7555	6409	0.8659	0.5358
5109	0.6908	0.4594	6410	0.2515	0.2082
5201	0.4178	0.3177	6501	0.1576	0.1317
5204	0.9292	0.6996	6502	0.0324	0.0317
5206	0.3773	0.2508	6503	0.0819	0.0470
5207	0.1420	0.1531	6504	0.3363	0.3718
5208	0.8731	0.6533	6505	0.0845	0.0987
5209	0.8321	0.5874	6506	0.0847	0.0899
5301	0.0286	0.0263	6509	0.3189	0.3214
<u>5302</u>	<u>0.0286</u>	<u>0.0263</u>	6510	0.5002	0.3039
5305	0.0520	0.0520	6511	0.2683	0.2825
5306	0.0578	0.0507	6601	0.1744	0.1621
5307	0.4812	0.3319	6602	0.3962	0.3475

Base Rates Effective
January 1, 2004Base Rates Effective
January 1, 2004

Class	Base Rates Effective January 1, 2004		Class	Base Rates Effective January 1, 2004	
	Accident Fund	Medical Aid Fund		Accident Fund	Medical Aid Fund
6603	0.3395	0.2526	7113	0.3442	0.3640
6604	0.0628	0.0606	7114	0.5276	0.5917
6605	0.2132	0.2917	7115	0.5057	0.4960
6607	0.1770	0.1510	7116	0.5758	0.5188
6608	0.6719	0.3123	7117	1.2566	1.0693
6614	987*	927*	7118	1.0394	0.9808
6615	358*	356*	7119	1.2604	0.9886
6616	271*	238*	7120	5.7871	4.6097
6617	102*	92*	7121	5.5522	4.3375
6618	99*	50*	7201	1.3512	0.8174
6620	4.5954	3.4827	7202	0.0414	0.0264
6704	0.1531	0.1352	7203	0.0997	0.1276
6705	0.6840	0.8359	7204	0.0000	0.0000
6706	0.2997	0.3124	7301	0.4601	0.3847
6707	2.6228	2.3616	7302	0.8603	0.6898
6708	6.4860	8.3254	7307	0.4975	0.4589
6709	0.2315	0.2619	7308	0.2130	0.2885
6801	0.5513	0.3850	7309	0.2315	0.2619
6802	0.3743	0.3762			
6803	0.9264	0.5238			
6804	0.2581	0.2058			
6809	4.7942	4.4011			
6901	0.0000	0.0691			
6902	1.1874	0.4826			
6903	8.8112	4.6583			
6904	0.4889	0.2997			
6905	0.4082	0.2813			
6906	0.0000	0.2414			
6907	1.1483	0.8577			
6908	0.4866	0.3980			
6909	0.1067	0.0968			
7100	0.0303	0.0261			
7101	0.0248	0.0203			
7102	2.9027	4.5880			
7103	0.5655	0.3505			
7104	0.0272	0.0236			
7105	0.0264	0.0254			
7106	0.1772	0.1606			
7107	0.2057	0.2255			
7108	0.1596	0.2033			
7109	0.1293	0.1253			
7110	0.4185	0.2625			
7111	0.4096	0.2851			
7112	0.5838	0.4891			

* These rates are calculated on a per license basis for parimutuel race tracks and are base rated.

WSR 04-07-127**PROPOSED RULES****UNIVERSITY OF WASHINGTON**

[Filed March 22, 2004, 9:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-21-085.

Title of Rule: Chapter 478-116 WAC, Parking and traffic rules of the University of Washington, Seattle.

Purpose: These rules support the parking, police, and transportation organizations at the University of Washington, Seattle.

Statutory Authority for Adoption: RCW 28B.10.560 and 28B.20.130.

Statute Being Implemented: RCW 28B.10.560 and 28B.20.130.

Summary: The proposed amendments to chapter 478-116 WAC, Parking and traffic rules of the University of Washington, Seattle, update and clarify the language of various sections; make minor changes to the university's parking permit program; add a late payment fine and revise some fine amounts for parking and traffic violations; and streamline the impoundment rules.

Reasons Supporting Proposal: These clarifications and changes to chapter 478-116 WAC are endorsed by the university's parking, police, and transportation organizations and approved by the University Transportation Committee.

Name of Agency Personnel Responsible for Drafting: Diana Perey, Director of Transportation Services, 106 Bryant Building, University of Washington, Seattle, WA, (206) 685-1567; Implementation: Weldon Ihrig, Executive Vice-President, 306 Gerberding Hall, University of Washington, Seattle, WA, (206) 543-6410; and Enforcement: Vicky Peltzer, Police Chief, 1117 N.E. Boat Street, University of Washington, Seattle, WA, (206) 543-0521 and Carl Root, Parking Services Manager, 3901 University Way N.E., University of Washington, Seattle, WA, (206) 543-5571.

Name of Proponent: University of Washington, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 478-116 WAC, Parking and traffic rules of the University of Washington, Seattle, is being amended to clarify the intent of the rules, provide operational continuity, and make the fine schedule consistent with similar parking violation fines used by the city of Seattle.

Proposal Changes the Following Existing Rules: The proposal amends the following sections of the Washington Administrative Code:

(1) By making general language clarifications to the rules in WAC 478-116-061, 478-116-101, 478-116-111, 478-116-114, 478-116-165, 478-116-167, 478-116-171, 478-116-181, 478-116-191, 478-116-211, 478-116-251, 478-116-253, 478-116-255, 478-116-271, 478-116-301, and 478-116-670.

(2) By updating the university's parking permit program details and making language clarifications to the rules in WAC 478-116-051, 478-116-116, 478-116-121, 478-116-125, 478-116-131, 478-116-141, 478-116-145, 478-116-161, 478-116-184, 478-116-186, 478-116-201, and 478-116-227.

(3) In WAC 478-116-311, by revising the amount of various fines and adding a new late payment fine.

(4) In WAC 478-116-431, by removing a promissory note stipulation for impoundments and making language clarifications to the rules.

(5) In WAC 478-116-520 and 478-116-531, by adding an explanation of the late payment fine and making language clarifications to the rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 478-116 WAC does not impose a disproportionate impact on small businesses.

RCW 34.05.328 does not apply to this rule adoption. Chapter 478-116 WAC is not considered a significant legislative rule by the University of Washington.

Hearing Location: Room 309, Husky Union Building (HUB), University of Washington, Seattle, Washington, on April 29, 2004, at 12:00 noon.

Assistance for Persons with Disabilities: Contact UW Disability Services Office by April 15, 2004, TDD (206) 543-6452 or (206) 543-6450.

Submit Written Comments to: Rebecca Goodwin Deardorff, Director, Rules Coordination Office, via United States mail, University of Washington, 4014 University Way N.E., Seattle, WA 98105-6203, campus mail Box 355509, e-mail rules@u.washington.edu, fax (206) 616-6294, by April 29, 2004.

Date of Intended Adoption: May 21, 2004.

March 18, 2004

Rebecca Goodwin Deardorff
Director, UW Rules
Coordination Office

AMENDATORY SECTION (Amending WSR 01-20-030, filed 9/26/01, effective 10/27/01)

WAC 478-116-051 Definitions. (1) Access card. A card issued by parking services that actuates the automatic gate arms controlling certain parking areas.

(2) Allowed meter time. The maximum time allowed on a pay meter at any one time.

~~((2))~~ (3) Assign/assignment. Area(s) designated for a person to park.

~~((3))~~ (4) Bicycle. Any device defined as a bicycle in chapter 46.04 RCW.

~~((4))~~ (5) Campus. The state lands located in Seattle, Washington devoted mainly to the activities of the University of Washington.

~~((5))~~ (6) Designate/((designated)) area designator. Parking area assignment for a person to park per WAC 478-116-261. An area designator is the permit information that identifies a driver's assigned parking area(s).

~~((6))~~ (7) Fee. A charge for the use of the permit issued.

~~((7))~~ (8) Hours of operation. The hours of operation assigned by parking services to a particular parking area, parking lot, or parking space.

~~((8))~~ (9) Impoundment. The removal of the vehicle to a storage facility either by an officer or authorized agent of the University of Washington police department.

~~((9))~~ Key card. ~~A plastic card which actuates the automatic gate arms controlling certain parking areas, and is issued by parking services.~~

(10) Legal owner. Person(s) having a security interest in a vehicle perfected in accordance with chapter 46.12 RCW or the registered owner of a vehicle unencumbered by a security interest.

(11) Motorcycles and scooters. A motor vehicle designed to travel on not more than three wheels in contact with the ground, on which the driver rides astride the motor unit or power train and is designed to be steered with a handle bar. For the purposes of these rules, motorcycles, motorized bicycles, and scooters are considered to be motor vehicles and are subject to all traffic and parking rules controlling other motor vehicles.

(12) Motor home. A motor vehicle or portable vehicle with facilities for human habitation which include lodging and cooking and ~~((garbage))~~ waste disposal.

(13) Nonmotor/nonmotorized vehicle. A device other than a motor vehicle used to transport persons. ~~((Nonmotor))~~ Nonmotorized vehicles include, but are not limited to, bicycles, skateboards, roller blades and roller-skates.

(14) Operator or driver. Every person who drives or is in actual physical control of a motor vehicle or ~~((nonmotor))~~ nonmotorized vehicle.

(15) Parking space. A space ~~((designated))~~ for parking one motor vehicle designated by: Lines painted on either side of the space, and/or at the rear of the space, a ~~((concrete~~

block)) wheelstop positioned in the front of the space, a sign or signs, or other markings.

(16) Pedestrian. Any person afoot, as defined in chapter 46.04 RCW.

(17) Permit. A document issued by parking services that authorizes a person to park.

(18) Register/registration. The listing of any motor vehicle with parking services, for the purposes of obtaining a parking permit for the university.

(19) Registered owner. The person (~~(whose)~~) who has the lawful right of possession of a vehicle (~~(has)~~) most recently (~~(been)~~) recorded with any state department of licensing.

(20) Reissue. The replacement of a permit when the original has been stolen, lost, or following a change of parking lot designation, or vehicle(s).

(21) Renewal/renew. The replacement of ~~((an expired))~~ a parking permit ~~((at the end of the permit's effective period))~~ prior to its time of expiration.

(22) Reserved. Area for individuals who have been assigned a "reserved" designator.

(23) Roller-skate/roller blade. A device used to attach ~~((a wheel or))~~ wheels to the foot or feet of a person.

(24) Skateboard. Any oblong board of whatever composition, with a pair of ~~((small))~~ wheels at each end, which ~~((device))~~ may be ridden by a person.

(25) Traffic. ~~((Vehicular))~~ Motorized and ~~((nonvehicular))~~ nonmotorized modes of transportation defined in chapter 46.04 RCW.

(26) University. The University of Washington.

(27) University vehicle. A state of Washington-owned, university-operated motor vehicle.

(28) Vehicle. Any ~~((motor))~~ motorized vehicle or ~~((non-motor))~~ nonmotorized vehicle.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-061 Liability of the university. The university assumes no liability for vehicles parked on university properties. No bailment but only a license is created by the purchase and/or issuance of a permit.

AMENDATORY SECTION (Amending WSR 01-20-030, filed 9/26/01, effective 10/27/01)

WAC 478-116-101 Numbering of parking areas, parking allocation and issuance of permits. (1) Parking services shall designate and mark the various parking areas on the campus with numbers and/or letters and their hours of operation by the posting of signs in those areas.

(2) Parking services shall allocate parking spaces and hours of operation in a manner that will best satisfy the objectives of these rules.

(3) Parking services is authorized to issue permits to park.

(4) Permits issued by parking services shall ~~((be accompanied by small area designators specifying))~~ indicate the ~~((area or))~~ area(s) of parking for which the permit is valid. Parking services may change area assignments ~~((in a manner which will))~~ to promote ~~((the))~~ its objectives of these rules.

(5) All outstanding campus parking violation fines and penalties associated with the permit or motor vehicle registered (or to be registered) under the permit must be satisfactorily settled before a parking permit may be issued, reissued, or renewed.

AMENDATORY SECTION (Amending WSR 01-20-030, filed 9/26/01, effective 10/27/01)

WAC 478-116-111 Valid permit. A valid permit is one of the following:

(1) An unexpired and unrecalled vehicle permit ~~((and))~~ with an area designator that is properly registered and displayed on a vehicle in accordance with WAC 478-116-223.

(2) A temporary permit authorized by parking services and displayed in accordance with instructions on the permit.

(3) A parking permit issued by a gate attendant~~((;))~~ which ~~((shall be))~~ is displayed face up on the vehicle dashboard and ~~((shall be))~~ is fully visible from the exterior of the motor vehicle.

AMENDATORY SECTION (Amending WSR 01-20-030, filed 9/26/01, effective 10/27/01)

WAC 478-116-114 Transferable permits. (1) Permit holders may transfer one valid permit between motor vehicles ~~((when used by the permit holder))~~. Improper transfer of a permit shall include, but not be limited by, the wrongful sale, lending, or bad faith transfer of a parking permit.

(2) Permits displaying license plate numbers shall only be ~~((used))~~ valid in the vehicles whose license number ~~((is))~~ matches the number written on the permit.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-116 ~~((Temporary))~~ Alternate and replacement permits. (1) Any permit holder may obtain ~~((without charge a temporary))~~ an alternate vehicle permit from parking services when ~~((necessary due to nonavailability of his or her permit. The temporary))~~ their assigned permit is unavailable for use. This permit shall not be used on a vehicle while the regular permit is used on another vehicle nor shall the request for issuance be allowed as a common practice for the permit holder.

(2) Any permit holder ~~((may obtain a replacement permit)),~~ upon completion of a signed ~~((certificate as provided in the fee schedule))~~ replacement form from parking services, may pay for a replacement permit as provided in the fee schedule when ~~((his or her))~~ the assigned permit has been lost, stolen or destroyed.

AMENDATORY SECTION (Amending WSR 01-20-030, filed 9/26/01, effective 10/27/01)

WAC 478-116-121 Visitor parking. (1) No permit shall be required for the following motor vehicles:

(a) Public safety and emergency vehicles while performing services;

(b) Marked taxis, marked tow trucks, marked commercial delivery vehicles and marked media vehicles which have

agreed to comply with university guidelines and have received prior written approval ~~((of))~~ from parking services; and

(c) School buses and tour buses parking in ~~((designated))~~ assigned locations.

(2) Permits shall be ~~((provided))~~ available during parking ~~((service's))~~ services' hours of operation at no cost to the driver for the following:

(a) Unmarked commercial delivery motor vehicles under contract to the university, for limited time periods;

(b) Unmarked vehicles operated by members of the non-university press presenting recognized credentials, while pursuing a story;

(c) Properly identified persons retired from the university but not reemployed by the university shall be provided complimentary parking. Their parking fee shall be recharged to the appropriate university department;

(d) ~~For a limited time period, persons ((who drop)) drop-~~ ping off and ((pick)) picking up children enrolled in ~~((established))~~ authorized university programs ~~((for limited time periods))~~;

(e) Utility meter readers and other city, county or state agencies making inspections; and

(f) Contractors hired by the university for a particular job parked inside approved fenced construction sites or peripheral contractor parking areas approved in advance by parking services.

(3) University departments may pay parking services directly for all or part of the parking fees ~~((of))~~ for their guests ~~((The rate charged will be that of the "departmental commuter ticket." Parking services may establish mechanisms to allow departments to pay for all or part of the parking fee of sponsor department's guests))~~ based on the established fee schedule.

(4) University departments may pay parking services directly for the parking fees ~~((of their department's))~~ for employees not stationed on campus who are required to occasionally come to campus. The rate charged will be that of the ~~(("departmental commuter ticket."))~~ gate issued permit hourly parking rate.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-125 Other types of permits. (1) Temporary employees, maintenance or service personnel, contractors, persons serving the university without pay, and other visitors who must frequently visit the campus on official business, may be issued parking permits at the established rate.

(2) Parking designators, such as ~~(())~~ reserve (R), ("U," "US," and "SS") universal (U), universal limited (UL), and service (S) may be issued by parking services upon payment of the ~~((prescribed))~~ established fee.

(3) Motor homes used by patients and their visitors shall be permitted in designated areas for not more than fifteen consecutive days, upon approval of parking services and payment of the established fee.

(4) Persons retired from the university who are reemployed at forty percent or less of full-time employment may

purchase individual commuter tickets at the established rate or annual permits at forty percent of the annual permit ~~((cost))~~ fee.

AMENDATORY SECTION (Amending WSR 02-20-044, filed 9/25/02, effective 10/26/02)

WAC 478-116-131 Parking for events and other university functions. (1) Parking for attendees to events that may displace regular parking customers or that may require added parking services staffing shall be accommodated only if parking services can find suitable alternatives for regular parking customers. Parking fees will be charged as follows:

(a) Parking for attendees at freshman convocation will be complimentary. Parking services will charge the cost of staff and services used expressly for the event to the sponsoring department;

(b) An event rate will be charged to attendees of events that require staffing to collect fees; and

(c) ~~((Parking services shall negotiate))~~ The cost of pre-purchased parking and alternative transportation for Husky football games shall be negotiated with the department of intercollegiate athletics.

(2) Parking services may ~~((lease))~~ rent available parking facilities to sponsors of events ~~((;))~~ or to university departments that require parking areas to conduct their business who shall pay in advance and be charged at a per ~~((staff))~~ space fee for the particular ~~((leased))~~ rented facility.

(3) Parking services may extend its hours of operations to encompass the hours of an event. The following conditions shall ~~((trigger charging))~~ require a parking fee for events scheduled outside the normal hours of operation:

(a) Any activity which in the judgment of parking services is expected to attract over five hundred vehicles to campus; or

(b) Any event requiring a city of Seattle special event permit.

(4) University departments which sponsor functions such as athletic events, conferences, seminars and dinners may arrange ~~((for))~~ parking ~~((of))~~ for their guests ~~((and this parking will be provided))~~ on a space available basis. Departments have the option of paying for ~~((guests'))~~ guest parking ~~((;))~~ otherwise, their guests will be responsible for the parking fee. Departments may also collect parking fees to facilitate prepaid parking ((and)) with the prior approval of parking services ((prior approval, departments may act as its agent in the collection of parking fees)).

(5) Parking services may displace permit holders from their regularly assigned areas during special events. Permit holders shall be provided an alternate area assignment during special events at no extra charge.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-141 Annual and quarterly permit periods. The annual permit period begins July 1 of each year. Quarterly permit periods for staff and faculty parking begin July 1, October 1, January 1 and April 1 of each year. Quarterly permit periods for student parking ~~((begin each quarter at a date which predates the beginning of school, and is deter-~~

~~mined by parking services. Student quarterly permits are valid for ninety days)) start at the beginning of each academic quarter.~~

AMENDATORY SECTION (Amending WSR 01-20-030, filed 9/26/01, effective 10/27/01)

WAC 478-116-145 ((Evening)) Night and swing permits. (1) ~~((Evening)) Night and swing~~ ~~((- annual, or quarterly)) permits~~ ~~((are allowed)) allow for parking~~ ~~((during)) within~~ the period of time printed on the permit. Parking on Saturday is allowed in unrestricted areas unless otherwise reserved for event parking as authorized by parking services.

(2) Gate-issued or machine-issued evening permits are valid only until 7:30 a.m. of the following day.

(3) ~~((Evening)) Night~~ permit holders ~~((;))~~ who purchase gatehouse parking weekdays ~~((7:30 a.m.--))~~ 2:30 p.m. and 4:00 p.m., will be charged the ~~((appropriate gatehouse entry parking fee))~~ night extension rate.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-161 ((Annual)) Parking fee payment. Regardless of payment method used, payment for ~~((an annual))~~ a parking permit is the sole responsibility of the permit holder and failure to pay the parking permit fee is grounds for recall under WAC 478-116-184 (1)(d). The permit holder remains responsible for payment of parking fees until the permit is returned or expires. Payment for ~~((an annual))~~ a parking permit may ~~((only))~~ be made in one of the following ways:

(1) By cash, by Husky Card account debit, and by check or money order payable to the ~~((=))~~ University of Washington ~~((= directly to parking services. Cash should not be sent by mail)).~~ In the case of payment by Husky Card account debit, any previously uncollected fees will be charged to Husky Card accounts when sufficient balances become available.

(2) Permanent faculty and staff members ~~((on the regular monthly payroll may select the payroll deduction plan for payment of the annual permit only))~~ regularly receiving University of Washington semimonthly paychecks may pay for a permit by payroll deduction.

(a) Deductions will be ~~((made))~~ taken from ~~((each bimonthly))~~ the semimonthly paycheck for ~~((that month's parking installment))~~ the current period and for all previous parking periods not yet collected. Persons selecting this plan must complete a payroll deduction authorization form online or in person in addition to the appropriate parking permit application.

(b) Deductions ~~((will be))~~ are terminated by completing a payroll deduction termination form and returning any unexpired permit.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-165 Vehicle and driver's licenses required. Any applicant for a permit must possess a driver's license recognized as valid by the state of Washington ~~((and)).~~ The vehicle for which the applicant seeks a permit

must also be licensed and registered in a way recognized as valid by the state of Washington.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-167 Right to refuse to issue a permit. The university reserves the right to refuse the issuance of a parking permit. The basis for refusing to issue a parking permit includes, but is not limited to, the following circumstances:

(1) When the issuance would compromise or conflict with the mission of the university;

(2) When the applicant has falsified a parking permit application or ~~((failed to pay))~~ has unpaid parking fees and fines; or

(3) When the applicant has counterfeited or altered a permit, area designator, or ~~((key))~~ access card.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-171 Responsibility of person to whom the permit is issued. The person to whom a permit is issued pursuant to these rules shall be responsible for all violations of these rules involving that permit. Such responsibility does not afford a defense to another person who jointly violates these rules.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-181 Refund conditions for parking permits. (1) Refunds will be made for unused portions of permits which were paid for in full at the time of acquisition following the return of the permit to parking services. The refund schedule will be established by parking services.

(2) If the permit is being paid by using the payroll deduction plan, then a payroll deduction termination form must be completed.

(3) Any unpaid fine for a violation of these rules will be deducted from any refund due, including refunds due to revocation of parking privileges.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-184 Recall of permits. (1) Permits are the property of the university ~~((;))~~ and may be recalled by parking services for any of the following reasons:

(a) When the purpose for which the permit was issued changes or no longer exists;

(b) When a permit, area designator, Husky Card or ~~((gate key))~~ access card is used by an unauthorized person;

(c) Falsification on a parking permit application;

(d) Nonpayment of parking fees;

(e) Counterfeiting or altering of permits, area designators or ~~((gate key))~~ access cards;

(f) Failure to comply with a final decision of the citation hearing office; or

(g) When the person to whom the permit is issued receives in excess of twelve citations under these rules within any twelve-consecutive month time period.

(2) Recall may take the form of denial of card access when applicable.

(3) Vehicles displaying recalled permits will be subject to impoundment on sight and confiscation of the permit for return to parking services.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-186 Recall of carpool permits. Abuse of carpool privileges, such as but not limited to carpools (~~((formed within one-half mile))~~) with members residing within the no carpool zone of campus, and/or falsified application information may constitute grounds for the university to ((suspend or revoke)) cancel parking privileges ((from the offender(s))). The no carpool zone is identified on the no carpool zone map available from parking services.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-191 Regulatory signs, barricades, and markings. (1) Signs, barricades, markings and directions shall be so made and placed (~~((as will))~~) to best meet the objectives stated in WAC 478-116-020 of these rules.

(2) No unauthorized person shall remove, move, deface, or in any way change a sign, barricade, marking, or direction so placed, or previously placed, for the purpose of regulating traffic or parking. Authority to make temporary changes of this nature with respect to streets or roadways must be obtained from the university police department.

AMENDATORY SECTION (Amending WSR 01-20-030, filed 9/26/01, effective 10/27/01)

WAC 478-116-201 Permits required for motor vehicles parked during hours of operation—Assigned parking areas. (1) Except as provided in WAC 478-116-121 and 478-116-151, no person shall park or leave any motor vehicle unattended by a licensed driver upon the campus during the hours of operation without a valid permit issued by parking services.

(2) Permission to park shall be shown by display of a valid permit. (~~((Possession))~~) Display of a ((gate key)) Husky Card debit account or access card does not, in itself, constitute permission to park in a designated parking area.

AMENDATORY SECTION (Amending WSR 01-20-030, filed 9/26/01, effective 10/27/01)

WAC 478-116-211 Metered parking. (1) Except as provided in subsections (2) and (3) of this section, any vehicle, other than a university vehicle, which occupies a metered space is subject to payment of the meter fee in accordance with the hours posted, even though the vehicle may display a valid permit.

(2) Vehicles displaying a disability permit or disability license issued by a state department of licensing shall not be

subject to payment of the meter fee during the allowed meter time limit.

(3) Parking services may designate and post certain meters to allow valid permit holders to park at the meter for the allowed meter time without payment.

(4) Motor vehicles parked after the maximum time shall be subject to a citation for parking over the posted time limit.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-227 Permit transfer. Parking permits(~~((; parking credit cards, and key cards))~~) and other parking services authorized parking arrangements or permits issued to departments or individuals are not transferable between unregistered individuals, but can be transferred between cars operated by registered permit holder(s).

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-251 Obeying regulatory signs and ((directions)) instructions. (1) Operators of vehicles shall obey regulatory signs which are posted by the university consistent with the parking and traffic rules of the University of Washington.

(2) Drivers of motor vehicles shall also comply with (~~((directions))~~) instructions issued by members of parking services in the assignment and use of parking space and in the collection of parking fees.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-253 Prohibited parking area(s). (1) No motor vehicle shall be parked at any place where official signs prohibit parking such as, but not limited to, "tow zone," "fire zone," "prohibited," or "no parking."

(2) No motor vehicle shall be parked within fifteen feet of a fire hydrant.

AMENDATORY SECTION (Amending WSR 01-20-030, filed 9/26/01, effective 10/27/01)

WAC 478-116-255 Prohibited parking—Space designated ((for a)) as disability or wheelchair. No motor vehicle shall be parked in a disability, wheelchair (~~((area))~~) space or lot without an appropriate permit.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-271 Parking within a designated parking space. No motor vehicle shall be parked so as to occupy any portion of more than one parking space or stall within a parking area or so as to extend beyond any marked rear stripe. The fact that other motor vehicles may have been so parked as to require the motor vehicle to occupy a portion of more than one parking space or stall shall not constitute an excuse or defense for a violation of this section. This section shall not apply to stack parking for athletic events.

AMENDATORY SECTION (Amending WSR 01-20-030, filed 9/26/01, effective 10/27/01)

WAC 478-116-301 Citation for motor vehicle violations. (1) The university police department may issue a citation for a violation of these rules. The citation shall set forth the date, approximate time, locality, and nature of the violation. The citation shall be served upon the person charged with the violation by delivery, mail, or placement upon the vehicle involved.

(2) The following information shall be printed on the parking citation:

(a) The violation fine (~~(schedule)~~) and instructions for payment;

(b) Instruction for contesting the citation, including where to obtain petitions; and

(c) Notice that failure to pay fines or contest the citation within the time specified in these rules can result in the sanctions set forth in WAC 478-116-561.

AMENDATORY SECTION (Amending WSR 01-20-030, filed 9/26/01, effective 10/27/01)

WAC 478-116-311 Motor vehicle fines and penalties. The following schedule of fines for violation of the rules listed below is hereby established:

OFFENSE	MAXIMUM FINE
01 Obstructing traffic or pedestrian movements	\$ ((30.00))
WAC 478-116-245	<u>35.00</u>
02 Enter/exit without paying	25.00
WAC 478-116-251	
03 Failure to lock ignition and/or set brakes	((10.00))
WAC 478-116-281	<u>15.00</u>
04 Improper display of vehicle permit	((7.00))
WAC 478-116-223	<u>12.00</u>
05 Permit not registered to this vehicle	5.00
WAC 478-116-227	
06 Occupying more than one stall or space	((10.00))
WAC 478-116-271	<u>20.00</u>
07 Parking in restricted parking area	((30.00))
WAC 478-116-251	<u>35.00</u>
08 Parking in prohibited area	((30.00))
WAC 478-116-253	<u>35.00</u>
09 Parking on planted areas	25.00
WAC 478-116-261	
10 Parking out of assigned area	((10.00))
WAC 478-116-261	<u>15.00</u>
11 Parking over posted time limit	((25.00))
WAC 478-116-251	<u>30.00</u>
12 Parking with no valid permit displayed	((25.00))
WAC 478-116-201	<u>30.00</u>
13 Parking at expired meter	((25.00))
WAC 478-116-211	<u>30.00</u>

OFFENSE	MAXIMUM FINE
14 Parking outside cycle area	10.00
WAC 478-116-221	
15 Parking in space/area not designated for parking	25.00
WAC 478-116-261	
16 Parking while privilege suspended	100.00
WAC 478-116-184	
17 Use of forged/stolen vehicle permit	250.00
WAC 478-116-184 and 478-116-227	
18 Use of revoked permit	100.00
WAC 478-116-231	
19 Unauthorized overnight parking of a motor home	50.00
WAC 478-116-125	
20 Impound	At cost
WAC 478-116-291	
21 Other violations of the university parking and traffic rules	25.00
22 Parking in space designated for disability or wheelchair	250.00
WAC 478-116-255	
23 <u>Penalty for failure to pay fine, respond, or comply with final decision of citation hearing office within time limits</u>	<u>25.00</u>
WAC 478-116-520	

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-431 Notice and redemption of impounded vehicles. (1) Not more than ~~((twenty-four hours))~~ one business day after impoundment of any vehicle, the University of Washington police department shall mail a notice to the registered owner of the vehicle, as may be disclosed by the vehicle license number, if such be obtainable, and to any other person who claims the right to possession of the vehicle, if such a claim is known to an officer, agent or employee of the University of Washington police department who has knowledge of the impoundment. The notice shall be mailed to the registered owner at the address provided by the Washington state department of licensing or the corresponding agency of any other state or province. If a police officer who has knowledge of the impoundment has reason to believe that an owner, or one who claims to be an owner, is residing or in custody at some different address which is known to the officer, a copy of the notice shall be mailed or personally delivered to such owner or claimant in a manner designed, as nearly as may be practicable, to give actual notice to the owner. The notice shall contain the full particulars of the impoundment, redemption, and an opportunity to contest the propriety of the impoundment as provided in WAC 478-116-541.

Similar notice shall be given to each person who seeks to redeem an impounded vehicle. If a vehicle is redeemed prior to the mailing of notice, the notice need not be mailed.

PROPOSED

(2) Motor vehicles impounded shall be redeemed only under the following circumstances:

(a) Only the registered owner who has a valid driver's license or person authorized by the registered owner who has a valid driver's license and who produces proof of authorization and signs a receipt ~~((therefor))~~ therefore, may redeem an impounded motor vehicle.

(b) Any person so redeeming a motor vehicle impounded shall pay the cost of such impoundment (towing and storage), together with such fines as are outstanding against the vehicle if impoundment was made pursuant to WAC 478-116-401 prior to redemption, except as provided in (c) of this subsection.

(c) Any person seeking to redeem a motor vehicle impounded under WAC 478-116-401, 478-116-411 or 478-116-421 has a right to contest the validity of impoundment or the amount of towing and storage charges and shall have the motor vehicle released upon requesting a review as provided in WAC 478-116-541, ~~and paying any outstanding fines, ((and executing a promissory note, naming the University of Washington as payee, in an amount to include both the costs of towing and storage and a civil penalty of seventy-five dollars which promissory note shall immediately become due and owing in the event such person fails to pay within ten business days after service of a final decision of the citation hearing office on the petition contesting impoundment or the amount of any towing and storage charges for which such person may be found liable))~~ towing and storage charges.

(3) In addition to any other penalty which may be imposed as a result of actions described in subsection (2)(c) of this section, campus parking privileges shall be suspended until all such debts are paid.

~~(((4) The promissory note shall be automatically canceled and discharged when a person either:~~

~~(a) Pays the towing and storage charges and cancels the request for a review; or~~

~~(b) Pays, within ten business days after service of a final decision of the citation hearing office on the petition contesting impoundment, towing and storage charges for which such person may be liable.))~~

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-520 Motor vehicles—Payment of fines and penalties. (1) The fines that may be assessed for violations of these rules are those detailed in WAC 478-116-311. The applicable fine for a citation must be paid ~~((within))~~ on or before the default response date, which is twenty days ~~((of))~~ from the date of the citation unless on or before the default date the person charged with the violation ~~((elects to contest))~~ contests the citation as provided in WAC 478-116-531, then any applicable fine amount owed must be paid within the time limits set forth in WAC 478-116-531.

(2) Fines must be delivered in person to the citation hearing office or postmarked on or before the default response date or applicable due date specified in these rules to avoid additional penalties. An additional fine of ~~((ten))~~ twenty-five dollars per offense shall be imposed for each citation which is not responded to within the time limits set forth in these rules.

In the case of a citation that is contested under WAC 478-116-531, an additional fine of twenty-five dollars per offense shall be imposed for a failure to pay, within the time limits set forth in that section, any fine owed under a decision of a presiding officer or a reviewing officer that is not timely contested or appealed. In the case of a citation which has a petition submitted after the default response date, the additional fine of twenty-five dollars per offense shall remain imposed and only if the petition is accepted for review by the citation hearing office for good cause shall the additional fine be subject to decision rendered by the citation hearing office under WAC 478-116-531.

(3) The rules contained in this chapter shall be available in the citation hearing office, the university police department, and parking services.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-531 Motor vehicles—Election to pay fine or contest citation. (1) A person who receives a citation shall, ~~((within))~~ on or before the default response date of twenty days ~~((of))~~ from the date thereof, either pay the applicable fine or contest the issuance of the citation in the manner prescribed in this section. Payment of the fine shall constitute a waiver of the right to contest the citation. Failure to either pay the fine or contest the citation ~~((within twenty days of the date of the citation))~~ on or before the default response date or successfully establish good cause to contest the citation after the default response date shall automatically result in a final decision of the citation hearing office. After the default response date, a citation may be contested and reviewed under WAC 478-116-531 only if good cause is first determined by the citation hearing office. To be considered for good cause, the citation hearing office must receive a parking and traffic citation petition (hereinafter "petition") by the good cause response date which is within twenty-one days from the default response date (hereinafter "good cause response date"); or a later date not exceeding thirty days from the default response date that may be specified by a default response notice sent to the registered owner. The citation hearing office will first evaluate the petition for good cause to accept the petition after the default response date. Upon evaluation, if the petition is not deemed to establish good cause for late acceptance, it shall automatically result in a final decision of the citation hearing office and all applicable fines and penalties shall be immediately due. If the citation hearing office determines that good cause is established, the petition can only then be treated as if received by the default response date and reviewed under these rules.

(2) A person wishing to contest a citation may do so by completing and submitting a parking and traffic citation petition (hereinafter "petition") to the citation hearing office ~~((within))~~ on or before the default response date of twenty days ~~((of))~~ from the date of the citation or by successfully establishing good cause for late acceptance of a petition after the default response date. The petition shall include a statement explaining the reasons for contesting the citation. The presiding officer shall review the petition and provide written notification of his or her decision to the person submitting the

petition within ten days of taking action on the petition. If the petition is denied, the notification shall include a brief statement of the reasons for the decision and information about the opportunity for further review. Any fine owed on a written decision on a petition not contested as provided in subsection (3) of this section shall be paid within twenty-one days after service of the decision.

(3) A person wishing to contest the written decision on the petition may request a review by contacting the citation hearing office orally or in writing within twenty-one days after service of the decision. The request for review shall contain an explanation of the ~~((alleged violator's))~~ petitioner's position and a statement of reasons why the initial decision on the petition was incorrect. The reviewing officer shall, within twenty days of the date of the ~~((request))~~ request's receipt, conduct a review and ~~((render))~~ enter a final written decision, which shall include a brief statement of the reasons for the decision and information about the opportunity to appeal the decision to the district court. Any final decision of the reviewing officer not appealed as provided in subsection (5) of this section shall be paid within ten days after service of the decision.

(4) If neither party has requested a review of the written decision on the petition, the citation hearing office may, within twenty days after service of the written decision, conduct a review and issue a final decision on its own motion and without notice to the parties, but it may not take any action on review less favorable to the ~~((alleged violator))~~ petitioner than the written decision on the petition without giving the ~~((alleged violator))~~ petitioner notice and opportunity to explain his or her view of the matter.

(5) A person wishing to appeal a final decision of the citation hearing office to the district court may, within ten days of service of the final decision, file a written notice with the university police department. Documents relating to the appeal shall immediately be forwarded to the district court, which shall have jurisdiction to hear the appeal de novo. No appeal to the district court may be taken unless the citation has been contested as provided in subsections (2) and (3) of this section.

(6) A person who files a petition under subsection (2) of this section may request the opportunity to provide an oral statement before the presiding officer. A request to make an oral statement must be included in the petition. If the request for an oral statement is made, the presiding officer shall provide reasonable notice of the time and place for receiving the oral statement. At the discretion of the reviewing officer, oral statements may also be considered in requests under subsection (3) of this section. A request to make an oral statement must be included in the request for review. If the request for an oral statement is granted by the reviewing officer, the reviewing officer shall provide reasonable notice of the time and place for receiving oral statements.

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-670 Use of skateboards. (1) Skateboard use in pedestrian areas, including but not limited to walkways, ramps, concourses, and plazas (such as "Red Square"),

and on internal university streets and loading areas on the campus is restricted solely to transporting an individual from one campus destination to another. Any recreational, athletic, or other exhibitional use of skateboards unrelated to transportation is strictly prohibited, unless expressly approved in advance by the committee on the use of university facilities, pursuant to chapter 478-136 WAC.

(2) Skateboard use in violation of this section shall result in the following:

(a) For the first offense, the university police department will record the name of the individual and provide a written warning against further skateboard use in violation of this section. Individuals who cannot produce satisfactory identification will be given a receipt for their skateboard, which will be impounded at the university police station until they are able to return with the receipt and identification. There will be no ~~((impound))~~ impoundment fee.

(b) For a second offense, within twenty-four months of any previous offense or warning, the skateboard will be impounded for not less than forty-eight hours and the offender shall be subject to a fine of not less than ten dollars plus applicable ~~((impound))~~ impoundment fee.

(c) For a third or subsequent offense, within twenty-four months of any previous two offenses, warnings, or combination thereof, the skateboard will be impounded for not less than thirty days and the offender shall be subject to a fine of not less than thirty dollars plus applicable ~~((impound))~~ impoundment fee.

(d) Impounded skateboards will be held by the university police department and released only during regular business hours to individuals with satisfactory identification. Payment of a ten-dollar storage fee will also be required for release, except as provided in (a) of this subsection.

(3) Skateboards impounded under this section which are unclaimed sixty consecutive days after the applicable minimum impoundment time period has elapsed will be presumed abandoned and be subject to sale at a public auction conducted by the university surplus property department.

(4) The university and its officers, agents, and employees shall not be liable for loss or damage of any kind resulting from impounding, storage, or sale of any item under this section.

(5) Impoundment or sale of any skateboard under this section shall not substitute for, nor release any person from liability for damage to persons or property caused by use of a skateboard at the university.

WSR 04-07-134
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed March 22, 2004, 4:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-23-015.

Title of Rule: Child care business regulations for family home child care proposed chapter 388-296 WAC; and repealing existing sections in chapter 388-155 WAC.

Purpose: The Department of Social and Health Services' Economic Services Administration (ESA) is proposing to repeal all sections of chapter 388-155 WAC, Minimum licensing requirements for family home child care, and replace those with new chapter 388-296 WAC, Child care business regulations for family home child care.

Statutory Authority for Adoption: RCW 74.08.090 and 74.15.030; chapters 74.12 and 74.15 RCW.

Statute Being Implemented: Chapters 74.12 and 74.15 RCW.

Summary: The Department of Social and Health Services, Economic Services Administration is rewriting the WACs for the licensing requirements for family home child care under new chapter 388-296 WAC. The family home child care rules explain DSHS' responsibilities in licensing child care homes, as well as the minimum standards that those entities must comply with in order to become and remain licensed to provide child care. This chapter has been rewritten in clear rule-writing style, with a question and answer format, to make it more understandable to ESA's customers. In addition, rules pertaining to the health aspect of child care requirements have been included in this chapter.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mary Oakden, Licensing Policy Program Manager, 1009 College S.E., Lacey, WA 98504, (360) 413-3286.

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: Rule: The Department of Social and Health Services' Economic Services Administration (ESA) is proposing to repeal all sections [of] chapter 388-155 WAC, Minimum licensing requirements for family home child care, and replace those with new chapter 388-296 WAC, Child care business rules for family home child care.

Proposal Changes the Following Existing Rules: The sections of chapter 388-155 WAC have been reorganized and rewritten in clear rule-writing language and components of each section clarified. The intent of moving these rules to a new chapter is to make it easier for child care providers to follow the rules and for licensing field staff to enforce the rules uniformly across the state, and to consolidate all child care rules in a common area of Title 388 WAC, chapters 388-290 through 388-297 WAC. In addition, rules pertaining to the health aspect of child care requirements have been included in this chapter.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not have an economic impact on small businesses. This rule revision does not contain any requirements that would result in an increase in more than minimal costs to the licensed child care providers that are not already in the rules that are currently in effect.

RCW 34.05.328 applies to this rule adoption. This proposed rule meets the definition of a significant legislative rule

as described in RCW 34.05.328. The department has determined this rule proposal does not impose any more costs that are more than minimal, and the benefits will exceed any probable costs. A copy of the "Evaluation of Probable Costs and Benefits" may be obtained by contacting the person listed above.

Hearing Location: Lacey Government Center, 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 3, 2004, at 6:30 p.m.; and at Rock Point East, 1313 North Atlantic Street, Suite 2000, Spokane, WA 99201, on June 8, 2004, at 6:30 p.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 26, 2004, phone (360) 664-6094, TTY (360) 664-6178, e-mail Fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., June 8, 2004.

Date of Intended Adoption: Not sooner than June 9, 2004.

March 19, 2004

Brian H. Lindgren, Manager

Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 04-09 issue of the Register.

WSR 04-07-135

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed March 22, 2004, 4:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-21-151.

Title of Rule: WAC 388-538-112 The Medical Assistance Administration's (MAA's) fair hearing process for enrollees of managed care organization (MCO) actions.

Purpose: When chapter 388-538 WAC was amended on September 2, 2003, under WSR 03-18-110, "the department" was inadvertently omitted as a party to the fair hearing in WAC 388-538-112. This amendment corrects that omission. In addition, the department is clarifying that "days" referred to in this section are "calendar days," and making other clarifications.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.522.

Statute Being Implemented: RCW 74.09.522, 74.09.-450.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Ann Myers, P.O. Box 45533, Olympia, WA 98507-5533, (360) 725-1345; **Implementation and Enforcement:** Michael

Paulson, P.O. Box 45530, Olympia, WA 98507-5530, (360) 753-7315.

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: See Purpose above.

Proposal Changes the Following Existing Rules: The proposal adds "the department" as a party to fair hearings for managed care enrollees, and clarifies that the "days" in this section are "calendar days."

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule and concludes that it does not have a more than minor impact on the small businesses affected by it. Therefore, it is not necessary to prepare a small business economic impact statement.

RCW 34.05.328 does not apply to this rule adoption. The department has analyzed the proposed rule and concludes that it does not meet the definition of a "significant legislative rule." Therefore, it is not necessary to prepare a cost/benefit analysis.

Hearing Location: Office Building 2, Auditorium, 14th and Jefferson, Olympia, Washington 98504, on April 27, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by March 23, 2004, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensFH@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., April 27, 2004.

Date of Intended Adoption: Not sooner than April 28, 2004.

March 18, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-18-110, filed 9/2/03, effective 10/3/03)

WAC 388-538-112 The medical assistance administration's (MAA's) fair hearing process for enrollee appeals of managed care organization (MCO) actions. (1) The fair hearing process described in chapter 388-02 WAC applies to the fair hearing process described in this chapter. Where a conflict exists, the requirements in this chapter take precedence.

(2) An MCO enrollee must exhaust all levels of resolution and appeal within the MCO's grievance system prior to filing an appeal (a request for a department fair hearing) with MAA. See WAC 388-538-110 for the MCO grievance system.

(3) If an MCO enrollee does not agree with the MCO's resolution of the enrollee's appeal, the enrollee may file a

request for a department fair hearing within the following time frames:

(a) For appeals regarding a standard service, within ninety calendar days of the date of the MCO's notice of the resolution of the appeal.

(b) For appeals regarding termination, suspension, or reduction of a previously authorized service, or the enrollee is requesting continuation of services, within ten calendar days of the date on the MCO's notice of the resolution of the appeal.

(4) The entire appeal process, including the MCO appeal process, must be completed within ninety calendar days of the date the MCO enrollee filed the appeal with the MCO, not including the number of days the enrollee took to subsequently file for a department fair hearing.

(5) Parties to the ((MAA)) fair hearing include the department, the MCO, the enrollee, and the enrollee's representative or the representative of a deceased enrollee's estate.

(6) If an enrollee disagrees with the ((department)) fair hearing decision, then the enrollee may request an independent review (IR) ((per)) in accordance with RCW 48.43.535.

(7) If there is disagreement with the IR decision, the ((state)) department of social and health services (DSHS) board of appeals (BOA) issues the final administrative decision.

WSR 04-07-136

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed March 22, 2004, 4:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-11-085.

Title of Rule: Chemical-using pregnant (CUP) women program, new WAC 388-533-701, 388-533-710, 388-533-720, and 388-533-730.

Purpose: MAA is codifying the policy for the CUP women program, an established program which assists pregnant women in maintaining sobriety to ensure healthier birth outcomes by offering the following services to a pregnant woman and her fetus in a hospital setting: (1) Acute, medical detoxification; (2) stabilization; (3) medical, and (4) chemical dependency treatment.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.800.

Statute Being Implemented: RCW 74.08.090, 74.09.-800.

Summary: See Purpose above.

Reasons Supporting Proposal: The CUP women program policy, requirements, and limitations need to be codified in Washington Administrative Code.

Name of Agency Personnel Responsible for Drafting: Kevin Sullivan, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1344; Implementation and Enforcement: Todd

Slettvet, P.O. Box 45530, Olympia, WA 98504-5530, (360) 725-1626.

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 does not change existing rules. These are new rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule and concludes that it does not have more than a minor impact on small businesses.

RCW 34.05.328 applies to this rule adoption. This proposed rule meets the definition of a significant legislative rule as described in RCW 34.05.328. The department has determined this rule proposal does not impose any new costs and the probable benefits exceed any probable costs. A copy of the cost-benefit analysis prepared for this rule is available from the persons listed above.

Hearing Location: Office Building 2, Auditorium, 14th and Jefferson, Olympia, Washington 98504, on April 27, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact DSHS Rules Coordinator by April 21, 2004, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., on April 27, 2004.

Date of Intended Adoption: Not sooner than April 28, 2004.

March 18, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-533-701 Chemical-using pregnant (CUP) women program—Purpose. The chemical-using pregnant (CUP) women program provides immediate access to medical care in a hospital setting to chemical-using or chemical-dependent pregnant women and their fetuses. The purpose of the immediate access to medical care is to reduce harm to and improve birth outcomes for mothers and their fetuses by preventing obstetric and prenatal complications related to chemical dependency.

NEW SECTION

WAC 388-533-710 Chemical-using pregnant (CUP) women program—Client eligibility. (1) To be eligible for the chemical-using pregnant (CUP) women program, a woman must meet all of the following conditions:

- (a) Be pregnant;
- (b) Be referred and/or approved by an Alcohol and Drug Addiction Treatment and Support Act (ADATSA) assessment agency; and

(c) Be eligible for Medicaid.

(2) Clients meeting the eligibility criteria in WAC 388-533-710(1) who are enrolled in an MAA managed care plan are eligible for CUP services outside their plan. CUP services delivered outside the managed care plan are reimbursed and subject to the same program rules as apply to nonmanaged care clients.

(3) Clients receiving three-day or five-day detoxification services through the department are not eligible for the CUP women program.

NEW SECTION

WAC 388-533-720 Chemical-using pregnant (CUP) women program—Provider requirements. (1) The medical assistance administration (MAA) pays only those providers who:

(a) Have been approved by MAA to provide chemical-using pregnant (CUP) women program services;

(b) Have been certified as chemical dependency service providers by the division of alcohol and substance abuse (DASA) as prescribed in chapter 388-805 WAC;

(c) Meet the hospital standards prescribed by the Joint Commission on Accreditation of Healthcare Organization (JCAHO);

(d) Meet the general provider requirements in chapter 388-502 WAC; and

(e) Are not licensed as an institution for mental disease (IMD) under Centers for Medicare and Medicaid (CMS) criteria.

(2) CUP women program service providers are required to:

(a) Report any changes in their certification, level of care, or program operations to the MAA CUP women program manager;

(b) Have written policies and procedures that include a working statement describing the purpose and methods of treatment for chemical-using/abusing pregnant women;

(c) Provide guidelines and resources for current medical treatment methods by specific drug and/or alcohol type;

(d) Have linkages with state and community providers to ensure a working knowledge exists of current medical and substance abuse resources; and

(e) Ensure that an Alcohol and Drug Addiction Treatment and Support Act (ADATSA) or chemical dependency assessment of the client has been completed:

(i) By an ADATSA assessment agency;

(ii) Using the latest criteria of the American Society of Addiction Medicine (ASAM); and

(iii) No earlier than six months before, and no later than five days after, the client's admission to the CUP women program.

NEW SECTION

WAC 388-533-730 Chemical-using pregnant (CUP) women program—Covered services. (1) The medical assistance administration (MAA) pays for the following covered services for a pregnant client and her fetus under the chemical-using pregnant (CUP) women program:

- (a) Primary acute detoxification/medical stabilization;

(b) Secondary sub-acute detoxification/medical stabilization; and

(c) Rehabilitation treatment and services as determined by the provider.

(2) The maximum length of treatment per inpatient stay that MAA will pay for is twenty-six days, unless additional days have been pre-authorized by the MAA CUP women program manager.

(3) If a client leaves or is discharged from an inpatient treatment program and then returns, the provider must obtain authorization from the MAA CUP women program manager to allow the client to either:

(a) Complete the original twenty-six day treatment plan; or

(b) Begin a new twenty-six day treatment plan.

(4) If a client's pregnancy ends before inpatient treatment is completed, a provider may continue the client's treatment through the twenty-sixth day.

WSR 04-07-137

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed March 22, 2004, 4:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-03-089.

Title of Rule: WAC 388-530-1850 Drug utilization and education (DUE) council.

Purpose: To change the name of MAA's Drug Utilization and Education (DUE) Council in accordance with C.F.R. and to include language about the Pharmacy and Therapeutics Committee as established by the Health Care Authority.

Statutory Authority for Adoption: RCW 41.05.160, 74.04.050, 74.04.057, and 74.08.090; SB 6088, section 10, chapter 29, Laws of 2003 1st sp.s.

Statute Being Implemented: 42 C.F.R. 456.716.

Summary: The proposed changes:

- Rename the program - Drug use review (DUR) board in accordance with 42 C.F.R. 456.716;
- Add language allowing members of the Pharmacy and Therapeutics Committee as established by the 2003 legislature (SB 6088, chapter 29, Laws of 2003) to serve as members of the DUR board (see chapter 182-50 WAC); and
- Add language, in accordance with 42 C.F.R. 456.716, stating that MAA has final authority to "accept" or "reject" the recommendations of the DUR board.

Reasons Supporting Proposal: These rules are necessary to implement and manage the prescription drug programs established by the 2003 legislature and chapter 41.05 RCW.

Name of Agency Personnel Responsible for Drafting: Wendy Boedigheimer, MAA, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1306; Implementation and

Enforcement: Siri Childs, MAA, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1564.

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

Rule is necessary because of federal law, 42 C.F.R. 456.716.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose, Summary, and Reasons Supporting Proposal 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 amendments are exempt from a small business economic impact statement (SBEIS) according to RCW 19.85.025(3) because the proposed changes:

- Adopt federal regulations;
- Adopt rules of other Washington state agencies;
- Include housekeeping changes;
- Do not impose additional costs or change reimbursement rates for small businesses, nor do the proposed changes impose new administrative burdens on small business; and
- Do not impose any new regulatory limits on businesses.

RCW 34.05.328 does not apply to this rule adoption. The proposed amendments are exempt from a cost benefit analysis (CBA) according to RCW 34.05.328 (5)(b) and (c) because the proposed changes:

- Adopt federal regulations;
- Adopt rules of other Washington state agencies; and
- Include housekeeping changes.

Hearing Location: Office Building 2, 16th and Jefferson, Olympia, Washington 98504, on April 27, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact DSHS Rules Coordinator by April 21, 2004, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m. on April 27, 2004.

Date of Intended Adoption: Not sooner than April 28, 2004.

March 18, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-17-023, filed 8/9/02, effective 9/9/02)

WAC 388-530-1850 Drug ((utilization and education (DUE) council)) use review (DUR) board. In accordance with 42 C.F.R. 456.716, the medical assistance administration (MAA) establishes a drug ((utilization and education (DUE) council and determines membership rotation)) use review (DUR) board (also known as the drug utilization & education (DUE) council).

- (1) The ~~((DUE council))~~ DUR board:
- (a) ~~((Has a minimum of eight and a maximum of ten members, representing))~~ Includes health professionals who are actively practicing ((health care professionals)) and licensed in the state of Washington and who have recognized knowledge and expertise in one or more of the following:
- (i) The clinically appropriate prescribing of covered outpatient drugs;
- (ii) The clinically appropriate dispensing and monitoring of covered outpatient drugs;
- (iii) Drug use review, evaluation, and intervention; and
- (iv) Medical quality assurance ~~((and~~
- ~~((v) Disease state management))~~.
- (b) Is made up of at least one-third but not more than fifty-one percent physicians, and at least one-third ~~((but not more than fifty one percent))~~ pharmacists ~~((and~~
- ~~((c) Includes an advanced registered nurse practitioner and a physician assistant.~~
- ~~((2) The DUE council))~~.
- (2) MAA may appoint members of the pharmacy and therapeutics committee established by the health care authority (HCA) under chapter 182-50 WAC or other qualified individuals to serve as members of the DUR board.
- (3) The DUR board meets periodically to:
- (a) Advise MAA on drug utilization review activities;
- (b) Review provider and patient profiles;
- (c) Recommend adoption of standards and treatment guidelines for drug therapy;
- (d) ~~((Provide))~~ Recommend interventions targeted toward correcting drug therapy problems; and
- (e) Produce an annual report.
- (4) MAA has the authority to accept or reject the recommendations of the DUR board in accordance with 42 C.F.R. 456.716(c).

WSR 04-07-144

PROPOSED RULES

HORSE RACING COMMISSION

[Filed March 23, 2004, 7:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-21-079.

Title of Rule: WAC 260-24-510 Stewards.

Purpose: To clarify and provide for a process to be used by the stewards in making initial agency determinations of violations of agency rules and to provide standard guidelines for standard violations.

Statutory Authority for Adoption: RCW 67.16.020.

Statute Being Implemented: SHB 2575.

Summary: To amend the current rule to make the stewards responsible to the executive secretary for the conduct of each race meet, establishes that the stewards will make the initial agency determination of alleged rule violations, replaces the stewards hearing with a stewards ruling conference, adds a penalty matrix outlining standard penalties for common rule violations, including first, second and third violations within a calendar year, outlines the authority of the

stewards and includes a process to appeal the actions of the board of stewards.

Reasons Supporting Proposal: With passage of SHB 2575 in the fifty-eighth legislative session, stewards are now granted authority to reprimand, fine, suspend, revoke or any combination persons violating the rules of racing. The legislation also requires the agency to establish in rule a standard penalty matrix.

Name of Agency Personnel Responsible for Drafting: Robert Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516, (360) 459-6462; Implementation and Enforcement: Robert Leichner, 6326 Martin Way, Suite 209, Olympia, WA 98516, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Implements portions of SHB 2575.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 260-24-510 Stewards, addresses the authority of the stewards and their responsibilities regarding the conduct of a race meet. The section is being amended to replace the stewards hearing process with the stewards ruling conference as part of the agency initial determination of alleged rule violations. The amendment also establishes standard penalties for common rule violations within a calendar year. If adopted this rule will simplify the agency's initial determination and provide easier access to appeal stewards' decisions and provide the licensees some expectation of the penalty if the alleged rule violation they are accused of is sustained.

Proposal Changes the Following Existing Rules: Makes the stewards responsible to the executive secretary for the conduct of a race meet, and to make the initial agency's determination of alleged rule violations. Outlines the authority of the board of stewards. Replaces the current stewards hearing process with the stewards ruling conference. Places into rule a penalty matrix for common rule violations. Establishes a process to appeal the findings and penalties of the stewards.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Auburn City Council Chambers, 25 West Main Street, Auburn, WA, on May 13, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patty Sorby by May 12, 2004.

Submit Written Comments to: Robert M. Leichner, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, fax (360) 459-6461, by May 13, 2004.

Date of Intended Adoption: May 13, 2004.

March 22, 2004

R. M. Leichner
Executive Secretary

AMENDATORY SECTION (Amending WSR 03-13-074, filed 6/13/03, effective 7/14/03)

WAC 260-24-510 Stewards. (1) General authority:

(a) The stewards for each meeting shall be responsible for the ~~((commission))~~ executive secretary for the conduct of the race meeting and the initial agency determination of alleged rule violations in accordance with these rules;

(b) The stewards shall enforce ~~((these rules and the racing laws of this jurisdiction))~~ the rules of racing in chapters 260-12 through 260-84 WAC;

(c) The stewards' authority includes ~~((supervision))~~ regulation of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing, and patrons, as necessary to insure compliance with these rules;

(d) All nominations, entries, declarations and scratches shall be conducted under the supervision of the stewards;

(e) The stewards shall have authority to resolve conflicts or disputes related to violations of the rules of racing and to discipline violators in accordance with the provisions of these rules;

(f) The stewards shall take notice of any questionable conduct with or without complaint thereof;

(g) The stewards have the authority to interpret the rules and to decide all questions of racing not specifically covered by the rules;

(h) Should any case occur which may not be covered by these rules of racing, it shall be determined by the stewards of the race meeting in conformity with justice and in the best interest of racing; and the stewards of the meeting are hereby given authority to exercise their full power, recommending to the commission the impositions of more severe penalties, if in their judgment the penalty should be more drastic.

(2) The stewards' period of authority shall commence 10 days prior to the beginning, or at such other time as is necessary in the opinion of the executive secretary, of each meeting and shall terminate with the completion of their business pertaining to the meeting. One of the three stewards shall be designated as the presiding steward by the commission.

(3) ~~((Disciplinary action:~~

~~(a) The stewards shall take notice of alleged misconduct or rule violations and initiate investigations into such matters;~~

~~(b) The stewards shall have authority to charge any licensee with a violation of these rules, to conduct hearings and to impose disciplinary action in accordance with these rules;~~

~~(c) The stewards may compel the attendance of witnesses and the submission of documents or potential evidence related to any investigation or hearing;~~

~~(d) The stewards may at any time inspect license documents, registration papers and other documents related to racing;~~

~~(e) The stewards shall have the power to administer oaths and examine witnesses;~~

~~(f) The stewards shall consult with the official veterinarian to determine the nature and seriousness of a laboratory finding or an alleged medication violation;~~

~~(g) The stewards may impose any of the following penalties on a licensee for a violation of these rules;~~

~~(i) Issue a reprimand;~~

~~(ii) Assess a fine;~~

~~(iii) Require forfeiture or redistribution of purse or award, when specified by applicable rules;~~

~~(iv) Place a licensee on probation;~~

~~(v) Suspend a license or racing privileges;~~

~~(vi) Revoke a license; or~~

~~(vii) Exclude from grounds under the jurisdiction of the commission.~~

~~(h) The stewards may suspend a license for not more than one year per violation; or they may impose a fine not to exceed \$2,500 per violation; or they may suspend and fine; or they may order that a person be ineligible for licensing. For violations covered by Chapter 260-70 [WAC] Medication, the stewards shall follow the penalty guidelines as set forth in WAC 260-70-690;~~

~~(i) A stewards' ruling shall not prevent the commission from imposing a more severe penalty;~~

~~(j) The stewards may refer any matter to the commission and may include recommendations for disposition. The absence of a stewards' referral shall not preclude commission action in any matter;~~

~~(k) Purses, prizes, awards and trophies shall be redistributed if the stewards or commission order a change in the official order of finish;~~

~~(l) All fines imposed by the stewards shall be paid to the commission within 48 hours after the ruling is issued, unless otherwise ordered.)) Stewards ruling conference regarding violations of rules of racing:~~

(a) The stewards shall take notice of alleged misconduct or rule violations and initiate investigations into such matters.

(b) The stewards shall have authority to charge any licensee with a violation of these rules, to make rulings and to impose penalties including the following:

(i) Issue a reprimand;

(ii) Assess a fine not to exceed \$2,500.00, except as provided in WAC 260-70-690;

(iii) Require forfeiture or redistribution of purse or award, when specified by applicable rules;

(iv) Place a licensee on probation;

(v) Suspend a license or racing privileges for not more than one year per violation;

(vi) Revoke a license; or

(vii) Exclude from grounds under the jurisdiction of the commission.

(c) Issue reprimands, fines and suspensions based on the following penalty matrices:

Class A & B Licensed Facilities			
Violations with calendar year	1st Offense	2nd Offense	3rd Offense
Smoking in the barn	\$25	\$50	\$100
Tampering with a smoke detector	\$50	\$100	\$250 plus possible suspension

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<u>Class A & B Licensed Facilities</u>			
<u>Violations with calendar year</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
<u>Vehement verbal quarrel or use of profanity or abusive language towards another person</u>	\$100	\$250	Suspension
<u>Physical fight or altercation</u>	\$100 and/or probation	\$250 plus suspension	
<u>Licensing - fail to divulge a felony</u>	\$100 plus possible denial of license		
<u>Licensing - fail to divulge a misdemeanor</u>	Warning - \$50	\$50	
<u>Licensing - nonparticipation</u>	License canceled		
<u>Violation of any claiming rule in chapter 260-60 WAC (Return of horse and payment of bills)</u>	\$200-\$500 plus possible suspension		
<u>Use of profanity or abusive language</u>	\$50	\$100	\$250
<u>Failure to follow instructions of security or a racing official</u>	\$25	\$50	\$100 plus possible suspension
<u>Unsafe vehicle operation</u>	\$50	\$100 and recommend racing association revoke vehicle pass	
<u>Financial responsibility</u>	30 days or before the end of the meet (whichever is sooner) to resolve or suspension		
<u>Fail to appear - hearing</u>	Suspension pending appearance		
<u>Fail to honor call - agents</u>	\$75	\$100	\$200
<u>Reporting incorrect weight - jockeys</u>	\$50	\$100	\$200
<u>Fail to appear for films - jockeys</u>	\$50	\$100	\$200
<u>Fail to fulfill riding engagement after entries</u>	\$100		\$200
<u>Easing mount without cause</u>	\$250	\$400 plus suspension	
<u>Jockey failing to maintain straight course - no disqualification</u>	Warning - \$250	\$250 - \$500	\$500 - \$1000
<u>Jockey failing to maintain straight course - disqualification</u>	3 days or \$2500 (jockey's option)	3 day suspension	6 day suspension
<u>Jockey disqualification</u>	Warning - \$250	\$250 - \$500	\$500 - \$1000
<u>Jockey who is aggressor in physical altercation - public area or jockeys quarters</u>	\$200	\$500 plus possible suspension	\$1000 plus suspension
<u>Jockey who participates in physical altercation - public area or jockeys quarters</u>	Warning - \$100	Warning - \$150	Warning - \$500
<u>Jockey's misuse of whip</u>	Warning - \$2500		
<u>Use of stimulating device (may include batteries)</u>	1 year suspension plus mandatory referral to commission for revocation		
<u>Possession of stimulating device (may include batteries)</u>	1 year suspension		
<u>Attempting to manipulate outcome of a race</u>	1 year suspension plus mandatory referral to commission for revocation		
<u>Entering ineligible horse</u>	\$100		
<u>Arriving late to receiving barn</u>	Warning - \$50	Warning - \$50	\$50 - \$100
<u>Fail to follow instructions in the paddock</u>	\$50	\$100	\$100
<u>Fail to have foal papers on file - resulting in a scratch</u>	\$100	\$100	\$100
<u>Fail to handle business properly - late equipment change, etc.</u>	\$50	\$100	\$100

<u>Class A & B Licensed Facilities</u>			
<u>Violations with calendar year</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
<u>Insufficient workouts - resulting in scratch</u>	<u>\$100</u>	<u>\$100</u>	<u>\$100</u>
<u>Class C Licensed Facilities</u>			
<u>Violation within calendar year</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
<u>Smoking in the barn</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Tampering with a smoke detector</u>	<u>\$50</u>	<u>\$100</u>	<u>\$250 plus possible suspension</u>
<u>Vehement verbal quarrel or use of profanity or abusive language towards another person</u>	<u>\$100</u>	<u>\$50</u>	<u>Suspension</u>
<u>Physical fight or altercation</u>	<u>\$100 plus possible probation</u>	<u>\$250 plus suspension</u>	
<u>Licensing - fail to divulge a felony</u>	<u>\$100 plus possible denial of license</u>		
<u>Licensing - fail to divulge a misdemeanor</u>	<u>Warning - \$25</u>	<u>\$50</u>	
<u>Licensing - nonparticipation</u>	<u>License canceled</u>		
<u>Violation of any claiming rule in chapter 260-60 WAC (Return of horse and payment of bills)</u>	<u>\$100 - \$250 plus possible suspension</u>		
<u>Use of profanity or abusive language</u>	<u>\$50</u>	<u>\$100</u>	
<u>Failure to follow instructions of security or a racing official</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100 plus possible suspension</u>
<u>Unsafe vehicle operation</u>	<u>\$50</u>		
<u>Financial responsibility</u>	<u>30 days or before the end of the fall meet (whichever is sooner) to resolve or suspension</u>		
<u>Fail to appear - hearing</u>	<u>Suspension pending appearance</u>		
<u>Fail to honor call - agents</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Reporting incorrect weight - jockeys</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Fail to appear for films - jockeys</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Fail to fulfill riding engagement after entries</u>	<u>\$50</u>		<u>\$100</u>
<u>Easing mount without cause</u>	<u>\$100</u>	<u>\$200/Suspension</u>	
<u>Fail to maintain straight course - no disqualification</u>	<u>Warning - \$250</u>	<u>\$250 - \$500</u>	<u>\$500 - \$1000</u>
<u>Fail to maintain straight course - disqualification</u>	<u>3 day suspension or \$1000 (jockey's option)</u>	<u>3 day suspension</u>	<u>6 day suspension</u>
<u>Jockey disqualification</u>	<u>Warning - \$250</u>	<u>\$250 - \$500</u>	<u>\$500 - \$1000</u>
<u>Jockey who is aggressor in physical altercation - public area or jockeys quarters</u>	<u>\$100</u>	<u>\$250 plus possible suspension</u>	<u>\$500 plus suspension</u>
<u>Jockey who participates in physical altercation - public area or jockeys quarters</u>	<u>Warning - \$50</u>	<u>Warning - \$100</u>	<u>Warning - \$250</u>
<u>Jockey's misuse of whip</u>	<u>Warning - \$2500</u>		
<u>Use of stimulating device (may include batteries)</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Possession of stimulating device (may include batteries)</u>	<u>1 year suspension</u>		
<u>Attempting to manipulate outcome of a race</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Entering ineligible horse</u>	<u>\$25</u>	<u>\$50</u>	<u>\$50</u>

<u>Class A & B Licensed Facilities</u>			
<u>Violations with calendar year</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
<u>Fail to follow instructions in the paddock</u>	<u>\$25</u>	<u>\$50</u>	<u>\$50</u>
<u>Fail to have foal papers on file - resulting in a scratch</u>	<u>\$50</u>	<u>\$50</u>	<u>\$50</u>
<u>Fail to handle business properly - late equipment change, etc.</u>	<u>\$50</u>	<u>\$100</u>	<u>\$100</u>
<u>Insufficient workouts - resulting in scratch</u>	<u>\$50</u>	<u>\$50</u>	<u>\$50</u>
<u>Class A, B & C Licensed Facilities</u>			
<u>Violation within calendar year</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
<u>Fail to pay or default on L&I payment</u>	<u>Suspension until paid plus \$25 for each quarter payment is late</u>		
<u>Unlicensed or improperly licensed personnel (trainer's responsibility)</u>	<u>L&I premium plus \$100</u>	<u>L&I premium plus \$500</u>	<u>L&I premium plus \$500</u>
<u>Licensed personnel but not in groom slot (trainer's responsibility)</u>	<u>L&I premium plus \$100</u>	<u>L&I premium plus \$500</u>	<u>L&I premium plus \$500</u>
<u>Unlicensed person on the backside</u>	<u>Report violation to the racing association</u>		

For any other violation not specifically listed above, the stewards shall have discretion to impose the penalties as provided in (b) of this subsection. For violations considered minor, the fine can be up to \$500 and/or suspension for up to sixty days. Fines for violations considered major can be up to \$2,500 and/or suspension up to one year.

(d) Circumstances which may be considered for the purpose of mitigation or aggravation of any penalty shall include, but are not limited to, the following:

(i) The impact of the offense on the integrity of the parimutuel industry;

(ii) The danger to human and/or equine safety;

(iii) The number of prior violations of the rules of racing or violations of racing rules in other jurisdictions; and/or

(iv) The deterrent effect of the penalty imposed.

(e) For violations covered by chapter 260-70 WAC, Medication, the stewards shall follow the penalty guidelines as set forth in WAC 260-70-690.

(f) The stewards may refer any matter to the commission and may include recommendations for disposition. The absence of a stewards' referral shall not preclude commission action in any matter. A stewards' ruling shall not prevent the commission from imposing a more severe penalty.

(g) Authority to conduct stewards' ruling conference:

(i) The stewards shall have the authority to:

(A) Conduct a ruling conference;

(B) Direct the attendance of witnesses and commission employees;

(C) Direct the submission of documents or potential evidence;

(D) Inspect license documents, registration papers and other documents related to racing;

(E) Question witnesses; and

(F) Consider all relevant evidence.

(ii) The stewards shall serve notice of a conference to person(s) alleged to have committed a violation, which shall contain the following information:

(A) A statement of the time and place the conference will be held;

(B) A reference to the particular sections of the WAC involved;

(C) A short and plain statement of the alleged violation; and

(D) A statement that if the person does not appear, the ruling will be made in his/her absence, and that failure to appear will be considered a separate violation of the rules of racing.

(iii) Failure to appear as required in (f)(i) and (ii) of this subsection shall be considered a violation of the rules of racing for which penalties may be imposed.

(iv) It is the duty and obligation of every licensee to make full disclosure to the board of stewards of any knowledge he/she possesses of a violation of any rule of racing. No person may refuse to respond to questions before the stewards on any relevant matter within the authority of the stewards, except in the proper exercise of a legal privilege, nor shall any person respond falsely before the stewards.

(v) The stewards shall allow the licensee to make a statement regarding the alleged violation.

(h) Every ruling by the stewards must be served in writing on the person(s) found in violation within five days and shall include:

(i) Time and place the ruling was made;

(ii) Statement of rules violated;

(iii) Details of the violation;

(iv) Penalties to be imposed;

(v) Procedure for appeal to the commission; and

(vi) Plain statement of licensees' options, which shall include:

(A) Accepting the penalty imposed by the stewards; or

(B) Appealing the stewards' determination within twenty days.

(i) The stewards' ruling shall be posted and a copy provided to the racing association.

(j) If a person does not file an appeal with the commission within twenty days or in the format required by chapter 260-88 WAC, then the person is deemed to have waived his or her right to appeal. After twenty days, if an appeal has not been filed, the stewards' penalty shall be imposed.

(k) "Service" shall mean either personal service on the licensee or depositing the notice of ruling conference or stewards' ruling into the mail to the licensee's last known address in which case service is complete upon deposit in the U.S. mail.

(l) If the stewards determine that a licensee's actions constitute an immediate, substantial danger to human and/or equine health, safety, or welfare, the stewards may enter a ruling summarily suspending the license pending a ruling conference before the board of stewards. A summary suspension takes effect immediately on issuance of the ruling. If the stewards suspend a license under this subsection, the licensee is entitled to a ruling conference before the board of stewards, not later than five days after the license was summarily suspended. The licensee may waive his/her right to a ruling conference before the board of stewards on the summary suspension.

(4) Protests, objections and complaints. The stewards shall cause an investigation to be conducted and shall render a decision in every protest, objection and complaint made to them. They shall maintain a record of all protests, objections and complaints. The stewards shall file daily with the commission a copy of each protest, objection or complaint and any related ruling. The stewards are vested with the power to determine the extent of disqualification in case of fouls. They may place the offending horse behind such horses as in their judgment it interfered with, or they may place it last.

(5) Stewards' presence:

(a) On each racing day at least one steward shall be on duty at the track from 3 hours prior to first race post time. The full board of stewards shall sit in regular session to exercise their authority and perform the duties imposed on them by the rules of racing;

(b) Three stewards shall be present in the stewards' stand during the running of each race. In case of emergency, the stewards may, during the meeting, appoint a substitute subject to the confirmation of the commission.

(6) Order of finish for parimutuel wagering:

(a) The stewards shall determine the official order of finish for each race in accordance with these rules of racing;

(b) The decision of the stewards as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the running of the race, shall be final for purposes of distribution of the parimutuel wagering pool.

(7) The stewards have the authority to cancel wagering on an individual betting interest or on an entire race and also have the authority to cancel a parimutuel pool for a race or races, if such action is necessary to protect the integrity of parimutuel wagering.

(8) Records and reports:

(a) The stewards shall prepare a daily report, detailing their actions and observations made during each day's race program. The report shall contain the name of the racetrack, the date, the weather and track conditions, claims, inquiries, objections and hearings and any unusual circumstances or conditions. The report shall be signed by each steward and be filed with the commission;

(b) Not later than seven days after the last day of a race meeting, the presiding steward shall submit to the commis-

sion a written report regarding the race meeting. The report shall contain:

(i) The stewards' observations and comments regarding the conduct of the race meeting, the overall conditions of the association grounds during the race meeting; and

(ii) Any recommendations for improvement by the association or action by the commission.

(9) Stewards' list:

(a) The stewards shall maintain a stewards' list of the horses which are ineligible to be entered in a race because of poor or inconsistent performance or behavior on the racetrack that may endanger the health or safety of other participants in racing;

(b) The stewards may place a horse on the stewards' list when there exists a question as to the exact identification or ownership of said horse;

(c) A horse which has been placed on the stewards' list because of inconsistent performance or behavior, may be removed from the stewards' list when, in the opinion of the stewards, the horse can satisfactorily perform competitively in a race without endangering the health or safety of other participants in racing;

(d) A horse which has been placed on the stewards' list because of questions as to the exact identification or ownership of said horse, may be removed from the stewards' list when, in the opinion of the stewards, proof of exact identification and/or ownership has been established.

~~((10) When the stewards feel that a rule, other than a rule of the race, has been violated by any person, the procedure shall be as follows:~~

~~(a) He or she shall be summoned to a hearing before the stewards, called for that purpose;~~

~~(b) Adequate notice of said hearing shall be given to the summoned party. The stewards' decision as to what is adequate notice shall be final;~~

~~(c) No penalty shall be imposed until such hearing;~~

~~(d) Nonappearance of the summoned party after adequate notice shall be construed as a waiver of right to hearing before the stewards;~~

~~(e) No special announcement of the hearing or of the alleged infraction of rules shall be made until after said hearing. Immediately after a hearing, provided the matter is settled, the stewards shall transmit their findings in a stewards ruling to the commission and to the party in question. Thereafter, if a penalty is imposed for the infraction of the rules but only in the case of penalty, the commission may make a public statement.~~

~~(11) Nothing in this rule shall prohibit the stewards from taking necessary action to prevent or avoid the immediate danger to the public health, safety or welfare or the integrity of racing.))~~

PROPOSED

WSR 04-07-145
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed March 23, 2004, 8:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-04-017.

Title of Rule: WAC 139-05-210 Basic law enforcement equivalency certification.

Purpose: This change would allow peace officers to work in Washington state without holding a Washington state driver's license. This change is necessary for peace officers that reside in another state (e.g., Idaho and Oregon) and work in Washington state.

Language update.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: Not applicable.

Summary: Stakeholders were contacted by letter to advise of the intended rule amendments. Proposals also listed on the agency website.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sharon M. Tolton, Burien, (206) 835-7345.

Name of Proponent: Criminal Justice Training Commission 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.

RCW 19.85.025(2), this chapter does not apply to a rule proposed for expedited adoption under **RCW 34.05.230 (1) through (8), unless a written objection is timely filed with the agency and the objection is not withdrawn.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148-2055, on June 9, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Sonja Hirsch by June 7, 2004, TDD (206) 835-7300.

Submit Written Comments to: Sharon M. Tolton, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148-2055, fax (206) 439-3860, by June 7, 2004.

Date of Intended Adoption: June 9, 2004.

March 22, 2004
 Sharon M. Tolton
 Deputy Director

AMENDATORY SECTION (Amending WSR 03-07-099, filed 3/19/03, effective 4/19/03)

WAC 139-05-210 Basic law enforcement equivalency certification. (1) A certificate of equivalent basic law

enforcement training shall be issued only to applicants who successfully complete the equivalency process as required by the Washington state criminal justice training commission. For this purpose, the term "process" shall include all documentation and prerequisites set forth in subsection (6) of this section, and successful completion of all knowledge and skills requirements within the basic equivalency academy. A certificate of equivalent basic law enforcement training shall be recognized in the same manner as the certificate of completion of the basic law enforcement academy.

(2) Eligibility for participation in the basic equivalency process shall be limited to ~~((regular, full-time,))~~ fully commissioned law enforcement officers of a city, county, or political subdivision of the state of Washington, who otherwise are eligible to attend the basic law enforcement academy, and who have attained basic certification through completion of a basic training program in this or another state. For this purpose, the term "basic training program" shall not include any military or reserve training program, or any federal training program not otherwise approved by a majority of the commission membership.

(3) The participation of any eligible and approved applicant for a certificate of equivalent basic law enforcement training shall be effected within, and limited to, the first available session of the basic equivalency academy following such applicant's date of hire; provided that no applicant shall be required to attend a session of the basic equivalency academy which is conducted within the initial sixty days of the employment for which certification is requested.

It shall be the responsibility of the applicant's agency to ensure that all necessary forms and documentation are completed and submitted to the commission in a timely manner and as necessary to ensure that the participation provided by this section is effected.

The participation of any applicant in any session of the basic equivalency academy not otherwise provided herein shall require the approval of the commission.

(4) In those instances wherein an applicant has attended more than one basic training program, eligibility for participation in the basic equivalency process shall not be approved if such applicant, for whatever reason, failed to successfully complete the most recent of such programs attended.

(5) The decision to request an officer's participation within the equivalency process shall be discretionary with the head of the officer's employing agency, who shall advise the commission of that decision by appropriate notation upon the hiring notification submitted to the commission for such officer. Upon receipt of such notification, the commission shall provide to such agency head all necessary forms and information required for the processing of a request for a certificate of equivalent basic training.

(6) Upon approval of an applicant's eligibility to participate in the equivalency process, the applicant's employing agency shall submit to the commission the following documentation as a precondition of participation within such process:

- (a) A copy of applicant's current and valid ~~((Washington state))~~ driver's license;
- (b) A copy of applicant's current and valid basic first-aid card;

(c) A statement of applicant's health and physical condition by an examining physician;

(d) A record of applicant's firearms qualification;

(e) A liability release agreement by the applicant; and

(f) A criminal records check regarding such applicant.

(7) If such training has not been completed previously, the applicant shall be required to complete the commission's forty hour emergency vehicle operation course, as scheduled by the commission.

(8) Upon completion of the equivalency process and review and evaluation of applicant's performances therein, the commission shall:

(a) Issue a certificate of equivalent basic training;

(b) Issue a certificate of equivalent basic training upon applicant's successful completion of additional training as the training commission may require; or

(c) Require completion of the basic law enforcement academy.

(9) Any action or determination by the commission staff regarding a requestor or applicant for equivalency certification shall, upon written request of the involved individual or agency, be reviewed by the executive director of the training commission.

(10) Any waiver of, or variance in, any above requirement for equivalency participation and/or certification may be granted by the commission if it determines that sufficient justification exists for such action.

WSR 04-07-147

PROPOSED RULES

GAMBLING COMMISSION

[Filed March 23, 2004, 8:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-04-061.

Title of Rule: Card games, we have received a petition for rule change from Bob Tull, representing DigiDeal Corporation, requesting an amendment to WAC 230-40-070.

Purpose: Currently, this rule allows electronic facsimiles of cards to be used in house-banked card games. Mr. Tull is requesting an amendment to allow electronic facsimiles of cards to be used for all card games, not just house-banked card games (for example, poker games).

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Lacey, (360) 486-3466; Implementation: Rick Day, Lacey, (360) 486-3446; and Enforcement: Greg Thomas, Lacey, (360) 486-3579.

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.

RCW 34.05.328 does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this adoption.

Hearing Location: Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000, on May 14, 2004, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Shirley Corbett by May 1, 2004, TDD (360) 486-3637 or (360) 486-3447.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, fax (360) 486-3625, by May 1, 2004.

Date of Intended Adoption: May 14, 2004.

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-15-054, filed 7/13/01)

WAC 230-40-070 Licensee to furnish all cards, chips and other services. Each public card room and Class A social card room licensee shall furnish all chips and cards in connection with all card games conducted on its premises at no additional charge to the players, except as provided in WAC 230-40-050(6).

Standards for chips and cards.

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) The licensee shall furnish chips and cards that meet the following requirements:

(a) **Chips.** Chips must include the house name or logo, clearly denote the chip value, be produced by a licensed manufacturer, and purchased from a licensed manufacturer or distributor: Provided, That the director may exempt Class A, B, C, and E licensees with five tables or less from this provision if chips are readily identifiable as having been furnished by that particular licensee and values of chips are clearly posted in the card room: Provided further, That Class D licensees are exempt from the provisions set forth in this subsection; and

(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: Provided, That Class A, B, C, D, and E licensees with five tables or less are exempt from this provision. These licensees shall comply with all other requirements related to the type of games being played.

(c) **Electronic facsimiles of cards.** Electronic card facsimiles may be approved by the director for use in (~~house-banked~~) all authorized card games subject to the following conditions:

(i) The system shall:

WSR 04-07-150
PROPOSED RULES
BATES TECHNICAL COLLEGE

[Filed March 23, 2004, 10:27 a.m.]

(A) Produce accurate facsimiles of one or more standard decks of playing cards;

(B) Randomly shuffle the cards prior to each round of play or shoe loading;

(C) Contain a backup system for recording and display of at least five previous rounds of play;

(D) Contain security protocols which prevent unauthorized access;

(E) Provide a means of testing of computer software;

(F) Meet any additional technical standards required by the commission;

(G) Be operated only under card room internal controls specific to each system; and

(H) Be tested by a licensed game testing laboratory for compliance with these requirements.

(ii) The system shall be operated by card room personnel and shall not be designed to allow the player to play against the device.

(iii) The costs of initial laboratory testing and any additional testing required by the commission shall be paid for by the manufacturer.

Bank services.

(2) The licensee shall sell its chips to all players desiring to buy them and redeem all chips at the value for which they were sold. 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.

Selling chips for cash or check.

(3) Chips shall be sold for cash only and a licensee shall not extend credit of any nature to a person purchasing chips: Provided, That a licensee may accept a check in accordance with WAC 230-12-053 and 230-40-845. Each receipt by a person of a quantity of chips from the licensee shall be a separate transaction for the purpose of this rule. Checks received for chips retained by the licensee after close of business shall be deposited by the licensee not later than the second day following receipt upon which the licensee's bank is open for business.

Protecting the integrity of cards and chips.

(4) The licensee shall safeguard all chips and cards to assure integrity of games and banking services. Licensees shall not 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 which are not furnished by the licensee to be used in any card game conducted upon its premises; or

(c) Any other person to buy or sell chips for use in card games upon its premises.

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-01-028.

Title of Rule: Updating definition of alternative learning methods, WAC 495A-121-011; updating prohibited student conduct, WAC 495A-121-041; and updating disciplinary student sanctions, WAC 495A-121-044.

Purpose: Amend and clarify for students prohibited conduct and disciplinary sanctions relating to alternative learning and technological equipment.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140(13).

Summary: The purpose of this rule making is to (i) amend student rights and responsibilities to include alternative means of learning and technological advances as part of the definition of "college," to include computer systems/networks or extension sites as part of the definition of "college facilities"; (ii) to include a new category of prohibited conduct concerning internet usage; (iii) to include a new category of disciplinary sanctions of "restricted computer systems/network access"; and (iv) to include a new category of loss of privilege of "computer/internet access."

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Gwen Sailer, Vice-President, Downtown Campus, 1101 South Yakima Avenue, (253) 680-7005.

Name of Proponent: Bates Technical College, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule making is to update student rights and responsibilities to include alternative means of learning and technological advances.

Proposal Changes the Following Existing Rules: This proposal will clarify for students prohibited conduct relating to alternative learning and technological equipment.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This WAC change does not impact small business. This WAC change only impacts Bates students.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Bates Technical College, Downtown Campus, 1101 South Yakima Avenue, Clyde Hupp Board Room, Tacoma, WA 98405, on Friday, May 7, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Amy Goings by May 3, 2004, TDD 680-7045 or 680-7100.

Submit Written Comments to: Amy Goings, Director of Development, 1101 South Yakima Avenue, Tacoma, WA 98405, fax (253) 680-7102, by May 7, 2004.

Date of Intended Adoption: May 7, 2004.

March 19, 2004

Amy Goings

Director of Development

PROPOSED

AMENDATORY SECTION (Amending WSR 00-11-147, filed 5/24/00, effective 6/24/00)

WAC 495A-121-011 Definitions. The definitions set forth in this section shall apply throughout this chapter. The following words and phrases shall mean:

(1) "Assembly" shall mean any 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 persons or group of persons.

(2) "Board of trustees" shall mean the five member board appointed by the governor of the state of Washington, District No. 28.

(3) "College" shall mean Bates Technical College, which includes the main campus, extension centers, and off-campus classes and activities, including alternative learning methods distributed by web, tape, television or other alternative means.

(4) "College community" shall mean all college employees designated as members of the administration by the board of trustees and students.

(5) "College facilities" shall mean and include any or all computer systems/networks or extension/alternative sites or real property controlled or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(6) "College president" shall mean the chief executive officer of the college appointed by the board of trustees.

(7) "Controlled substances" shall mean the definition of controlled substances as defined within RCW 69.50.101 as now law or hereafter amended.

(8) "Disciplinary action" shall mean and include oral warning, reprimand, probation, suspension, dismissal or any lesser sanction of any student by college officials.

(9) "Disciplinary official" shall mean the student/faculty disciplinary committee, the vice-president of student services or designee, and the president.

(10) "Drugs" shall mean a narcotic drug as defined in RCW 69.50.101 or a legend drug as defined in RCW 69.41-.010.

(11) "Employee" shall mean any classified, faculty, administrator, exempt, student worker or volunteer person.

(12) "Harassment" shall mean any malicious act, which causes harm to any person's physical or mental well being.

(13) "Hate crimes" shall mean criminal acts in which victims are selected based on characteristics such as race, national origin, ethnicity, sex/gender, religion, sexual orientation or disability. Examples of behaviors that may constitute a hate crime include but are not limited to:

- (a) Threatening phone calls.
- (b) Hate mail.
- (c) Physical assault.
- (d) Threats of harm or violence.
- (e) Arson.
- (f) Vandalism.
- (g) Cross burnings.
- (h) Bombings and bomb threats.

(14) "Hazing" shall mean any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause bodily danger

or physical harm, or serious mental or emotional harm to any student or person attending a public or private institution of higher education or other postsecondary educational institution in this state.

(15) "Instructor/faculty" shall mean professional staff members who are employed by the college in a temporary, full-time, tenured or probationary position as instructor, counselor, and/or librarian for the purpose of providing support services for students.

(16) "Liquor" shall mean the definition of liquor as defined in RCW 66.04.010.

(17) "Racial harassment" shall be defined as written, oral, graphic or physical conduct relating to an individual's race, color, or national origin that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of the individual to participate in or benefit from college's programs or activities. Examples of behaviors that constitute harassment based on race or national origin may include but are not limited to:

(a) Harassment of students because they are immigrants, speak another language, or have a foreign accent.

(b) Intimidation and implied or overt threats of physical violence motivated by race, color, or national origin.

(c) Physical acts of aggression or assault upon another, or damage to another's property that is motivated by the individual's race, color, or national origin.

(d) Depending on the circumstances and context, demeaning racial jokes, taunting, racial slurs, and derogatory racial "nicknames," innuendoes, or other negative or derogatory remarks of a racial nature or relating to national origin.

(e) Depending on the circumstances and context, graffiti and/or slogans or visual displays such as cartoons or posters depicting racial/ethnic slurs or other racially/ethnically derogatory sentiments.

(f) Criminal offenses directed at persons because of their race or national origin.

(18) "Sexual harassment" shall mean unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct directed at person because of his/her sex where:

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

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

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or learning environment. Examples of behaviors that may constitute harassment include but are not limited to:

(i) Unwelcome verbal harassment of a sexual nature or abuse;

(ii) Unwelcome pressure for sexual activity;

(iii) Unwelcome sexually motivated or inappropriate patting, pinching, or physical contact;

(iv) Unwelcome sexual behavior or words, including demands for sexual favors accompanied by implied or overt threats concerning an individual's educational status;

(v) Unwelcome behavior, verbal or written words or symbols, directed at an individual because of gender;

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(vi) The use of authority to emphasize the sexuality of a student in a manner that prevents or impairs the student's full enjoyment of educational benefits, climate or opportunities.

(19) "Student" shall mean and include any person who is enrolled at the college or is in the process of enrolling at the college.

AMENDATORY SECTION (Amending WSR 00-11-147, filed 5/24/00, effective 6/24/00)

WAC 495A-121-041 Prohibited conduct. Disciplinary action may be taken for a violation of any provision of this student code or for a violation of other college rules and regulations, which may from time to time be properly enacted or for specific prohibited conduct including, but not limited to, the following:

(1) Smoking and use of tobacco products is prohibited in all classrooms, shop areas, the library and other areas designated by college officials.

(2) Using, possessing, consuming, or being under the influence of, or selling any liquor as defined in RCW 66.04.010, in violation of law or in a manner which disrupts a college activity.

(3) Using, possessing, selling or being under the influence of any narcotic drug or controlled substance as defined in RCW 69.50.101 in a college facility or while participating in a college-related program or activity.

(4) Engaging in lewd, indecent, or obscene behavior.

(5) Where the student presents an imminent danger to college property or to himself/herself or to other students or persons in college facilities on or off campus, or to the educational process of the college.

(6) Interference by force or violence with, or intimidation by threat of force or violence, of another student, employee or visitor who is in the peaceful discharge or conduct of his/her duties or studies (RCW 28B.10.570 through 28B.10.572).

(7) Conducting or participating in an assembly, which violates the guidelines of assembly as defined and set forth in these provisions.

(8) Any forms of academic dishonesty, including cheating, falsification, plagiarism or facilitating, aiding, and abetting academic dishonesty.

(9) Forgery of or unauthorized alteration of or access to any college document, record, funds, or instrument of identification, including electronic hardware, software and records.

(10) The intentional making of false statements and/or filing of false charges against the college and/or a member of the college community.

(11) Theft from college premises and/or property; theft of property of a member of the college community on college premises; or possession of property stolen from college premises and/or a member of the college community while on college premises.

(12) Causing, or attempting to cause, physical damage to property owned, controlled or operated by the college or to property owned, controlled or operated by another person while said property is located on college facilities.

(13) Failure to comply with the direction of college employees acting in the legitimate performance of their duties.

(14) Refusal to provide positive identification and evidence of student enrollment to any college employee in the lawful discharge of said employee's duties.

(15) Unlawful possession, transportation or storage of any firearm(s), explosives, dangerous chemicals or other weapons, devices or substances which can be used to inflict bodily harm or to damage real or personal property.

(16) 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.

(17) Sexual harassment as defined and set forth in these provisions, of another student or employee.

(18) Racial harassment as defined and set forth in these provisions of another student or employee.

(19) Any repeated intentional conduct directed at another student or employee that has the purpose or effect of creating a hostile, intimidating or disruptive learning or working environment.

(20) Hazing in any form as described in RCW 28B.10.-900.

(21) Illegal or attempted illegal entry of college owned or college controlled property.

(22) Violation of any computer use policies in effect on campus as well as conduct that violates the college's property rights with respect to computing resources including, but not limited to:

(a) Unauthorized copying, including:

(i) Copying college-owned or licensed software or data for personal or external use without prior approval;

(ii) Copying another computer user's software or data without permission of its owner, even if it is readily accessible by electronic means;

(iii) Knowingly accepting or using software or data which has been obtained by unauthorized means.

(b) Modifying or damaging, attempting to modify or damage computer equipment, software, data bases, or communication lines without permission;

(c) Disrupting or attempting to disrupt computer operations;

(d) Invading the privacy of an individual by using electronic means to ascertain confidential information, even if an individual or department inadvertently allows access to such information;

(e) Abusing or harassing another computer user through electronic means;

(f) Using the college's computing facilities in the commission of a crime;

(g) Allowing another individual to use one's computer identity/account or using another individual's computer identity/account. This includes, but is not limited to: Logging on to the account, accessing programs, and reading or altering computer records. Computer time belongs to the college; the college is the only entity, through computing services, authorized to allocate time on the mainframe computers.

(h) Using computer services without authorization.

(i) Using the internet for purposes other than college-approved activities.

(23) Disruption. While students have the right to freedom of expression, including the right to dissent or protest, this expression cannot interfere with the rights of others or disrupt the processes of the college. The following conduct will not be permitted:

- (a) Disruption of classes, laboratories, offices, services, meetings, or ceremonies;
 - (b) Obstruction of free movement of people or vehicles;
 - (c) Conduct which threatens harm, incites violence, or endangers the health and safety of any person;
 - (d) Threats of disruption, including bomb threats;
 - (e) Damaging, defacing or abusing college facilities, equipment, or property;
 - (f) Inciting others to engage in prohibited conduct.
- (24) Violation of parking regulations.

(25) Other conduct. Any other conduct or action in which the college can demonstrate a clear and distinct interest, and, which substantially threatens the educational process or other legitimate function of the college or the health or safety of any member of the college is prohibited.

AMENDATORY SECTION (Amending WSR 00-11-147, filed 5/24/00, effective 6/24/00)

WAC 495A-121-044 Disciplinary sanctions. Sanctions for violations of college regulations or conduct may be imposed independent of any action taken by civil authorities. In the case of minors, misconduct may be referred to parents or legal guardians. More than one sanction may be recommended. Sanctions may include, but are not limited to:

- (1) "Disciplinary warning" shall mean oral notice of violation of college rules and regulations.
- (2) "Reprimand" shall mean formal action after censuring a student for violation of college rules or regulations for failure to satisfy the college's expectations regarding conduct. The disciplinary official makes reprimands in writing to the student. A reprimand indicates to the student that continuation or repetition of the specific conduct involved or other misconduct will result in one or more serious disciplinary actions described below.
- (3) "Disciplinary probation" shall mean formal action placing conditions upon the student's continued attendance. Notice will be made in writing, specifying the period of probation and the conditions of the probation. Disciplinary probation warns the student that any further misconduct will automatically raise the question of dismissal from the college.
- (4) "Restitution" shall mean compensation for loss, damage, or injury to the appropriate party in the form of service, money, or material replacement.
- (5) "Discretionary sanctions" may include, but are not limited to, restricted computer systems/network access, work assignments, service to college or community, mandatory class/workshop attendance or other discretionary assignments such as educational interventions intended as learning experiences.
- (6) "Loss of privileges" shall mean loss of specific college privileges for a specified period of time. These may include, but are not limited to, computer/internet access, student activities or club participation.

(7) "Summary suspension" shall mean temporary dismissal from the college for a period of time during which an investigation and/or formal disciplinary procedures are pending. Summary suspension is predicated upon a reasonable belief that the student presents an imminent danger to college property, to other students, to employees of the college or is of significant disruption to the educational process.

(8) "Suspension" shall mean temporary dismissal from the college and termination of student status.

(9) "Expulsion" shall mean dismissal from the college and termination of student status.

(10) "No contact" shall mean restriction from entering specific college areas and/or all forms of contact with certain individual(s).

WSR 04-07-159
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed March 23, 2004, 1:54 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-04-097.

Title of Rule: Chapter 296-816 WAC, Protecting trade secrets and chapter 296-62 WAC, General occupational health standards.

Purpose: The department is rewriting and clarifying requirements relating to trade secrets. The preproposal for trade secrets was filed with access to records on February 4, 2003, as WSR 03-04-097. However, L&I decided to file access to records and trade secrets as two separate proposed rules. As a result, access to records was filed as a proposed rule on November 18, 2003, as WSR 03-23-101. This will make the trade secret requirements easy to read and understand, making them more useful for employers. This proposal will move trade secret requirements from chapter 296-62 WAC, General occupational health standards, to a new chapter, chapter 296-816 WAC, Protecting trade secrets.

NEW SECTIONS WAC 296-816-100 Scope, 296-816-200 Protecting trade secrets, 296-816-20005 Meet certain conditions in order to withhold trade secret information, 296-816-20010 Provide trade secret information in a medical emergency, 296-816-20015 Respond to requests for trade secret information in nonemergency situations, 296-816-20020 Provide trade secret information when requested by WISHA, and 296-816-300 Definitions; and amending WAC 296-62-05305 Meet certain conditions if you withhold trade secret information.

- A note will be added stating that requirements relating to trade secrets have been moved and the requirements in WAC 296-62-05305 through 296-62-05325 only apply to agriculture.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: The department is rewriting and clarifying requirements relating to trade secrets. This will make the

trade secret requirements easy to read and understand, making them more useful for employers. This proposal will move trade secret requirements from chapter 296-62 WAC, General occupational health standards, to a new chapter, chapter 296-816 WAC, Protecting trade secrets.

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: The trade secrets rule, in chapter 296-62 WAC, General occupational health standards, contains requirements for withholding and disclosing trade secrets. These requirements will be rewritten and moved into chapter 296-816 WAC, Protecting trade secrets. There are no anticipated effects of this rule making.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A number of criteria and exemptions were established by the small business economic impact statement (SBEIS) analysis. One key criteria that allows rule changes to be exempt from preparation of an SBEIS is presented in RCW 34.05.310 (4)(d): "rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect" are not subject to the SBEIS requirements. Because the proposed rule changes make clarifying and organizational changes for ease of understanding and use, but do not in any way alter the content of the original rules, there should not be an economical impact on Washington state business.

The analysis of the rule reveals that in addition to not imposing new costs on businesses, these revisions will actually make WISHA rules easier for employers and employees to understand and use, and thus actually save them time.

RCW 34.05.328 does not apply to this rule adoption. Significant rule-making criteria does not apply to the rule amendments because the changes simply clarify the language of the rule without changing its effect.

Hearing Location: Department of Labor and Industries Building, Rooms S117 and S118, 7273 Linderson Way S.W., Tumwater, WA, on April 29, 2004, at 2:30 p.m.

Assistance for Persons with Disabilities: Contact Sally Elliot by April 22, 2004, at (360) 902-5484 or yous235@lni.wa.gov.

Submit Written Comments to: Kimberly Johnson, Administrative Regulations Analysis, WISHA Services, P.O. Box 44620, Olympia, WA 98504, fax (360) 902-5529, by May 6, 2004.

Date of Intended Adoption: June 1, 2004.

March 23, 2004

Paul Trause
Director

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-62-05305 Meet certain conditions if you withhold trade secret information.

Note: The requirements in WAC 296-62-05305 through 296-62-05325 apply only to agriculture. The requirements for all other industries relating to trade secrets have been moved to chapter 296-816 WAC, Protecting trade secrets.

You may withhold the specific chemical identity, including the chemical name and other specific identification of a toxic substance or hazardous chemical, from a disclosable record or a material safety data sheet if you meet each of the following conditions:

You:

- Can support the claim that the information withheld is a trade secret.
- Disclose all other available information about the properties and effects of the toxic substance.
- Disclose the information in the material safety data sheet about the properties and effects of the hazardous chemical.
- Inform the person requesting the information, or the material safety data sheet states that the specific chemical identity is being withheld as a trade secret.
- Make available the specific chemical identity to health professionals, employees, and their designated representatives according to the provisions of this rule.

Nothing in this rule hinders an employer from deleting from records requested by a health professional, employee, or designated representative any trade secret data which discloses manufacturing processes, or discloses the percentage of a chemical substance in a mixture.

You must notify the health professional, employee, or designated representative requesting records that information about the trade has been deleted from the records.

If deleting trade secret information from a record substantially impairs evaluation of the location or the time when exposure to a toxic substance occurred, you must provide alternative information that enables the requesting party to identify where and when the exposure occurred.

NEW SECTION

WAC 296-816-100 Scope. This chapter applies to both:

- Withholding trade secret information from material safety data sheets (MSDSs) and employee exposure records; AND
- Providing trade secret information in medical emergencies and nonemergency situations.

Definition:

Trade secrets: Any confidential information that is used in an employer's business and gives an opportunity to gain an advantage over competitors who do not know or use it. It can be a:

- Formula.
- Pattern.
- Process.
- Device.
- Information.
- Collection of information.

NEW SECTION**WAC 296-816-200 Protecting trade secrets.****Your responsibility:**

To meet requirements that apply to your workplace when withholding or providing trade secret information.

You must:**WAC 296-816-20005**

Indicate when trade secret information has been withheld.

WAC 296-816-20010

Provide trade secret information in a medical emergency.

WAC 296-816-20015

Provide trade secret information in nonemergency situations.

WAC 296-816-20020

Provide trade secret information when requested by WISHA.

NEW SECTION**WAC 296-816-20005 Indicate when trade secret information has been withheld.****You must:**

• Indicate clearly in the MSDS or employee exposure records that trade secret information has been withheld.

NEW SECTION**WAC 296-816-20010 Provide trade secret information in a medical emergency.****You must:**

• Immediately provide the specific chemical identity to the treating physician or nurse when they determine:

- That a medical emergency exists;

AND

– The specific chemical identity is necessary to treat the employee involved in the medical emergency.

Note:

- You may require a written statement of need and confidentiality agreement from the treating physician or nurse receiving the trade secret information as soon as circumstances of the medical emergency permit.
- If the health care professional receiving the trade secret information decides that there is a need to disclose it to WISHA, they need to inform you prior to, or at the same time as, disclosure being made to WISHA.

NEW SECTION**WAC 296-816-20015 Respond to requests for trade secret information in nonemergency situations.****You must:**

• Provide trade secret information in nonemergency situations when a written request by a health professional, employee, or designated representative, includes the following:

– Details showing that the trade secret information is needed for one or more of the following occupational health reasons:

- Assessing the hazards of the chemicals employees will be exposed to.

- Conducting or assessing sampling of the workplace atmosphere to determine employee exposure levels.

- Conducting medical surveillance of exposed employees.

- Providing medical treatment to exposed employees.

- Selecting or assessing personal protective equipment for exposed employees.

- Designing or assessing engineering controls or other protective measures.

- Conducting studies to determine the health effects of exposure.

– Details showing why the following alternative information **does not** meet the needs of the requestor:

- The properties and effects of the chemical.

- Measures for controlling employees' exposure to the chemical.

- Methods of monitoring and analyzing employee exposure to the chemical.

- Methods of diagnosing and treating harmful exposures to the chemical.

– The procedures that will be used to keep the information confidential.

• Meet all the following requirements if you decide not to provide the requested trade secret information:

– Provide a written denial within thirty days that includes the following information:

- The reasons for denying the request.

- Evidence that the requested information is a trade secret.

- A detailed explanation of how alternative information may satisfy the requesting party's needs without revealing any specific chemical identity.

– Provide alternative information that allows the requesting party to identify where and when an exposure occurred, if trade secret information was deleted.

– Make available all other information about the properties and effects of the specific chemical.

Note:

- WISHA may issue orders or impose additional limitations or conditions on the release of the information to make sure that the occupational health needs are met without risk to you when you show WISHA that a confidentiality agreement will not provide enough protection against harm that could be caused to your business by disclosing a specific chemical identity.

- If the health care professional, employee, or designated representative receiving the trade secret information decides that there is a need to disclose it to WISHA, they need to inform you prior to, or at the same time as, disclosure being made to WISHA.

NEW SECTION**WAC 296-816-20020 Provide trade secret information when requested by WISHA.****IMPORTANT:**

If you deny a request for trade secret information, the requestor may refer the written denial, along with the original request, to WISHA for consideration. WISHA will review the denial and determine if it meets the requirements of this chapter.

You must:

- Provide trade secret information to WISHA when requested.
- Make any trade secret claim, including supporting documentation, by the time you provide WISHA with the information.

NEW SECTION**WAC 296-816-300 Definitions.****Designated representative:**

- Any individual or organization to which an employee gives written authorization.
- A recognized or certified collective bargaining agent without regard to written employee authorization.
- The legal representative of a deceased or legally incapacitated employee.

Employee exposure record:

A record containing any of the following information:

- Environmental (workplace) monitoring or measuring of a toxic substance or harmful physical agent, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained.
- Biological monitoring results which directly assess the absorption of a toxic substance or harmful physical agent by body systems, such as the level of a chemical in the blood, urine, breath, hair, or fingernails, but not including results which assess the biological effect of a substance or agent or which assess an employee's use of alcohol or drugs.
- Material safety data sheets (MSDSs) indicating that the material may pose a hazard to human health;

OR

- In the absence of the above:
 - A chemical inventory or any other record that reveals where and when used and the identity (e.g., chemical, common or trade name) of a toxic substance or harmful physical agent.
 - Exposure records of other employees with past or present job duties or related working conditions.

Exposure or exposed:

The contact an employee has with a toxic substance, harmful physical agent, or oxygen deficient condition. Exposure can occur through various routes, such as inhalation, ingestion, skin contact, or skin absorption.

Health professional:

A physician, occupational health nurse, industrial hygienist, toxicologist, or epidemiologist, providing medical or other occupational health services to exposed employees.

Record:

- Any item, collection, or grouping of information. Examples include:
- Paper document.
 - Microfiche.
 - Microfilm.
 - X-ray film.
 - Computer record.

Specific chemical identity:

Any information that reveals the precise chemical designation of the substance, such as:

- Chemical name;

OR

- Chemical abstracts service (CAS) registry number.

Trade secret: Any confidential information that is used in an employer's business and gives an opportunity to gain an advantage over competitors who do not know or use it. It can be a:

- Formula.
- Pattern.
- Process.
- Device.
- Information.
- Collection of information.

WSR 04-07-171**PROPOSED RULES****DEPARTMENT OF AGRICULTURE**

[Filed March 24, 2004, 8:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-23-056.

Title of Rule: Chapter 16-350 WAC, Registration and certification of fruit tree planting stock, fruit tree certification application fee.

Purpose: This proposal amends chapter 16-350 WAC by increasing the fruit tree certification application fee for each registered Prunus and pome seed tree, establishing a new fruit tree certification application fee for each registered Prunus and pome scion tree, clarifying existing language to make it more clear and readable, and correcting an erroneous RCW reference. An effective date of July 1, 2004, is proposed.

Statutory Authority for Adoption: Chapters 15.14 and 34.05 RCW.

Statute Being Implemented: Chapter 15.14 RCW.

Summary: RCW 15.14.015 provides the director of the Department of Agriculture the authority to establish fees and assessments for inspection, testing, and certification of planting stock. The department uses these fees and assessments to fund the fruit tree certification program, which allows participating nurseries access to international markets where testing for known virus and virus-like diseases is required. The certification program also provides Washington fruit growers with a source of planting stock tested for harmful plant diseases. An increase in the fruit tree certification application fee is necessary because the current level of funding to the program is no longer adequate to carry out its statutory duties.

Reasons Supporting Proposal: This proposal will enable the fruit tree certification program to continue.

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Tom Wessels, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1984.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 15.14.015 provides the director of the Department of Agriculture the authority to establish fees and assessments for inspection, testing, and certification of planting stock. The department uses these fees and assessments to fund the fruit tree certification program, which allows participating nurseries access to international markets where testing for known virus and virus-like diseases of fruit trees is required. The fruit tree certification program also provides Washington tree fruit growers with a source of planting stock tested for harmful plant diseases. An increase in the fruit tree certification application fee is necessary because the current level of funding to the program is no longer adequate to carry out its statutory duties.

Proposal Changes the Following Existing Rules: This proposal amends chapter 16-350 WAC by specifying the fruit tree certification application fee for each registered Prunus and pome tree, clarifying existing language to make it more clear and readable, and correcting an erroneous RCW reference. An effective date of July 1, 2004, is proposed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. Analysis of the economic effects of the proposed rule amendments demonstrate that the changes will not be more than a minor cost on the regulated industry and, therefore, an SBEIS is not required.

RCW 34.05.328 does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

Hearing Location: WSU Tree Fruit Research and Extension Center (conference room inside main entrance), 1100 North Western Avenue, Wenatchee, WA 98801, on April 27, 2004, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Henri Gonzales by April 13, 2004, TDD (360) 902-1996.

Submit Written Comments to: Henri Gonzales, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2094, e-mail hgonzales@agr.wa.gov, by April 27, 2004.

Date of Intended Adoption: May 11, 2004.

March 24, 2004

Mary A. Martin Toohey
Assistant Director

AMENDATORY SECTION (Amending WSR 00-19-036, filed 9/12/00, effective 10/13/00)

WAC 16-350-040 Inspection and testing for certification of nursery planting stock. (1) The department will conduct all inspections, testing and indexing prescribed in this chapter in a manner and at times the department has determined to be suitable. The methods and procedures used for

making the virus and virus-like disease determinations will conform to the standards of NRSP-5.

~~(2) ((The department will conduct at least one visual inspection of certified nursery rootstock during the first growing season. Upon request by the department, growers must rogue any undesirable rootstock prior to bud or graft placement.~~

~~(3) The department will conduct at least two visual inspections of nursery stock during the growing season following bud or graft placement.~~

(4)) The department will refuse certification of planting stock that has been propagated from registered trees found to be infected by a virus or virus-like disease, or if other requirements of this chapter have not been complied with.

AMENDATORY SECTION (Amending WSR 00-19-036, filed 9/12/00, effective 10/13/00)

WAC 16-350-045 Application and fees. (1) The applicant must provide the department with all information documenting the eligibility of all registered and certified stock and must allow the department to take samples for indexing or testing purposes.

(2) An application for certification must be filed with the department by June 1 of each year accompanied by an application fee. The application fee will consist of \$100.00 plus ~~(\$1.00)~~ \$10.00 for each registered ~~((seed))~~ Prunus tree and \$2.00 for each registered pome tree.

(3) The application fee will apply toward the ~~((one percent))~~ annual assessment on the gross ~~((sale))~~ wholesale price of ~~((the wholesale market value for))~~ all fruit trees ~~((;))~~ and fruit tree related ornamental ~~((s, and fruit tree rootstock))~~ nursery stock produced in Washington and sold within the state or shipped from the state ~~((of Washington by any licensed nursery dealer))~~ during any license period, as set forth in RCW ~~((15.13.130))~~ 15.13.310. No refund of the application fee will be allowed.

WSR 04-07-172

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed March 24, 2004, 8:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-04-108.

Title of Rule: The department is proposing to amend chapter 16-401 WAC, Nursery inspection fees, by adopting a new section, WAC 16-401-070 Annual assessment—Recordkeeping requirement.

Purpose: The proposed new section requires that all licensed nurseries must maintain accurate records of all grapevine, fruit tree, or fruit tree related ornamental nursery stock sales. The section also specifies the minimum standards that a licensed nursery must meet in order to comply with this new recordkeeping requirement.

Statutory Authority for Adoption: Chapters 15.13, 15.14, and 34.05 RCW.

Statute Being Implemented: Chapters 15.13 and 15.14 RCW.

Summary: RCW 15.13.310 gives the department the authority to audit the records of licensees to determine if the assessments paid to the department are correct. The requirements in the proposed new section will increase the department's ability to determine if licensees are paying appropriate assessment amounts. The ability to determine if appropriate assessment amounts are being paid is important, as these assessments fund the fruit tree and grapevine certification programs that are responsible for facilitating the movement of virus-tested planting stock in domestic and international markets and assisting the state's orchards and vineyards to remain free of harmful virus diseases.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Tom Wessels, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1984.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 15.13.310 gives the department's director the authority to audit the records of licensees to determine if the assessments paid to the department are correct. The requirements in the proposed new section will increase the department's ability to determine if licensees are paying appropriate assessment amounts. The ability to determine if appropriate assessment amounts are being paid is important because these assessments fund the fruit tree and grapevine certification programs that are responsible for facilitating the movement of virus-tested planting stock in domestic and international markets and assisting the state's orchards and vineyards to remain free of harmful virus diseases.

Proposal Changes the Following Existing Rules: The department is proposing to amend chapter 16-401 WAC, Nursery inspection fees, by adopting a new section, WAC 16-401-070 Annual assessment—Recordkeeping requirement. The proposed new section requires that all licensed nurseries must maintain accurate records of all grapevine, fruit tree, or fruit tree related ornamental nursery stock sales. The section also specifies the minimum standards that a licensed nursery must meet in order to comply with this new recordkeeping requirement.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. Analysis by the department of the economic effects of the proposed rule amendments demonstrates that they will not impose a more than minor cost on the regulated industry and, therefore, an SBEIS is not required.

RCW 34.05.328 does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

Hearing Location: WSU Tree Fruit Research and Extension Center (conference room inside main entrance), 1100 North Western Avenue, Wenatchee, WA 98801, on April 27, 2004, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Henri Gonzales by April 13, 2004, TDD (360) 902-1996.

Submit Written Comments to: Henri Gonzales, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2094, e-mail hgonzales@agr.wa.gov, by April 27, 2004.

Date of Intended Adoption: May 11, 2004.

March 24, 2004

Mary A. Martin Toohey
Assistant Director

NEW SECTION

WAC 16-401-070 Annual assessment—Recordkeeping requirement. Any person selling grapevine, fruit tree or fruit tree related ornamental nursery stock must maintain a set of accurate sales records to facilitate an audit and ensure that the proper assessment amount is paid to the department. The records must be maintained for a minimum of three years from the date of sale. At a minimum, the records must contain sequentially numbered sales invoices that clearly show the amount of assessment owed for each invoice. Sales invoices must be filed either numerically or alphabetically.

WSR 04-07-175

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed March 24, 2004, 9:19 a.m.]

Original Notice.

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

Title of Rule: Radioactive materials license fees; WAC 246-254-070 Specialized radioactive materials licenses, 246-254-080 Medical and veterinary licenses, 246-254-090 Industrial, 246-254-100, Laboratory, and 246-254-120 Licensing actions.

Purpose: To revise the fee schedule for the radioactive materials program in order to cover increases in program costs.

Other Identifying Information: The proposal adjusts fees 3.2% or less, within fiscal year 2004 fiscal growth limits.

Statutory Authority for Adoption: RCW 70.98.080 and 43.70.250.

Statute Being Implemented: RCW 70.98.080 and 43.70.250.

Summary: Fees support the public health activities in the radiation protection program and need to be adjusted to compensate for routine inflationary costs of the program.

Reasons Supporting Proposal: Sufficient revenue is necessary to fulfill the department's public health obligations.

Name of Agency Personnel Responsible for Drafting: Terry C. Frazee, Tumwater, (360) 236-3213; Implementation

and Enforcement: Arden Scroggs, Tumwater, (360) 236-3221.

Name of Proponent: Washington State Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule will increase the annual radioactive materials license fees in the range of 2.74% to 3.20%. The purpose of the fees is to support the licensing and inspection program within the Office of Radiation Protection. The fee increase will allow the radioactive materials program to continue its current level of public health activities, i.e., inspecting facilities, performing safety reviews of license applications, responding to radiation incidents, and answering licensee and public concerns about radiation safety.

Proposal Changes the Following Existing Rules: The proposal amends WAC 246-254-070, 246-254-080, 246-254-090, 246-254-100, and 246-254-120 by adjusting the fees within the fiscal year 2004 fiscal growth limit of 3.2%.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 (3), rules that set or adjust fees pursuant to legislative standards are exempt from the requirements of the Regulatory Fairness Act.

RCW 34.05.328 does not apply to this rule adoption. Rules that set or adjust fees pursuant to legislative standards are exempt from the analysis required in RCW 34.05.328.

Hearing Location: Department of Health, 7171 Cleanwater Lane, Building 5, Tumwater, WA 98501, on April 27, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Terry Frazee by April 20, 2004, TDD (800) 833-6388 or (360) 236-2255.

Submit Written Comments to: Terry C. Frazee, DOH-EHP-DRP, P.O. Box 47827, Olympia, WA 98504-7827, e-mail terry.frazee@doh.wa.gov, fax (360) 236-2255, by April 27, 2004.

Date of Intended Adoption: April 28, 2004.

March 17, 2004

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 03-14-034, filed 6/23/03, effective 7/24/03)

WAC 246-254-070 Fees for specialized radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following special categories shall forward annual fees to the department as follows:

(a) Five thousand (~~(five)~~) seven hundred (~~(fifty-five)~~) thirty-two dollars for operation of a single nuclear pharmacy.

(b) Nine thousand (~~(four)~~) seven hundred (~~(seventy-five)~~) seventy-six dollars for operation of a single nuclear laundry.

(c) Nine thousand (~~(four)~~) seven hundred (~~(seventy-five)~~) seventy-six dollars for a license authorizing a single facility to use more than one curie of unsealed radioactive material in the manufacture and distribution of radioactive products or devices containing radioactive material.

(d) Three thousand (~~(three)~~) four hundred (~~(twenty-five)~~) twenty-eight dollars for a license authorizing a single facility to use less than or equal to one curie of unsealed radioactive material or any quantity of previously sealed sources in the manufacture and distribution of products or devices containing radioactive material.

(e) Eight hundred (~~(sixty)~~) eighty-four dollars for a license authorizing the receipt and redistribution from a single facility of manufactured products or devices containing radioactive material.

(f) Six thousand (~~(three)~~) five hundred (~~(fifty-five)~~) fifty-six dollars for a license authorizing decontamination services operating from a single facility.

(g) Three thousand (~~(ten)~~) one hundred dollars for a license authorizing waste brokerage including the possession, temporary storage at a single facility, and over-packing only of radioactive waste.

(h) One thousand three hundred (~~(forty)~~) eighty dollars for a license authorizing equipment servicing involving:

(i) Incidental use of calibration sources;

(ii) Maintenance of equipment containing radioactive material; or

(iii) Possession of sealed sources for purpose of sales demonstration only.

(i) Two thousand five hundred (~~(five)~~) eighty dollars for a license authorizing health physics services, leak testing, or calibration services.

(j) One thousand (~~(five)~~) six hundred (~~(seventy)~~) twenty dollars for a civil defense license.

(k) Four hundred (~~(seventy-five)~~) eighty-eight dollars for a license authorizing possession of special nuclear material as pacemakers or depleted uranium as shielding.

(2) Persons licensed or authorized to possess and use radioactive material in the following broad scope categories shall forward annual fees to the department as follows:

(a) (~~(Eighteen)~~) Nineteen thousand (~~(eight)~~) four hundred (~~(five)~~) dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than one curie.

(b) Eight thousand (~~(six)~~) nine hundred (~~(ninety)~~) sixty-eight dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than 0.1 curie but less than or equal to one curie.

(c) (~~(Six)~~) Seven thousand (~~(nine)~~) two hundred (~~(eighty-five)~~) eight dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession less than or equal to 0.1 curie.

(3) Persons licensed or authorized to possess or use radioactive material which are not covered by any of the annual license fees described in WAC 246-254-070 through 246-254-100, shall pay fees as follows:

(a) An initial application fee of one thousand dollars;

(b) Billing at the rate of one hundred dollars for each hour of direct staff time associated with issuing and maintaining the license and for the inspection of the license; and

(c) Any fees for additional services as described in WAC 246-254-120.

(d) The initial application fee will be considered a credit against billings for direct staff charges but is otherwise non-refundable.

(4) Persons licensed or authorized to possess or use radioactive material in a facility for radioactive waste processing, including resource recovery, volume reduction, decontamination activities, or other waste treatment, but not permitting commercial on-site disposal, shall pay fees as follows:

(a) A nonrefundable initial application fee for a new license of sixteen thousand dollars which shall be credited to the applicant's quarterly billing described in (b) of this subsection; and

(b) Quarterly billings for actual direct and indirect costs incurred by the department including, but not limited to, license renewal, license amendments, compliance inspections, a resident inspector for time spent on the licensee's premises as deemed necessary by the department, laboratory and other support services, and travel costs associated with staff involved in the foregoing.

AMENDATORY SECTION (Amending WSR 03-14-034, filed 6/23/03, effective 7/24/03)

WAC 246-254-080 Fees for medical and veterinary radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following medical or veterinary categories shall forward annual fees to the department as follows:

(a) Four thousand (~~((six))~~ eight hundred (~~((ninety-five))~~ forty-four dollars for operation of a mobile nuclear medicine program from a single base of operation.

(b) Three thousand (~~((four))~~ five hundred (~~((twenty-five))~~ thirty-two dollars for a license authorizing groups II and III of WAC 246-235-120 for diagnostic nuclear medicine at a single facility.

(c) (~~((Two))~~ Three thousand (~~((nine hundred sixty-five))~~ sixty dollars for a license authorizing groups IV and V of WAC 246-235-120 for medical therapy at a single facility.

(d) Four thousand (~~((seven))~~ eight hundred (~~((twenty-five))~~ seventy-six dollars for a license authorizing groups II or III and groups IV or V of WAC 246-235-120 for full diagnostic and therapy services at a single facility.

(e) Two thousand (~~((five))~~ six hundred (~~((forty))~~ twenty dollars for a license authorizing group VI of WAC 246-235-120 for brachytherapy at a single facility.

(f) One thousand (~~((five))~~ six hundred (~~((seventy))~~ twenty dollars for a license authorizing brachytherapy or gamma stereotactic therapy or teletherapy at a single facility.

(g) Two thousand (~~((three))~~ four hundred (~~((ninety))~~ sixty-four dollars for a license authorizing medical or veterinary possession of greater than two hundred millicuries total possession of radioactive material at a single facility.

(h) One thousand nine hundred sixty dollars for a license authorizing medical or veterinary possession of greater than thirty millicuries but less than or equal to two hundred millicuries total possession of radioactive material at a single facility.

(i) One thousand (~~((three))~~ four hundred (~~((ninety-five))~~ thirty-six dollars for a license authorizing medical or veteri-

nary possession of less than or equal to thirty millicuries total possession of radioactive material at a single facility.

(j) One thousand two hundred (~~((twenty-five))~~ sixty-four dollars for a license authorizing group I as defined in WAC 246-235-120 or in vitro uses of radioactive material at a single facility.

(k) Seven hundred (~~((sixty-five))~~ eighty-eight dollars for a license authorizing medical or veterinary possession of a sealed source for diagnostic use at a single facility.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location or base of operation.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-254-090 Fees for industrial radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following industrial categories shall forward annual fees to the department as follows:

(a) Five thousand (~~((five))~~ seven hundred (~~((thirty-five))~~ eight dollars for a license authorizing the use of radiographic exposure devices in one or more permanent radiographic vaults in a single facility.

(b) Seven thousand (~~((four))~~ six hundred (~~((fifteen))~~ fifty-two dollars for a license authorizing the use of radiographic exposure devices at temporary job sites but operating from a single storage facility.

(c) Three thousand (~~((six))~~ seven hundred (~~((thirty-five))~~ forty-eight dollars for a license authorizing well-logging activities including the use of radioactive tracers operating from a single storage facility.

(d) (~~((Seven))~~ Eight hundred (~~((eighty-five))~~ eight dollars for a license authorizing possession of portable sealed sources including moisture/density gauges and excluding radiographic exposure devices operating from a single storage facility.

(e) Eight hundred (~~((sixty))~~ eighty-four dollars for a license authorizing possession of any nonportable sealed source, including special nuclear material and excluding radioactive material used in a gas chromatograph at a single facility.

(f) Five hundred (~~((forty))~~ fifty-six dollars for a license authorizing possession of gas chromatograph units containing radioactive material at a single facility.

(g) One thousand (~~((four))~~ five hundred (~~((ninety-five))~~ forty dollars for a license authorizing possession of any self-shielded or pool type irradiator with sealed source total quantity greater than one hundred curies at a single facility.

(h) (~~((Seven))~~ Eight thousand (~~((nine))~~ one hundred (~~((thirty))~~ eighty dollars for a license authorizing possession of sealed sources for a walk-in type irradiator at a single facility.

(i) (~~((Six))~~ Seven thousand (~~((nine))~~ one hundred twenty dollars for a license authorizing possession of greater than one gram of unsealed special nuclear material or greater than five hundred kilograms of source material at a single facility.

(j) Two thousand two hundred (~~((ten))~~ eighty dollars for a license authorizing possession of less than or equal to one

gram of unsealed special nuclear material or five hundred kilograms of source material at a single facility.

(k) Three hundred (~~(fifty)~~) sixty dollars for a license authorizing possession of static elimination devices not covered by a general license.

(2) Persons with licenses authorizing multiple locations of permanent storage shall increase the annual fee by fifty percent for each additional location.

(3) Depleted uranium registrants required to file Form RHF-20 shall forward an annual fee of (~~(seventy-two)~~) seventy-four dollars to the department.

(4) General licensees required to register in accordance with WAC 246-233-020 (3)(k) shall forward an annual fee of two hundred fourteen dollars to the department.

AMENDATORY SECTION (Amending WSR 03-14-034, filed 6/23/03, effective 7/24/03)

WAC 246-254-100 Fees for laboratory radioactive material licenses. (1) Persons licensed or authorized to possess or use unsealed radioactive material in the following laboratory categories shall forward annual fees to the department as follows:

(a) Three thousand (~~(seven)~~) nine hundred (~~(eighty)~~) dollars for a license authorizing possession at a single facility of unsealed sources in amounts greater than:

- (i) One millicurie of I-125 or I-131; or
- (ii) One hundred millicuries of H-3 or C-14; or
- (iii) Ten millicuries of any single isotope.

(b) One thousand (~~(eight)~~) nine hundred (~~(seventy)~~) twenty-eight dollars for a license authorizing possession at a single facility of unsealed sources in amounts:

- (i) Greater than 0.1 millicurie and less than or equal to one millicurie of I-125 or I-131; or
- (ii) Greater than ten millicuries and less than or equal to one hundred millicuries of H-3 or C-14; or
- (iii) Greater than one millicurie and less than or equal to ten millicuries of any single isotope.

(c) One thousand (~~(five)~~) six hundred (~~(seventy)~~) twenty dollars for a license authorizing possession at a single facility of unsealed sources in amounts:

- (i) Greater than 0.01 millicurie and less than or equal to 0.1 millicurie of I-125 or I-131; or
- (ii) Greater than one millicurie and less than or equal to ten millicuries of H-3 or C-14; or
- (iii) Greater than 0.1 millicurie and less than or equal to one millicurie of any other single isotope.

(d) Five hundred (~~(forty)~~) fifty-six dollars for a license authorizing possession at a single facility of unsealed or sealed sources in amounts:

- (i) Less than or equal to 0.01 millicurie of I-125 or I-131; or
- (ii) Less than or equal to one millicurie of H-3 or C-14; or
- (iii) Less than or equal to 0.1 millicurie of any other single isotope.

(e) Seven hundred (~~(twenty-five)~~) forty-eight dollars for a license authorizing possession at a single facility of large quantities of naturally occurring radioactive material in total concentration not exceeding 0.002 microcurie per gram.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location.

(3) Persons registered to perform in vitro testing pursuant to Form RHF-15 shall forward an annual fee of (~~(seventy-two)~~) seventy-four dollars to the department.

AMENDATORY SECTION (Amending WSR 02-04-025, filed 1/24/02, effective 2/24/02)

WAC 246-254-120 Fees for licensing and compliance actions. (1) In addition to the fee for each radioactive material license as described under WAC 246-254-070, 246-254-080, 246-254-090, and 246-254-100, a licensee shall pay a service fee for each additional licensing and compliance action as follows:

(a) For a second follow-up inspection, and each follow-up inspection thereafter, a fee of one hundred dollars per hour of direct staff time associated with the follow-up inspection, not to exceed one thousand dollars per follow-up inspection. Hours are calculated in half-hour increments.

(b) For each environmental cleanup monitoring visit, a fee of one hundred dollars per hour of direct staff time associated with the environmental cleanup monitoring visit, not to exceed two thousand five hundred dollars per visit. Hours are calculated in half-hour increments.

(c) For each new license application, the fee of one hundred (~~(sixty)~~) sixty-five dollars in addition to the required annual fee.

(d) For each sealed source and device evaluation, a fee of one hundred dollars per hour of direct staff time associated with each sealed source and device evaluation, not to exceed three thousand dollars per evaluation.

(e) For review of air emission and environmental programs and data collection and analysis of samples, and review of decommissioning activities by qualified staff in those work units, a fee of one hundred dollars per hour of direct staff time associated with the review. The fee does not apply to reviews conducted by the radioactive materials section staff and does not apply unless the review time would result in a special service charge exceeding ten percent of the licensee's annual fee.

(f) For expedited licensing review, a fee of one hundred dollars per hour of direct staff time associated with the review. This fee only applies when, by the mutual consent of licensee and affected staff, a licensing request is taken out of date order and processed by staff during nonwork hours and for which staff is paid overtime.

(2) The licensee or applicant shall pay any additional service fees at the time of application for a new license or within thirty days of the date of the billing for all other licensing and compliance actions.

(3) The department shall process an application only upon receipt of the new application fee and the annual fee.

(4) The department may take action to modify, suspend, or terminate the license or sealed source and device registration if the licensee fails to pay the fee for additional licensing and compliance actions billed by the department.

WSR 04-07-179
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed March 24, 2004, 9:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-21-117.

Title of Rule: WAC 246-976-935 Emergency medical services and trauma care system (EMS/TCS) trust account.

Purpose: The legislature appropriates money to both the Department of Health (DOH) and the Department of Social and Health Services (DSHS) as part of a spending plan to be dispersed to trauma verified prehospital agencies, designated level I-V acute facilities, designated trauma rehabilitation facilities, physicians and other clinicians. This section describes how the DOH disperses the money appropriated to them.

Other Identifying Information: As a result of the new budget appropriations adopted by the legislature for the 2003-2005 biennium for the EMS/TCS trust account, DOH and DSHS now have separate appropriations that no longer require the agencies to contract with one another. This requires new spending plans to be developed.

Statutory Authority for Adoption: Chapter 70.168 RCW.

Statute Being Implemented: Chapter 70.168 RCW.

Summary: Based on the new spending plans, the proposed rule identifies DOH's new grant distribution methods and removes language from methods that are no longer applicable or that have not met the intended goals and objectives.

Reasons Supporting Proposal: As a result of the new budget appropriations, the department has developed a new spending plan for the EMS/TCS trust account. The new spending plan includes new grant funding distribution methodologies that need to be added to WAC 246-976-935. The proposal will help prevent expenditures from exceeding appropriations.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Rebecca Pittman, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-2860.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The EMS/TCS trust account was created under RCW 70.168.040. DOH distributes funds from this account for state trauma care system purposes, including emergency medical services, trauma care services, rehabilitation services, and the planning and development of related services. DSHS distributes funds from this same account for Medicaid trauma care services provided by designated trauma centers and their trauma physicians and clinical providers.

As a result of the new budget appropriations adopted by the legislature for the 2003-2005 biennium for the EMS/TCS trust account, DOH and DSHS now have separate appropriations that no longer require the agencies to contract with one another. A new spending plan was developed to distribute these funds according to the legislative intent and to assure that the state expenditures do not exceed the amount appro-

priated to each agency. For DOH, the new spending plan includes new grant distribution methods.

WAC 246-976-935 is based on RCW 70.168.135, which states that DOH shall establish by rule a grant program for trauma care services, and that the grants will be made from the EMS/TCS trust account. The proposed amendments include the new grant distribution methods and remove language for methods that are no longer applicable or that have not met the intended goals and objectives. The proposal will also help prevent expenditures from exceeding the department's appropriation.

Proposal Changes the Following Existing Rules: 1. The definition of "initial acute episode of injury" has been deleted.

2. All references to how DSHS allocates expenditures have been deleted.

3. Language has been added to define the methodology for allocating funds through the new uncompensated trauma care grants for level I-III acute designated services.

4. Language has been added to define the methodology for allocating funds through the new trauma care grants for level IV and V services, and/or CAH (critical access hospital).

5. Language has been deleted that would require DOH to provide partial reimbursement to physicians and other clinical providers for care of trauma patients who meet DOH criteria.

6. Language has been added to distribute trust account funds to physicians that are DOH-certified medical program directors (MPD).

7. Language has been deleted for partial reimbursement to designated trauma rehabilitation services.

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

Small Business Economic Impact Statement

What Does the Rule Amendment Require? Emergency medical services and trauma care are provided to all residents of the state of Washington regardless of a person's ability to pay. In 1997 the Washington state legislature passed the trauma reimbursement fund legislation to provide funding to hospitals and health care providers for costs incurred while caring for uninsured or underinsured major trauma patients. The legislature appropriates money to both DOH and DSHS as part of a spending plan to be dispersed to trauma verified prehospital agencies, designated level I-V acute facilities, designated trauma rehabilitation facilities, physicians and other clinicians.

As a result of the new budget appropriations adopted by the legislature for the 2003-2005 biennium for the emergency medical services and trauma care system trust account, DOH and DSHS now have separate appropriations that no longer require the agencies to contract with one another. A new spending plan was developed to distribute these funds according to legislative intent and to assure that the state expenditures do not exceed the amount appropriated to each agency. For DOH, the new spending plan includes new grant distribution methods.

The trauma care fund (TCF) workgroup was established in January 2003 to develop new methodologies for distribut-

ing trauma care funds as stipulated by the legislature's appropriation of these funds. The group met six times in 2003, and will continue to meet to monitor the results of the implementation of the new methodologies, and to recommend changes as needed. The workgroup includes representatives from the Washington State Hospital Association, the Washington State Medical Association, a representative for each level (I-V) of designated trauma service, hospital financial representatives, physicians, trauma nurse coordinators, interested public parties, and state staff from both DOH and DSHS.

In creating the new trauma care grant methodologies, DOH staff presented options to the TCF workgroup for consideration. Additional options were created through discussion at the workgroup meetings. DOH staff modeled the grants under the various options, in some cases working with a smaller subgroup of financial people. The results were brought back to the TCF workgroup for discussion, and after thorough discussion of the pros and cons for each option, members would agree on a recommendation.

The TCF workgroup operates under the consensus model and strives to select fair methods that best meet the objectives for the EMS and trauma system as a whole. Their recommendations go before the EMS and Trauma Steering Committee for endorsement, and a final recommendation is made to the department.

DOH's existing rule (WAC 246-976-935) must be amended in order to include the new grant distribution methods, and to remove language for methods that are no longer applicable or that have not met the goals and objectives intended. These rules will also help prevent expenditures from exceeding the department's appropriation.

DOH, Office of Emergency Medical Services and Trauma System (OEMSTS) is proposing the following changes to the trauma care fund, WAC 246-976-935:

1. The definition of "initial acute episode of injury" has been deleted.
2. All references to how DSHS allocates expenditures have been deleted.
3. Language has been added to define the methodology for allocating funds through the new uncompensated trauma care grants for level I - III acute designated services.
4. Language has been added to define the methodology for allocating funds through the new trauma care grants for level IV and V services, and/or CAH (critical access hospital).
5. Language has been deleted to provide partial reimbursement to physicians and other clinical providers for care of trauma patients.
6. Language has been added to distribute trust account funds to physicians that are DOH-certified medical program directors (MPD).
7. Language has been deleted for partial reimbursement to designated trauma rehabilitation services.

Is a Small Business Economic Impact Statement (SBEIS) Required for This Rule? Yes.

What Industries are Affected? The following Standard Industrial Classification (SIC) Codes affected by this rule change encompass:

- 8011 Offices & Clinics of Medical Doctors
- 8031 Offices of Osteopathic Physicians

- 8049 Offices of Other Health Practitioners (Includes Nurses)
- 8062 General Medical & Surgical Hospitals
- 8069 Specialty Hospitals exc. Psychiatric (Includes Children's Hospitals)

SIC	Total Units	Total Employment	Average Employment	
			Smallest 90%	Largest 10%
8011	2,821	43,659	7.9	154.2
8031	120	680	3.5	13.2
8049	913	5,450	2.6	27.4
8062	146	78,593	11.1	2,027.7
8069	23	4,106	15.4	167.7

What are the Costs of Complying with this Rule for Small Businesses (Those with Fifty or Fewer Employees) and For the Largest 10% of Businesses affected? The proposed rule changes either reduce the burden on businesses, have minimal impact, or do not have any associated costs.

Does the Rule Impose a Disproportionate Impact on Small Businesses? The proposed rule changes do not have a disproportionate impact on small businesses. The proposed rule changes either reduce the burden on businesses, have minimal impact, or do not have any associated costs.

How are Small Businesses Involved in the Development of this Rule? DOH used the trauma care fund workgroup (as described above) to develop and come to a consensus on methods that are fair and administratively simple. In addition, this rule has been reviewed by the governor appointed EMS and Trauma System Steering Committee at open public meetings. The steering committee includes constituents representing: Designated trauma services, Association of Anesthesiologists - Washington Chapter, American College of Surgeons Committee on Trauma - Washington Chapter, Washington State Hospital Association, American College of Surgeons, Emergency Nurse's Association, Association of Neurological Surgeons, Washington State Medical Association Standards Committee, Washington State Association of Fire Chiefs, Washington State Fire Commissioner's Association, Washington Ambulance Association, Washington State Firefighter's Association, Washington State Law Enforcement, and the citizens of Washington state.

A copy of the statement may be obtained by writing to Department of Health, EMS and Trauma System, Tami Schweppe, P.O. Box 47853, Olympia, WA 98504-7853, phone (360) 236-2859, fax (360) 236-2829.

RCW 34.05.328 applies to this rule adoption. The proposed rule adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction (i.e., receiving or not receiving a grant issued by DOH).

Hearing Location: Department of Health, 20435 72nd Avenue South, Suite 200, Kent, WA 98032, on May 6, 2004, at 9:00 a.m.

Assistance for Persons with Disabilities: Tami Schweppe by April 22, 2004, TDD (800) 833-6388 or (360) 236-2859.

PROPOSED

Submit Written Comments to: Contact Tami Schweppe, P.O. Box 47853, Olympia, WA 98504-7853, fax (360) 236-2829, by April 29, 2004.

Date of Intended Adoption: May 7, 2004.

March 19, 2004

Mary C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 02-04-045, filed 1/29/02, effective 3/1/02)

WAC 246-976-935 Emergency medical services and trauma care system trust account. RCW 70.168.040 establishes the emergency medical services and trauma care system trust account. With the advice of the EMS/TC steering committee, the department will develop a method to budget and distribute funds in the trust account. The department may use an injury severity score to define a major trauma patient. Initially, the method and budget will be based on the department's *Trauma Care Cost Reimbursement Study, final report (October 1991)*. The committee and the department will review the method and the budget at least every two years.

(1) Definitions: The following phrases used in this section mean:

(a) ~~("Initial acute episode of injury" refers to care that is related to a major trauma. This can include prehospital care, resuscitation, stabilization, inpatient care and/or subsequent transfer, and rehabilitation. It does not include later readmission or outpatient care.~~

(b) "Needs grant" is a trust account payment that is based on a demonstrated need to develop and maintain service that meets the trauma care standards of chapter 70.168 RCW and this chapter. Needs grants are awarded to verified trauma care ambulance or aid services. Services must be able to show that they have looked for other resources without success before they will be considered for a needs grant.

(c) "Participation grant" refers to a trust account payment designed to compensate the recipient for participation in the state's comprehensive trauma care system. These grants are intended as a tool for assuring access to trauma care. Participation grants are awarded to:

- (i) Verified trauma care ambulance or aid services;
- (ii) Designated trauma care services; and
- (iii) Designated trauma rehabilitation services.

(2) The department will distribute trust account funds to:

- (a) Verified trauma care ambulance and aid services;
- (b) Designated trauma care services:

- (i) Levels I-V general; and
- (ii) Levels I-III pediatric;

(c) ~~(Physicians and other clinical providers who:~~

- ~~(i) Are members of designated trauma care services;~~
- ~~(ii) Meet the response time standards of this chapter;~~
- ~~(iii) Provide care for major trauma patients during the~~

~~initial acute episode of injury. This includes psychiatrists who consult on rehabilitation during the acute hospital stay, or who provide care in a designated trauma rehabilitation service;~~

~~(iv) Complete trauma records in a timely manner according to the trauma care services current requirements; and~~

- ~~(v) Participate in quality assurance activities;~~

~~(d)) Designated trauma rehabilitation services:~~

~~(i) Levels I-III; and~~

~~(ii) Level I-pediatric.~~

(3) The department's distribution method for verified trauma care ambulance and aid services will include at least:

(a) Participation grants, which will be awarded once a year to services that comply with verification standards ~~(Services that are eligible to receive Medicaid funds will have the option of either receiving the participation grant or receiving an increased payment by the department of social and health services for medical emergency transportation of medical assistance clients who meet trauma triage criteria));~~

(b) Needs grants, based on the service's ability to meet the standards of chapter 70.168 RCW and chapter 246-976 WAC (this chapter). The department may consider:

- (i) Level of service (BLS, ILS, ALS);
- (ii) Type of service (aid or ambulance);
- (iii) Response area (rural, suburban, urban, wilderness);
- (iv) Volume of service;
- (v) Other factors that relate to trauma care;

(4) The department's distribution method for designated trauma care services ~~(Levels I-V general and I-III pediatric))~~ will include ~~(at least))~~:

(a) Participation grants to levels I-V general and I-III pediatric, which will be awarded once a year only to services that comply with designation standards. The department will review the compliance requirements annually. The department may consider:

- (i) Level of designation;
- (ii) Service area (rural, suburban, urban, wilderness);
- (iii) Volume of service;
- (iv) The percentage of uncompensated major trauma care;
- (v) Other factors that relate to trauma care;

~~(b) (Increased payment by the department of social and health services for major trauma care for medical assistance clients during the initial acute episode of injury;~~

~~(5) The department's distribution method for physicians and other clinical providers included in subsection (2)(c) of this section will include at least:~~

~~(a) Increased payment by the department of social and health services for trauma care of medical assistance clients and care provided within six months of the date of injury for inpatient surgical procedures related to the injury, which were planned during the initial acute episode of injury, using Medicare rates as a benchmark;~~

~~(b) Partial reimbursement for care of other major trauma patients who meet DOH eligibility criteria. The department's criteria will consider at least:~~

- ~~(i) The patient's ability to pay;~~
- ~~(ii) The patient's eligibility for other health insurance, such as medical assistance or Washington's basic health plan;~~
- ~~(iii) Other sources of payment.)~~ Trauma care grants, which will be awarded once a year to level I-III designated acute trauma services to subsidize uncompensated trauma care costs. To be eligible for the grants, trauma services must comply with Washington state's DOH trauma registry requirements per WAC 246-976-420 through 246-976-430 including submission of complete financial data and injury coding data. The grants will be calculated by multiplying a

hospital's bad debt and charity care ratio times the sum of injury severity scores (ISS) for a specific period. The results for all eligible trauma services are summed, and each trauma service will receive a proportionate share of the available uncompensated trauma care grant allocation based on their percentage of the overall total. The bad debt and charity care ratio is calculated by summing a hospital's bad debt and charity care figures divided by the hospital's total patient revenue for the same period. These figures are from annual financial data reported to the department per chapters 246-453 and 246-454 WAC. Injury severity scores are extracted from trauma registry data for cases that:

(i) Meet the trauma registry inclusion criteria per WAC 246-976-420; and

(ii) Are admitted with an ISS of thirteen or greater for adults, nine or greater for pediatric patients less than fifteen years of age, or trauma patients received in transfer regardless of the ISS.

(c) Trauma care grants, which will be awarded once a year to designated acute trauma services levels IV, V, and/or critical access hospitals (CAH) to subsidize their costs for providing care to the trauma patients, and for stabilizing and transferring major trauma patients. The individual grant amounts are based on designation level.

(5) The department may issue grants to DOH-certified medical program directors (MPD) for their role in the EMS/TCS as described in WAC 246-976-920.

(6) The department's distribution method for designated trauma rehabilitation services, levels I-III and I-pediatric will include at least:

((a)) Participation grants, which will be awarded once a year only to services that comply with designation standards. The department will review the compliance requirements annually. The department may consider:

((i)) (a) Level of designation;

((ii)) (b) Volume of service;

((iii)) (c) Other factors that relate to trauma care((;

~~(b) Partial reimbursement for trauma rehabilitation provided during the initial acute episode of injury for major trauma patients who:~~

~~(i) Meet DOH eligibility criteria. The department's criteria will include at least:~~

~~(A) Residence in Washington at the time of injury;~~

~~(B) The patient's ability to pay;~~

~~(C) The patient's eligibility for other health insurance, such as medical assistance or Washington's basic health plan;~~

~~(D) Other sources of payment;~~

~~(ii) Were admitted for rehabilitation service within ninety days of the injury;~~

~~(e) The department will give priority to acute inpatient rehabilitation services.~~

~~(7) Chapter 70.168 RCW requires regional match of state funds from the emergency medical services and trauma care trust account. Contributions to regional matching funds may include:~~

~~(a) Hard match;~~

~~(b) Soft match:~~

~~(i) The value of services provided by volunteer prehospital agencies;~~

~~(ii) Local government support;~~

~~(iii) The cost of care by designated trauma care services which exceeds insurance or patient payment;~~

~~(iv) The value of volunteer time (excluding any expenses paid with state funds) to establish and operate:~~

~~(A) State EMS/TC committees and their subcommittees;~~

~~(B) Regional and local EMS/TC councils, and their committees and subcommittees;~~

~~(C) Regional and local quality assurance programs;~~

~~(D) Injury prevention and public education programs;~~

~~(E) EMS training and education programs;~~

~~(F) Trauma-related stress management and support programs;~~

~~(e) The department will determine the value of personnel time included in soft match, to be applied statewide)).~~

WSR 04-07-180
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed March 24, 2004, 9:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-10-016.

Title of Rule: WAC 246-247-010, 246-247-040, 246-247-045, 246-247-075, 246-247-080, 246-247-085, 246-247-110, 246-247-120 and 246-247-130, Radiation protection—Air emissions.

Purpose: To update requirements for an independent statewide program to monitor radioactive air emissions from sources within the state.

Other Identifying Information: This rule change is necessary for consistency between federal and state regulations and as a primary condition for delegation of National Emission Standard for Hazardous Air Pollutants (NESHAPs) authority from the EPA to the Department of Health.

Statutory Authority for Adoption: RCW 70.98.050.

Statute Being Implemented: RCW 70.98.050.

Summary: (1) Updates references to national standards for sampling and monitoring releases of radioactive air emissions from nuclear facilities to conform to EPA rules adopted in October 2002; (2) updates references to EPA quality assurance plan guidance documents; and (3) gives the department flexibility in regulating nonfederal facilities.

Name of Agency Personnel Responsible for Drafting: Roy Evans, Tumwater, (360) 236-3265; Implementation and Enforcement: Al Conklin, Tumwater, (360) 236-3260.

Name of Proponent: Washington State Department of Health, governmental.

Rule is necessary because of federal law, 40 C.F.R. 61.

Explanation of Rule, its Purpose, and Anticipated Effects: The intent of the underlying statute is to protect public health by implementing an independent statewide program to monitor ionizing radiation emissions to the air from radiation sources within the state. The proposed rule meets this intent by adopting the most current standards and guidance for emissions monitoring and applying them to federal facilities within the state, consistent with EPA requirements, while allowing the department to use criteria consistent with

PROPOSED

appropriate NRC requirements in regulating nonfederal facilities.

Proposal Changes the Following Existing Rules: The proposed changes update the existing reference to the American National Standard Institute (ANSI) standard for sampling and monitoring releases of airborne radioactive substances from the stacks and ducts of nuclear facilities (ANSI/HPS N13.1-1999) as well as references to EPA guidance for quality assurance program and project plans. These requirements are already mandatory under EPA-enforced federal regulations for major federally-operated emissions sources. The proposed changes to chapter 246-247 WAC make state regulations consistent with federal (EPA) regulations which are applied to federal facilities. Consistency between chapter 246-247 WAC and NESHAPs (40 C.F.R. 61 Subparts H & I) is a requirement for delegation of NESHAPs implementation and enforcement authority from the EPA to the Department of Health. However, radioactive air emissions from most nonfederal facilities are regulated by the NRC under 10 C.F.R. 20.1101. Therefore, the proposed changes to chapter 246-247 WAC also allow the department to use criteria consistent with NRC requirements for similar facilities in regulating the methods used to monitor emissions from nonfederal facilities.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared because there are no small businesses within the regulated industry required to comply with the proposed rule and thus there is no disproportionate impact on small businesses.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not apply to this rule adoption because this proposal adopts federal rules by reference without material change.

Hearing Location: Department of Health, Point Plaza East, Room 152, 310 S.E. Israel Road, Tumwater, WA 98504, on May 4, 2004, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Joy Redman at (360) 236-3260, TDD (800) 833-6388.

Submit Written Comments to: Roy Evans, Washington State Department of Health, Office of Radiation Protection, P.O. Box 47827, Olympia, WA 98504-7827, fax (360) 236-2256, by May 4, 2004.

Date of Intended Adoption: May 5, 2004.

March 23, 2004
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-247-010 Applicability. (1) The standards and requirements of this chapter apply statewide at the following types of facilities that emit radionuclides to the air:

- (a) Facilities licensed by the department or by the United States Nuclear Regulatory Commission (NRC);
- (b) United States Department of Energy (DOE) facilities;
- (c) Non-DOE federal facilities;
- (d) Uranium fuel cycle facilities;

- (e) Uranium mills that are processing material; and
- (f) Any other facility that the department determines emits or has the potential to emit radionuclides to the ambient air.

(2) The standards and requirements of this chapter apply to point sources, nonpoint sources, and fugitive emissions.

(3) The standards and requirements of this chapter apply to stationary and mobile emission units, whether temporary or permanent.

(4) The control technology standards and requirements of this chapter apply to the abatement technology and indication devices of facilities and emission units subject to this chapter. Control technology requirements apply from entry of radionuclides into the ventilated vapor space to the point of release to the environment.

(5) In accordance with RCW 70.94.161(10), air operating permits issued under chapter 173-401 WAC shall incorporate all applicable requirements of this chapter. Therefore, all facilities listed in subsection (1) of this section that are also subject to the operating permit regulations in chapter 173-401 WAC shall be considered in compliance with the requirements of this chapter if they comply with all the applicable requirements of the air operating permit issued under chapter 173-401 WAC. These applicable requirements shall be contained in the radioactive air emissions license which shall be incorporated as part of the air operating permit. In accordance with RCW 70.94.422(1), the department shall enforce all the requirements contained in the radioactive air emissions license.

(6) Should any of the federal regulations that have been adopted by reference in this chapter be rescinded, the affected facilities shall nonetheless comply with all other applicable requirements of this chapter.

(7) An applicant may obtain a copy of any document referenced in this chapter by contacting the department's division of radiation protection, air emissions and defense wastes section at (360) 236-3260. Mail reports, applications, and other written correspondence to the Air Emissions and Defense Wastes Section at (~~Air Industrial Park~~) 7171 Cleanwater Lane, Building 5, P.O. Box 47827, Olympia, Washington, 98504-7827.

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

WAC 246-247-040 General standards. (1) Standards for radioactive air emissions in the state of Washington are contained in WAC 173-480-040, 173-480-050, and 173-480-060 (~~and~~). Additional standards for emissions of radionuclides other than radon from United States Department of Energy facilities and for radionuclide emissions from federal facilities other than United States Nuclear Regulatory Agency (NRC) licensees are contained in 40 CFR Part 61, subparts H and I ((published in the Federal Register on December 15, 1989)) (as effective on October 9, 2002). Additional standards for NRC licensees are contained in 10 CFR 20.1101 (as effective on January 9, 1997). In accordance with WAC 173-480-050(3), the department shall enforce the most stringent standard in effect, notwithstanding

any agreement between EPA and any other agency, including those agreements made pursuant to 42 USC 7412(d)(9).

(2) In addition to the radioactive air emission standards of subsection (1) of this section, the department's radioactive materials licensees shall comply with the limitations on radioactive air emissions contained in WAC 246-221-070.

(3) All new construction and significant modifications of emission units commenced after August 10, 1988 (the date this chapter originally became effective) shall utilize BARCT (see Appendix B).

(4) All existing emission units and nonsignificant modifications shall utilize ALARACT (see Appendix C).

(5) In order to implement these standards, the department may set limits on emission rates for specific radionuclides from specific emission units and/or set requirements and limitations on the operation of the emission unit(s) as specified in a license.

(6) All emissions of radionuclides, including those due to emergency conditions resulting from startup, shutdown, maintenance activities, or process upsets are subject to the standards of this section and, therefore, subject to the enforcement actions of WAC 246-247-100.

NEW SECTION

WAC 246-247-045 Where to find technical references. The following referenced document is available for purchase from the American National Standards Institute, 25 West 43rd Street, 4th Floor, New York, New York 10036:

ANSI/HPS N13.1-1999 "Sampling and Monitoring Releases of Airborne Radioactive Substances from the Stacks and Ducts of Nuclear Facilities."

This document is also available for inspection at the Washington State Office of Radiation Protection, Air Emissions and Defense Waste Section, 7171 Cleanwater Lane, Bldg. 5, Tumwater, WA 98501 (phone 360-236-3260); and at the Washington State Office of Radiation Protection, Air Emissions and Defense Waste Section, 309 Bradley Blvd., Suite 201, Richland, WA 99352 (phone 509-946-0363).

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

WAC 246-247-075 Monitoring, testing and quality assurance. (1) All radioactive air emissions monitoring, testing, and quality assurance requirements of 40 CFR 61, Subparts H and I (~~((published in the Federal Register on December 15, 1989))~~ (as effective on October 9, 2002)), are adopted by reference, as applicable as specified by the referenced subparts. The department may, upon request or on its own initiative, authorize provisions on a specific basis other than those set forth in WAC 246-247-075 for monitoring, testing, and quality assurance of a facility that emits radioactive air emissions, if it finds reasonable assurance of compliance with the performance objectives of this chapter.

(2) Equipment and procedures used for the continuous monitoring of radioactive air emissions shall conform, as applicable, to the guidance contained in ANSI N13.1, ANSI N42.18, ANSI N323, ANSI N317, reference methods 1, 1A, 2, 2A, 2C, 2D, 4, 5, and 17 of 40 CFR Part 60, Appendix A,

40 CFR Part 52, Appendix E, and any other methods approved by the department.

(3) The operator of an emission unit with a potential-to-emit of less than 0.1 mrem/yr TEDE to the MEI may estimate those radionuclide emissions, in lieu of monitoring, in accordance with 40 CFR 61 Appendix D, or other procedure approved by the department. The department may require periodic confirmatory measurements (e.g., grab samples) during routine operations to verify the low emissions. Methods to implement periodic confirmatory monitoring shall be approved by the department.

(4) The department may allow a facility to use alternative monitoring procedures or methods if continuous monitoring is not a feasible or reasonable requirement.

(5) The following types of facilities shall determine radionuclide emissions in accordance with either a methodology referenced in subsections (1) through (4) of this section or the respective document referenced below:

(a) Nuclear power reactors licensed by the NRC: Offsite Dose Calculation Manual;

(b) Fuel fabrication plants licensed by the NRC: NRC's Regulatory Guide 4.16, dated December 1985;

(c) Uranium mills that are processing material: NRC's Regulatory Guide 4.14, dated April 1980.

(6) Licensed facilities shall conduct and document a quality assurance program. Except for those types of facilities specified in subsection (5) of this section, the quality assurance program shall be compatible with applicable national standards such as ANSI/ASME NQA-1-1988, ANSI/ASME NQA-2-1986, ~~((QAMS-004))~~ QA/R-2, and ~~((QAMS-005))~~ QA/R-5.

(7) Those types of facilities specified in subsection (5) of this section shall conduct and document a quality assurance program compatible with either the applicable national standards referenced in subsection (6) of this section or the NRC's Regulatory Guide 4.15, dated February 1979.

(8) Facilities shall monitor nonpoint and fugitive emissions of radioactive material.

(9) The department may conduct an environmental surveillance program to ensure that radiation doses to the public from emission units are in compliance with applicable standards. The department may require the operator of any emission unit to conduct stack sampling, ambient air monitoring, or other testing as necessary to demonstrate compliance with the standards in WAC 246-247-040.

(10) The department may require the owner or operator of an emission unit to make provision, at existing emission unit sampling stations, for the department to take split or collocated samples of the emissions.

(11) The planning for any proposed new construction or significant modification of the emission unit must address accidental releases with a probability of occurrence during the expected life of the emission unit of greater than one percent.

(12) All facilities must be able to demonstrate that appropriate supervisors and workers are adequately trained in the use and maintenance of emission control and monitoring systems, and in the performance of associated test and emergency response procedures.

(13) All facilities must be able to demonstrate the reliability and accuracy of the radioactive air emissions monitoring data.

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

WAC 246-247-080 Inspections, reporting, and recordkeeping. (1) The department reserves the right to inspect and audit all construction activities, equipment, operations, documents, data, and other records related to compliance with the requirements of this chapter. The department may require a demonstration of ALARACT at any time.

(2) All reporting and recordkeeping requirements of 40 CFR 61, Subparts H and I (~~published in the Federal Register on December 15, 1989~~) (as effective on October 9, 2002), are adopted by reference, as applicable as specified by the referenced subparts. The department may, upon request or on its own initiative, authorize provisions on a specific basis other than those set forth in WAC 246-247-080 for inspections, reporting, and recordkeeping of a facility that emits radioactive air emissions, if it finds reasonable assurance of compliance with the performance objectives of this chapter.

(3) The facility shall annually submit to the department the information requirements adopted in subsection (2) of this section, as applicable, along with the following additional information, as applicable:

- (a) The results of emission measurements for those emission units subject only to periodic confirmatory measurements;
- (b) Wind rose or joint frequency table;
- (c) Annual average ambient temperature;
- (d) Annual average emission unit gas temperature, if available;
- (e) Annual total rainfall;
- (f) Annual average emission unit flow rate and total volume of air released during the calendar year.

If this additional information is available in another annual report, the facility may instead provide a copy of that report along with the information requirements in this subsection. Annual reports are due by June 30 for the previous calendar year's operations.

(4) Any report or application that contains proprietary or procurement-sensitive information shall be submitted to the department with those portions so designated. The department shall hold this information confidential, unless required to release the information pursuant to laws, regulations, or court order.

(5) The facility shall notify the department within twenty-four hours of any shutdown, or of any transient abnormal condition lasting more than four hours or other change in facility operations which, if allowed to persist, would result in emissions of radioactive material in excess of applicable standards or license requirements. If requested by the department, the facility shall submit a written report within ten days including known causes, corrective actions taken, and any preventive measures taken or planned to minimize or eliminate the chance of recurrence.

(6) The facility shall file a report of closure with the department whenever operations producing emissions of

radioactive material are permanently ceased at any emission unit (except temporary emission units) regulated under this chapter. The closure report shall indicate whether, despite cessation of operations, there is still a potential for radioactive air emissions and a need for an active or passive ventilation system with emission control and/or monitoring devices. If decommissioning is planned and will constitute a modification, a NOC is required, as applicable, in accordance with WAC 246-247-060.

(7) The facility shall maintain a log for each emission unit that has received categorical approval under WAC 246-247-060(8). The log shall contain records of important operations parameters including the date, location, and duration of the release, measured or calculated radionuclide concentrations, the type of emissions (liquid, gaseous, solid), and the type of emission control and monitoring equipment.

(8) The facility shall maintain readily retrievable storage areas for all records and documents related to, and which may help establish compliance with, the requirements of this chapter. The facility shall keep these records available for department inspection for at least five years.

(9) The facility shall ensure all emission units are fully accessible to department inspectors. In the event the hazards associated with accessibility to a unit require training and/or restrictions or requirements for entry, the facility owner or operator shall inform the department, prior to arrival, of those restrictions or requirements. The owner or operator shall be responsible for providing the necessary training, escorts, and support services to allow the department to inspect the facility.

(10) The facility shall make available, in a timely manner, all documents requested by the department for review. The facility shall allow the department to review documents in advance of an inspection. The facility shall allow access to classified documents by representatives of the department with the appropriate security clearance and a demonstrable need-to-know.

(11) The facility shall respond in writing in a timely manner, or within a time limit set by the department, to inspection results which require the facility to implement corrective actions or any other actions so directed by the department.

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

WAC 246-247-085 Compliance determination for existing emission units and facilities. (1) All procedures for determining compliance with the dose equivalent standards of 40 CFR 61, Subparts H and I (~~published in the Federal Register on December 15, 1989~~) (as effective on October 9, 2002), are adopted by reference, as applicable as specified by the referenced subparts. The department may, upon request or on its own initiative, authorize provisions on a specific basis other than those set forth in WAC 246-247-085 for determining compliance with appropriate dose equivalent standards by a facility that emits radioactive air emissions, if it finds reasonable assurance of compliance with the performance objectives of this chapter.

(2) Facilities subject to 40 CFR 61 shall use computer codes or procedures approved by the EPA to determine the TEDE to the MEI; all other facilities shall use computer codes or procedures approved by the department.

(3) The determination of compliance with the dose equivalent standard of WAC 246-247-040 shall include all radioactive air emissions resulting from routine and nonroutine operations for the past calendar year.

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

WAC 246-247-110 Appendix A—Application information requirements. (1) Name and address of the facility, and location (latitude and longitude) of the emission unit(s).

(2) Name, title, address, and phone number of the responsible manager.

(3) Identify the type of proposed action for which this application is submitted:

(a) Construction of new emission unit(s);

(b) Modification of existing emission unit(s); identify whether this is a significant modification;

(c) Modification of existing unit(s), unregistered.

(4) If this project is subject to the requirements of the State Environmental Policy Act (SEPA) contained in chapter 197-11 WAC, provide the name of the lead agency, lead agency contact person, and their phone number.

(5) Describe the chemical and physical processes upstream of the emission unit(s).

(6) Describe the existing and proposed (as applicable) abatement technology. Describe the basis for the use of the proposed system. Include expected efficiency of each control device, and the annual average volumetric flow rate(s) in meters³/sec for the emission unit(s).

(7) Provide conceptual drawings showing all applicable control technology components from the point of entry of radionuclides into the vapor space to release to the environment.

(8) Identify each radionuclide that could contribute greater than ten percent of the potential-to-emit TEDE to the MEI, or greater than 0.1 mrem/yr potential-to-emit TEDE to the MEI.

(9) Describe the effluent monitoring system for the proposed control system. Describe each piece of monitoring equipment and its monitoring capability, including detection limits, for each radionuclide that could contribute greater than ten percent of the potential-to-emit TEDE to the MEI, or greater than 0.1 mrem/yr potential-to-emit TEDE to the MEI, or greater than twenty-five percent of the TEDE to the MEI, after controls. Describe the method for monitoring or calculating those radionuclide emissions. Describe the method with detail sufficient to demonstrate compliance with the applicable requirements.

(10) Indicate the annual possession quantity for each radionuclide.

(11) Indicate the physical form of each radionuclide in inventory: Solid, particulate solids, liquid, or gas.

(12) Indicate the release form of each radionuclide in inventory: Particulate solids, vapor, or gas. Give the chemical form and ICRP 30 solubility class, if known.

(13) Release rates.

(a) New emission unit(s): Give predicted release rates without any emissions control equipment (the potential-to-emit) and with the proposed control equipment using the efficiencies described in subsection (6) of this section.

(b) Modified emission unit(s): Give predicted release rates without any emissions control equipment (the potential-to-emit) and with the existing and proposed control equipment using the efficiencies described in subsection (6) of this section. Provide the latest year's emissions data or emissions estimates.

In all cases, indicate whether the emission unit is operating in a batch or continuous mode.

(14) Identify the MEI by distance and direction from the emission unit(s). The MEI is determined by considering distance, windrose data, presence of vegetable gardens, and meat or milk producing animals at unrestricted areas surrounding the emission unit.

(15) Calculate the TEDE to the MEI using an approved procedure (see WAC 246-247-085). For each radionuclide identified in subsection (8) of this section, determine the TEDE to the MEI for existing and proposed emission controls, and without any emission controls (the potential-to-emit) using the release rates from subsection (13) of this section. Provide all input data used in the calculations.

(16) Provide cost factors for construction, operation, and maintenance of the proposed control technology components and system, if a BARCT or ALARACT demonstration is not submitted with the NOC.

(17) Provide an estimate of the lifetime for the facility process with the emission rates provided in this application.

(18) Indicate which of the following control technology standards have been considered and will be complied with in the design and operation of ~~(the)~~ new or modified emission unit(s) described in this application:

ASME/ANSI AG-1, Code on Nuclear Air and Gas Treatment (where there are conflicts in standards with the other listed references, this standard shall take precedence)

ASME/ANSI N509, Nuclear Power Plant Air-Cleaning Units and Components

ASME/ANSI N510, Testing of Nuclear Air Treatment Systems

ANSI/ASME NQA-1, Quality Assurance Program Requirements for Nuclear Facilities

40 CFR 60, Appendix A, Methods 1, 1A, 2, 2A, 2C, 2D, 4, 5, and 17

~~(ANSI N13.1, Guide to Sampling Airborne Radioactive Materials in Nuclear Facilities)~~ ANSI/HPS N13.1-1999, Sampling and Monitoring Releases of Airborne Radioactive Substances from the Stacks and Ducts of Nuclear Facilities (mandatory only if the unit's potential-to-emit exceeds 0.1 mrem/yr TEDE to the MEI) (or ANSI N13.1-1969, Guide to Sampling Airborne Radioactive Materials in Nuclear Facilities, as applicable)

For each standard not so indicated, give reason(s) to support adequacy of the design and operation of the emission unit(s) as proposed.

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

WAC 246-247-120 Appendix B—BARCT compliance demonstration. Purpose. A BARCT demonstration is used to choose control technologies for the mitigation of emissions of radioactive material from new emission units or significant modifications to emission units. The bases for the BARCT demonstration requirements are the BARCT standard given in WAC 246-247-040, and the definition of BARCT given in WAC 246-247-030. This procedure incorporates certain implementing criteria that enable the department to evaluate a facility's compliance with the BARCT standard. It is the applicant's responsibility to demonstrate the effectiveness of their BARCT determination to the department. The facility should contact the department at the conceptual design phase for guidance on the BARCT demonstration requirements. The department may adjust this demonstration procedure on a case-by-case basis, as needed, to ensure compliance with the substantive standard.

Scope. The BARCT demonstration includes the abatement technology and indication devices that demonstrate the effectiveness of the abatement technology from entry of radionuclides into the ventilated vapor space to release to the environment. The applicant shall evaluate all available control technologies that can reduce the level of radionuclide emissions.

Technology Standards. The BARCT demonstration and the emission unit design and construction must meet, as applicable, the technology standards shown below if the unit's potential-to-emit exceeds 0.1 mrem/yr TEDE to the MEI. If the potential-to-emit is below this value, the standards must be met only to the extent justified by a cost/benefit evaluation.

ASME/ANSI AG-1, Code on Nuclear Air and Gas Treatment (where there are conflicts in standards with the other listed references, this standard shall take precedence)

ASME/ANSI N509, Nuclear Power Plant Air-Cleaning Units and Components

ASME/ANSI N510, Testing of Nuclear Air Treatment Systems

ANSI/ASME NQA-1, Quality Assurance Program Requirements for Nuclear Facilities

40 CFR 60, Appendix A, Methods 1, 1A, 2, 2A, 2C, 2D, 4, 5, and 17

~~((ANSI N13.1, Guide to Sampling Airborne Radioactive Materials in Nuclear Facilities))~~ **ANSI/HPS N13.1-1999, Sampling and Monitoring Releases of Airborne Radioactive Substances from the Stacks and Ducts of Nuclear Facilities**

The following standards and references are recommended as guidance only:

ANSI/ASME NQA-2, Quality Assurance Requirements for Nuclear Facilities

ANSI N42.18, Specification and Performance of On-Site Instrumentation for Continuously Monitoring Radioactivity in Effluents

ERDA 76-21, Nuclear Air Cleaning Handbook

ACGIH 1988, Industrial Ventilation, A Manual of Recommended Practice, 20th ed., American Conference of Governmental Industrial Hygienists

BARCT Demonstration Procedure.

Step 1. Define facility process variables. Describe the physical and chemical process. Include the potential radionuclide release rates (by isotope, in units of curies/year), process variables (such as flow rate, temperature, humidity, chemical composition), and other technical considerations. Base the radionuclide release rate on the potential-to-emit.

Radionuclides selected for consideration in the BARCT demonstration shall include those which contribute more than ten percent of the potential TEDE to the MEI or more than 0.1 mrem/yr, and any others which the department determines are necessary.

Step 2. Gather information on all available control technologies. Search for all available technologies that can reduce the emissions levels for the radionuclides selected in Step 1. Sources of information shall include previous BARCT demonstrations, regulatory authorities, industry or regulatory agency data bases, literature searches, information from technology vendors, research and development reports, and any other means necessary to identify all available technologies. "Available technology" includes any technology that is commercially available. Recently completed searches may be used with department approval.

Step 3. Determine technical feasibility. Determine technical feasibility by evaluating vendor specifications for available control technologies identified in Step 2 with respect to the process variables identified in Step 1. Evaluate combinations of abatement technology and control devices by component, and the system as a whole.

If a control technology has poor safety, reliability, or control effectiveness as achieved in practice under the proposed process conditions, or the technology is not applicable to the emission unit under consideration, the technology may be eliminated with supporting documentation of the technical infeasibility.

Step 4. List all feasible control technologies in order of effectiveness. Evaluate feasible control technologies for efficiency (effectiveness) in reducing the TEDE to the MEI. List them in order, with the most effective first. If the most effective feasible technology is proposed as BARCT, the demonstration is complete at this step.

Step 5. Evaluate the environmental, energy, and economic impacts. Evaluate each control technology in succession, beginning with the most effective. Present an objective evaluation considering both beneficial and adverse impacts. Quantify the data where possible. Impact cost and effectiveness evaluations are incremental and include only that portion of the facility which comes under the authority of this chapter. Evaluate at least the following impacts:

Environmental impact - Determine the incremental environmental impact, both beneficial and adverse. Evaluate the beneficial impact of reduction in the TEDE to the surrounding population or, at a minimum, to the MEI due to the abatement of radioactive air emissions. Consider the adverse impacts from waste generation (radioactive and nonradioactive, air and nonair), disposal and stabilization, construction of control equipment, and the health and safety to both radiation workers and the general public.

Energy impact - Determine the incremental energy impact. Include the impact of any resulting need for new services such as energy distribution systems.

Economic impact - Determine the incremental economic impact. Determine capital and expense costs including design, development, procurement, construction, operation, maintenance, taxes, waste disposal, and any other applicable financial components. Base all costs on the expected lifetime of the emission unit and reduce to an annualized cost for evaluation and comparison.

The adverse economic impact compared to the beneficial impact, including reduction in TEDE to the surrounding population or the MEI, is a measure of the cost versus benefit for the control technology evaluated.

The most effective technology may be eliminated from consideration if the applicant can demonstrate to the department's satisfaction that the technology has unacceptable impacts. State clearly the basis for this conclusion and proceed to the next most effective control technology. If the next most effective technology is proposed as BARCT, the demonstration is complete; otherwise, evaluate the control technology for impacts in accordance with this step.

If the control technology cannot be eliminated on the basis of its impacts, it is proposed as BARCT.

Reporting. Prepare a BARCT compliance demonstration report for department review. Provide sufficient information such that the department can validate essential results. If no control technology is feasible, and/or emissions are unacceptable, the department reserves the right to prohibit the construction and operation of the emission unit(s).

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

WAC 246-247-130 Appendix C—ALARACT compliance demonstration. Purpose. An ALARACT demonstration is used for inspection or audit purposes, and to demonstrate compliance with the substantive ALARACT technology standard as required by this chapter. An ALARACT demonstration is used to evaluate the adequacy of control technology on existing emission units and to choose control technologies for proposed nonsignificant modifications of emission units. The bases for the ALARACT demonstration requirements are the ALARACT standards given in WAC 246-247-040 and the definition of ALARACT given in WAC 246-247-030. It is the applicant's responsibility to demonstrate the effectiveness of their ALARACT determination to the department. The department may adjust this demonstration procedure on a case-by-case basis, as needed, to ensure compliance with the substantive standard.

Scope. The ALARACT demonstration includes the abatement technology and indication devices, from entry of radionuclides into the ventilated vapor space to release to the environment. The facility shall evaluate the existing control system in relation to applicable technology standards, and other control technologies that have been successfully operated for similar applications.

Technology Standards. The ALARACT demonstration and the emission unit design and construction must meet, as applicable, the technology standards shown below if the

unit's potential-to-emit exceeds 0.1 mrem/yr TEDE to the MEI. If the potential-to-emit is below this value, the standards must be met only to the extent justified by a cost/benefit evaluation.

ASME/ANSI AG-1, Code on Nuclear Air and Gas Treatment (where there are conflicts in standards with the other listed references, this standard shall take precedence)

ASME/ANSI N509, Nuclear Power Plant Air-Cleaning Units and Components

ASME/ANSI N510, Testing of Nuclear Air Treatment Systems

ANSI/ASME NQA-1, Quality Assurance Program Requirements for Nuclear Facilities

40 CFR 60, Appendix A, Methods 1, 1A, 2, 2A, 2C, 2D, 4, 5, and 17

((ANSI N13.1, Guide to Sampling Airborne Radioactive Materials in Nuclear Facilities)) ANSI/HPS N13.1-1999, Sampling and Monitoring Releases of Airborne Radioactive Substances from the Stacks and Ducts of Nuclear Facilities (mandatory only for emission units constructed or significantly modified after April 15, 2004).

The following standards and references are recommended as guidance only:

ANSI/ASME NQA-2, Quality Assurance Requirements for Nuclear Facilities

ANSI N42.18, Specification and Performance of On-Site Instrumentation for Continuously Monitoring Radioactivity in Effluents

ERDA 76-21, Nuclear Air Cleaning Handbook

ACGIH 1988, Industrial Ventilation, A Manual of Recommended Practice, 20th ed., American Conference of Governmental Industrial Hygienists

ALARA References. "Health Physics Manual of Good Practice for Reducing Radiation Exposure to Levels that are As Low As Reasonably Achievable (ALARA)", PNL-6577, June, 1988; prepared for the USDOE by Pacific Northwest Laboratories (Battelle Memorial Institute).

"A Guide to Reducing Radiation Exposure to As Low As Reasonably Achievable (ALARA)", DOE/EV/1830-T5, April, 1980, R.L. Kathren and J.M. Selby; prepared for the USDOE by Pacific Northwest Laboratories (Battelle Memorial Institute).

"A Practical Method of Performing Cost-Benefit Analysis of Occupational and Environmental Protective Measures", WHC-SA-0484-FP, March, 1989, G.F. Boothe and D.E. Webb; prepared for the USDOE by Westinghouse Hanford Company.

WSR 04-07-181

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed March 24, 2004, 9:31 p.m.]

Original Notice.

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

Title of Rule: Radiation machine registration fees, WAC 246-254-053.

PROPOSED

Purpose: The department proposes to revise the X-ray fee schedule for the X-ray protection program in order to cover increases in program costs.

Other Identifying Information: The proposed increases are at or below the fiscal growth factor for fiscal year 04 which is 3.2%.

Statutory Authority for Adoption: RCW 43.70.250.

Statute Being Implemented: RCW 43.70.250.

Summary: Fees support the public health activities of the X-ray protection program and need to be adjusted to compensate for increased costs program, commitment to electronic document management/scanning to reduce file space in preparation for move to new building in 2005, and replacement of old instruments used to measure radiation and increased travel costs.

Reasons Supporting Proposal: Sufficient revenue is necessary to fulfill the department's public health obligations in this area.

Name of Agency Personnel Responsible for Drafting: Kelly Cooper, Tumwater, (360) 236-3012; **Implementation and Enforcement:** Mike Odlag, Tumwater, (360) 236-3237.

Name of Proponent: Washington State Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule currently contains a table of X-ray machine fees assessed on each type of X-ray facility, and is broken down into a base fee for every facility, followed by a "first tube" fee, and then by "additional tube" fees. The additional tube fees are lower than the first tube fees. The purpose of the fees is to support the registration and inspection program within the Office of Radiation Protection. The fee increases will allow the X-ray control program to continue its current level of public health activities, i.e., ensuring that unnecessary exposure to patients, the public and X-ray operators is minimized and that rules are followed to achieve this.

Proposal Changes the Following Existing Rules: The proposal amends WAC 246-254-053 by adjusting the fees within the fiscal year 2004 fiscal growth factor of 3.2%.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 29.85.025(3) [19.85.025(3)], rules that set or adjust fees pursuant to legislative standards are exempt from the requirements of the Regulatory Fairness Act.

RCW 34.05.328 does not apply to this rule adoption. Rules that set or adjust fees pursuant to legislative standards are exempt from the analysis required in RCW 34.05.328.

Hearing Location: Department of Health, 7171 Cleanwater Lane, Building 5, Tumwater, WA 98501, on April 27, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Mike Odlag by April 20, 2004, TDD (800) 833-6388 or (360) 236-2255.

Submit Written Comments to: Terry Frazee, DOH-EHP-ORP, P.O. Box 47827, Olympia, WA 98504-7827, e-mail terry.frazee@doh.wa.gov, fax (360) 236-2255, by April 27, 2004.

Date of Intended Adoption: April 28, 2004.

March 23, 2004

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 03-13-122, filed 6/18/03, effective 7/19/03)

WAC 246-254-053 Radiation machine facility registration fees. (1) Radiation machine facility fees apply to each person or facility owning, leasing and using radiation-producing machines.

FEE TYPE	FEE
(a) Annual Base Registration Fee	\$((49)) <u>50</u>
(b) Late registration or re-registration	\$((49)) <u>50</u>
(c) Tube Fees	See Table 1

Group	First Tube	Each Additional Tube
(i) Group A: Dental, Podiatric, Veterinary uses	\$((50)) <u>51</u>	\$((25.50)) <u>26</u>
(ii) Group B: Hospital, Medical, Chiropractic uses	\$((138)) <u>141</u>	\$((72)) <u>74</u>
(iii) Group C: Industrial, research, and other uses	\$((77)) <u>79</u>	\$((25.50)) <u>26</u>
(iv) Group D: Electron Microscopes, Mammographic X-ray Machines	NA	NA

(2) X-ray shielding fees.

(a) Facilities regulated under the shielding plan requirements of WAC 246-225-030 or 246-227-150 are subject to a \$((92)) 94 X-ray shielding review fee for each X-ray room plan submitted.

(b) If a facility regulated under WAC 246-225-030 or 246-227-150 operates without submittal of X-ray shielding calculations and a floor plan it will be subject to a shielding design follow-up fee of \$((49)) 50.

(3) Radiation safety fee. If a facility or group of facilities under one administrative control employs two or more full-time individuals whose positions are entirely devoted to in-house radiation safety, the facility shall pay a flat, annual fee of \$((3,200)) 3,290.

(4) Consolidation of registration. Facilities may consolidate X-ray machine registrations into a single registration after notifying the department in writing and documenting that a single business license applies.

(5) Inspection fees.

(a) The cost of routine, periodic inspections, including the initial inspection, are covered under the base fee and tube registration fees as described in subsection (1) of this section.

(b) Facilities requiring follow-up inspections due to uncorrected noncompliances must pay an inspection follow-up fee of \$90.

**WSR 04-07-186
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**
[Filed March 24, 2004, 11:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-04-007.

Title of Rule: Coastal experimental pilchard fishery.

Purpose: Amend coastal pilchard commercial fishery rules.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

Summary: These rule changes simplify and clarify eligibility for participation in the coastal pilchard fishery, delete outdated references, and amend by-catch allowances.

Reasons Supporting Proposal: This proposal offers replacement licenses to persons who have historically targeted pilchard in the experimental fishery.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, (306) 902-2930; Implementation: Phil Anderson, 1111 Washington Street, Olympia, (306) 902-2720; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (306) 902-2373.

Name of Proponent: Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The department has determined that the coastal pilchard fishery can support a fleet of twenty-five vessels in the experimental phase of the fishery. The fishery is currently undersubscribed. In order to allow participation by persons who have fished pilchard as a primary target, the level is set to exclude persons who may have accidentally encounter pilchard as a by-catch in a fishery directed at other species. Use of single designated vessels without mid-season change provides stability in the seasonal fishery. The outdated provisions of the rule are deleted, and, under guidelines from the Pacific Fisheries Management Council, the limitation on by-catch of mackerel is eliminated.

Proposal Changes the Following Existing Rules: Amend coastal pilchard rules.

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

Small Business Economic Impact Statement

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: There is a date change for having no outstanding observer

fees, an application for a replacement license must be received by June 1, 2004, and vessel designation is required at least forty-eight hours prior to participation in the fishery.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: None.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: No compliance costs as a result of these rule changes.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? This rule changes the application process for replacement licenses. Instead of random drawing from persons who have landed five metric tons, persons who have landed at least forty metric tons under license from 2000-2002 are eligible to apply, until the fleet size is capped at twenty-five licensees. Persons who made incidental landings will be ineligible to apply. Thus, there is no loss of sales or revenue to such persons, since they are not currently licensed. There is, however, loss of potential future sales or revenue. The department believes the persons who participated in the directed fishery will form a pool of qualified applicants sufficient to harvest the available resource. This will be reviewed at the completion of the five-year experimental fishery, and legislative recommendations may suggest expansion or reduction of the fleet.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

- a. Cost per employee;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales.

No cost of compliance as a result of these rule changes.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: There are no costs as a result of these rule changes.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The department has held [a] meeting with the coastal sardine fishers. The department has used the Sardine Advisory Board for industry participation, and has solicited comments from both fishers and processors.

8. A List of Industries That Will Be Required to Comply with the Rule: Coastal pilchard experimental fishery participants.

A copy of the statement may be obtained by writing to Evan Jacoby, 600 Capitol Way, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155.

RCW 34.05.328 does not apply to this rule adoption. Not hydraulics rules.

Hearing Location: Natural Resources Building, 1111 Washington Street, Olympia, WA, on April 27, 2004, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Deb Kuttle by April 13, 2004, TDD (360) 902-2720 or (360) 902-2267.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, fax (360) 902-2155, by April 26, 2004.

PROPOSED

Date of Intended Adoption: April 27, 2004.

March 24, 2004

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 03-111, filed 6/4/03, effective 7/5/03)

WAC 220-88C-030 Eligibility to participate in the coastal pilchard fishery. (1) ~~((For 2003, a coastal pilchard experimental fishery permit will be issued only to a person who:~~

~~(a) Can demonstrate by valid Washington fish receiving tickets that at least forty metric tons cumulative weight of pilchard taken from Pacific Ocean waters were landed under the person's emerging commercial fishery license during the previous three calendar years (2000, 2001, and 2002) or can demonstrate by valid Washington fish receiving tickets that pilchard were landed under the person's emerging commercial fishery license during two of the three calendar years (2000, 2001, or 2003);~~

~~(b) Has purchased an emerging commercial fisheries license by July 1, 2003; and~~

~~(c) As of July 1, 2003, has no outstanding observer fees owed to the department for the 2000, 2001, or 2002 coastal pilchard trial fisheries.~~

~~(2)) Beginning 2004, a coastal pilchard experimental fishery permit will be issued only to a natural person who:~~

~~(a) Held such a permit the previous year;~~

~~(b) Has purchased an emerging commercial fisheries license by April 1st; and~~

~~(c) As of April 1st has no outstanding observer fees owed to the department.~~

~~((3)) (2) Beginning 2005, a coastal pilchard experimental fishery permit will be issued only to a natural person who:~~

~~(a) Held such a permit the previous year;~~

~~(b) Can demonstrate by valid Washington fish receiving tickets that at least forty metric tons cumulative weight of pilchard taken from Pacific Ocean waters were landed under the person's emerging commercial fishery license during the previous two calendar years;~~

~~(c) Has purchased an emerging commercial fisheries license by April 1st; and~~

~~(d) As of ((April)) December 1st of ((each)) the previous licensing year has no outstanding observer fees owed to the department.~~

~~((4)) (3) Coastal pilchard experimental fishery permits may be revoked by the director, and future permits denied by the director, for failure to comply with conditions specified in the permits or violation of other commercial fishing rules, and shall be revoked if the emerging commercial fishery license is suspended. A coastal pilchard experimental fishery permit will not be renewed if the emerging commercial fishery license is revoked or future fishing privileges of the licensee are suspended.~~

~~((5)) (4) If less than twenty permits are issued to persons who meet the permit renewal requirements specified in subsection((s-2) and (3)) (1) of this section, the director may offer replacement permits, provided that:~~

(a) The total number of permits issued by the director, including replacement permits, shall not exceed twenty-five.

(b) Replacement permits shall be issued to persons who ~~((had))~~ can demonstrate by valid Washington fish receiving tickets that a minimum of forty metric tons (cumulative round weight) of pilchard were landed ~~((a minimum of five metric tons (cumulative round weight) of pilchard taken from Pacific Ocean waters))~~ under the person's emerging commercial fishery license in 2000, 2001, and 2002, ((by random drawing)) and who have submitted a completed replacement permit application to the department by June 1, 2004.

(c) If ~~((less than twenty permits are issued to persons who meet the minimum landing requirements specified in (b) of this subsection, the director may offer a replacement permit by random drawing))~~ more than twenty-five persons meet the criteria specified in (b) of this subsection, replacement permits will be issued to persons with the highest cumulative landings during the qualifying period, in descending order, until twenty-five permits are issued.

~~((6)) (5) Coastal pilchard experimental fishery permits are only valid for the year issued and expire on ((December)) October 31st of the year issued with the expiration of the emerging commercial fishery license.~~

~~((7)) (6) Permit holders must designate a vessel to be used in the coastal pilchard emerging commercial fishery ((by May 31 of each year)) at least forty-eight hours before their first pilchard fishing trip of each season. Once designated, permit holders may not change vessel designation ((between June 1 and October 31)) for the remainder of the season, except in an emergency and then only if allowed by the director. The same vessel may not be designated on more than one emerging commercial fishery license and accompanying coastal pilchard experimental fishery permit.~~

AMENDATORY SECTION (Amending Order 03-111, filed 6/4/03, effective 7/5/03)

WAC 220-88C-040 Coastal pilchard fishery—Seasons and lawful catch. (1) The coastal pilchard fishery season is open to purse seine fishing May 15 through October 31 only. Fishing under an experimental commercial fishery permit for pilchard is closed within three miles of shore.

(2) It is unlawful to retain any species taken incidental to pilchard in the coastal pilchard fishery except anchovy, mackerel, and squid. ~~((Incidental landings of Pacific mackerel cannot exceed forty five percent, by weight, of the total landing.))~~ Any salmon encircled in the purse seine must be released prior to completion of the set, and no salmon may be landed on the fishing vessel.

(3) The transfer of catch from one vessel to another is prohibited.

(4) Legal purse seine gear must be aboard the vessel making the landing.

(5) Pilchard landings must be delivered to a shoreside processing facility.

PROPOSED

WSR 04-07-187

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Resources Board)
[Filed March 24, 2004, 11:28 a.m.]**

The Washington Personnel Resources Board hereby withdraws the proposed amendments to WAC 251-14-150 originally filed under WSR 03-19-129 on September 17, 2003.

If you have any questions, please contact Connie Goff at 664-6325.

Gene Matt
Secretary

WSR 04-07-188

**PROPOSED RULES
PERSONNEL RESOURCES BOARD
[Filed March 24, 2004, 11:30 a.m.]**

Original Notice.

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

Title of Rule: Chapter 251-30 WAC, Combined fund drive and chapter 356-60 WAC, Combined fund drive.

Purpose: Incorporate the provisions of SB 5156 (2003) regarding the combined fund drive into chapter 251-30 WAC for higher education and chapter 356-60 WAC for state agencies.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Summary: The modifications to chapters 251-30 and 356-60 WAC reflect changes made by SB 5156 in 2003.

Reasons Supporting Proposal: Bring the WACs up to date with current law.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The changes to these rules will reflect the changes made by SB 5156 passed by the legislature in 2003.

Proposal Changes the Following Existing Rules: See above.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on May 13, 2004, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 7, 2004, TDD (360) 753-4107 or (360) 586-8260.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by May 7, 2004.

Date of Intended Adoption: May 13, 2004.

March 24, 2004

E. C. Matt
Secretary

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 04-08 issue of the Register.

WSR 04-07-194

**PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed March 24, 2004, 11:55 a.m.]**

Supplemental Notice to WSR 03-22-086.

Title of Rule: Chapter 16-561 WAC, Washington Red Raspberry Commission.

Purpose: This proposal amends the Washington Red Raspberry Commission's marketing order (chapter 16-561 WAC) to reflect recent statutory changes. In addition, based upon public testimony received at a public hearing on the amendments held in Lynden on December 10, 2003, the department, acting on behalf of the commission, is proposing amendments that eliminate any language in the marketing order that would allow the commission to adopt rules relating to grades or standards for red raspberries.

Statutory Authority for Adoption: RCW 15.65.047 and chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.65 RCW.

Summary: During the past three legislative sessions, significant amendments were made to the commission's enabling statute, chapter 15.65 RCW. These changes prompted proposed amendments to chapter 16-561 WAC. The proposed amendments expand the commission's policy and purpose statements, update definitions, update the commission member selection process and term limit, add additional powers and duties to benefit the industry, update meeting and administrative procedures, expand the commission's information and education role, decrease the total number of board members and representative districts, and eliminate language that would otherwise allow for rules to adopt grades and standards for red raspberries.

Reasons Supporting Proposal: In response to industry testimony received at the December 10, 2003, public hearing and a request received from the Washington Red Raspberry Commission, the department is proposing additional amendments to chapter 16-561 WAC that eliminate the commission's rule-making authority to adopt grades and standards for red raspberries.

Name of Agency Personnel Responsible for Drafting: Lynn Briscoe, Olympia, (360) 902-2043; Implementation and Enforcement: Henry Bierlink, Lynden, (360) 354-8767.

Name of Proponent: Washington Red Raspberry Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendments to the Washington Red Raspberry Commission's marketing order, chapter 16-561 WAC, are in response to significant amendments to the com-

PROPOSED

mission's enabling statute, chapter 15.65 RCW, which were adopted by the legislature during its past three sessions. The proposed marketing order amendments achieve consistency with the statute, as well as, improve the readability and clarity of the marketing order. In addition, the proposed marketing order amendments decrease the total number of board members from eleven to nine members and decrease the number of representative districts from four to three districts, combining District 4 with District 2. Finally, the proposal eliminates language from the marketing order that would allow the commission to adopt rules regarding grades and standards for red raspberries. The following marketing order sections are new, repealed or amended:

New sections WAC 16-561-005 Marketing order for Washington red raspberries—Policy statement and 16-561-006 Marketing order purposes; amending WAC 16-561-010 Definition, 16-561-020 Red raspberry commodity board, 16-561-040 Assessments and collections and 16-561-060 Termination of the order; and repealing WAC 16-561-030 Marketing order purposes.

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Because the adoption of the amendments to chapter 16-561 WAC will be determined by a referendum vote of the affected parties, a formal small business economic impact statement under chapter 19.85 RCW is not required because of the exemption granted in RCW 15.65.570(2).

RCW 34.05.328 does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in RCW 34.05.328 (5)(a)(i).

Hearing Location: Fire District #3 Conference Center, 307 19th Street, Lynden, WA 98264, on April 29, at 1:00 p.m.; and at the WSU Vancouver Research and Extension Unit, 1919 N.E. 78th Street, Vancouver, WA 98665, on May 3, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Virginia Walsh by April 20, 2004, TDD (360) 902-1996 or (360) 902-1976.

Submit Written Comments to: Lynn Briscoe, Commodity Commission Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2092, e-mail lbriscoe@agr.wa.gov, by 5:00 p.m., May 4, 2004.

Date of Intended Adoption: September 27, 2004.

March 24, 2004

William E. Brookreson
Deputy Director

NEW SECTION

WAC 16-561-005 Marketing order for Washington red raspberries—Policy statement. (1) The marketing of red raspberries within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its red raspberries be properly promoted by:

(a) Enabling producers of red raspberries to help themselves in establishing orderly, fair, sound, efficient, and

unhampered marketing of the red raspberries they produce; and

(b) Working towards stabilizing the agricultural industry by increasing consumption of red raspberries within the state, the nation, and internationally.

(2) That it is in the overriding public interest that support for the red raspberries industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that red raspberries be promoted individually, and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's red raspberries.

(b) Increase the sale and use of Washington state's red raspberries in local, domestic, and foreign markets.

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's red raspberries.

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's red raspberries and products.

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of red raspberries produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through the adoption of this marketing order.

(4) The Washington state red raspberry commodity board exists primarily for the benefit of the people of the state of Washington and its economy, and with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to red raspberries under the provisions of this marketing order.

NEW SECTION

WAC 16-561-006 Marketing order purposes. This marketing order is to promote the general welfare of the state and for the purpose of maintaining existing markets or creating new or larger local, domestic, and foreign markets; increasing production efficiency; ensuring a fair regulatory environment; or increasing per capita consumption of red raspberries grown in Washington state. The Washington state red raspberry commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW:

(1) To carry out the purposes of the marketing order, the board may provide for a program in one or more of the following areas:

(a) Establish plans and conduct programs for marketing, sales, promotion, and/or other programs for maintaining present markets and/or creating new or larger markets for raspberries. Programs shall be directed toward increasing the sale of raspberries without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims on behalf of raspberries nor disparage the quality, value, sale, or use of any other agricultural commodity. The board may also engage in cooperative efforts in the domestic or foreign marketing of red raspberries.

(b) Provide for research in the production, processing, irrigation, transportation, handling, and/or marketing of raspberries and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried on by experiment stations of Washington State University, but if in the judgment of the board, said experiment stations do not have the facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(c) Conduct programs for the purpose of providing information and education including:

(i) Marketing information and services to affected producers, for the verification of weights, tests, and sampling of quality and quantity of raspberries purchased by handlers from affected producers;

(ii) Information and services enabling producers to meet their resource conservation objectives;

(iii) Red raspberry-related education and training.

(d) Subject to the provisions of the act, provide information and communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses of red raspberries produced in Washington state to any elected official or officer or employee of any agency.

(2) The director shall approve any plans, programs, and projects concerning:

(a) The establishment, issuance, effectuation, and administration of programs authorized under this section for advertising and promotion of red raspberries; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that marketing and utilization of the affected commodity may be encouraged, expanded, improved, or made more efficient.

(3) The Washington state red raspberry commodity commission will not develop and adopt rules relating to grades and standards.

AMENDATORY SECTION (Amending Order 1888, filed 6/6/86)

WAC 16-561-010 Definition ((of terms)). Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order, the following additional definitions shall apply:

(1) "Director" means the director of agriculture of the state of Washington or his or her duly appointed representative.

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

(3) "Act" means the Washington State Agricultural ((Enabling Act of 1964)) Commodity Boards Act or chapter 15.65 RCW.

(4) "Person" means any ((person)) individual, firm, ((association, or)) corporation, limited liability company, trust, association, partnership, society or any other organization of individuals or any unit or agency of local or state government.

(5) "Affected producer" means any person who produces or stores in the state of Washington raspberries in commercial quantities for fresh market, for processing, or for sale to processors.

(6) "Commercial quantity" means any raspberries produced or stored in quantities of three tons (6,000 pounds) or more, in any calendar year.

(7) "Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, storing, freezing, or distributing raspberries not produced by him/her. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

(8) "Red raspberry commodity board," hereinafter referred to as "board(;;)" or "commission" means the commodity board formed under the provisions of WAC 16-561-020.

(9) "Raspberries" means and includes all kinds, varieties, and hybrids of "*rubus idaeus*" of red color.

(10) "Marketing season" or "fiscal year" means the twelve-month period beginning with January 1 of any year and ending with the last day of December following, both dates being inclusive.

(11) "Producer-handler" means any person who acts both as a producer and as a handler with respect to raspberries. A producer-handler shall be deemed to be a producer with respect to the raspberries which he/she produces and a handler with respect to the raspberries which he/she handles, including those produced by himself/herself. "To produce" means to act as a producer. For the purposes of the red raspberry marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(12) "Affected area" means that portion of the state of Washington located west of the summit of the Cascade Mountains.

(13) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

(14) "Affected unit" means one pound net of raspberries.

AMENDATORY SECTION (Amending WSR 92-12-003, filed 5/21/92, effective 6/21/92)

WAC 16-561-020 Red raspberry commodity board.

(1) Administration. The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) Board membership.

(a) The board shall consist of ((eleven)) nine members. ((Ten)) Eight members shall be affected producers appointed or elected as provided in this section. The director shall appoint one member who is neither an affected producer nor a handler to represent the ((department and the public)) director. The position representing the director shall be a voting member.

There shall be a minimum of two producer board members per district, with additional producer board members added based on acreage; using two thousand acres as the

baseline, every one thousand acres, or increment thereof, would entitle a district to another board member, so long as no single district had an over-all majority of representatives.

(b) Director-appointed producer positions on the board shall be designated as position 1, position 2, position 7, and position 8.

(c) Elected producer positions on the board shall be designated as position 3, position 4, position 5, and position 6.

(d) The position representing the director who is neither an affected producer nor a handler shall be designated as position 9.

(e) For the purpose of nomination, appointment, and election of producer members of the board, the affected area shall be that portion of the state of Washington located west of the summit of the Cascade Mountains and shall be divided into ~~((four))~~ three representative districts as follows:

(i) District I shall have four board members, being positions 2, 3, 4, and 8, and shall be Whatcom County.

(ii) District II shall have two board members, being positions 1~~((7))~~ and ~~((7))~~ 6, and shall include the counties of Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pierce, San Juan, Skagit, Snohomish, and Thurston.

(iii) District III shall have two board members, being positions 5 and ~~((9))~~ 7, and shall include the counties of Clark, Cowlitz, Lewis, Pacific, Skamania, and Wahkiakum.

~~((iv) District IV shall have two members, being positions 6 and 10, and shall include the counties of San Juan, Skagit, and Snohomish.))~~

(3) **Board membership qualifications.** The ~~((affected))~~ producer members of the board ~~((shall))~~ must be practical producers of raspberries and each shall be a citizen~~((s))~~ and resident~~((s))~~ of ~~((the))~~ this state ~~((of Washington)),~~ over the age of twenty-five years~~((, each of whom is and has)).~~ Each producer board member must be and have been actually engaged in producing raspberries within the state of Washington for a period of five years and has, during that time, derived a substantial portion of his/her income therefrom. Producer-handlers shall be considered to be acting only as producers for purpose of appointment or election and membership on a commodity board. The qualifications of members of the board as herein set forth must continue during the terms of office.

(4) **Term of office.**

(a) The term of office, for members of the board shall be three years, and one-third of the membership as nearly as possible shall be elected each year. These terms shall expire on November 30.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through ~~((ten))~~ eight and the member ~~((appointed by))~~ representing the director, position ~~((eleven))~~ nine.

(c) The term of office for the initial board members shall be as follows:

Positions one and two - one year;

Positions three, four, five, and nine - two years;

Positions six, seven, eight, and ten~~((, and eleven))~~ - three years.

(d) ~~((No elected member of the board may serve more than two full consecutive three-year terms.))~~ The term of

office for board members serving at the time of the effective date of this amended marketing order shall be as follows:

Positions one, two and eight - until November 30, 2004;

Positions three, four, and five - until November 30, 2005;

Positions six and seven - until November 30, 2006.

(e) Except for the director's representative, no appointed or elected member of the board may serve more than two full consecutive three-year terms. Any previous board member may be reelected to a qualified position after such term limits, if at least one full three-year period has passed since the last date of the second consecutive term in office.

(f) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members in position 2, position 8, position 9, and position 10 shall be forwarded to the director for appointment within thirty days of the effective date of this amended marketing order. The current board members in position 9 and position 10 will be reappointed to position 1 and position 7.

(5) **Nomination ~~((and election))~~ of elected or director-appointed board members.** Each year the director shall call ~~((for))~~ a nomination meeting for elected or director-appointed producer board members. ~~((Such))~~ The meeting~~((s))~~ shall be held at least thirty days in advance of the date set by the director for the election or advisory vote of board members.

(a) Notice of ~~((every such))~~ a nomination meeting shall be published in a newspaper of general circulation within the affected area not less than ten days in advance of the date of such meeting; and, in addition, written notice of every such meeting shall be given to all affected producers within the affected area according to the list maintained by the ~~((director pursuant to RCW 15.65.200 of the act))~~ board pursuant to RCW 15.65.295.

(b) Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting.

(c) Any qualified affected producer may be nominated orally for membership on the board at ~~((such))~~ a nomination meeting. Nominations may also be made within five days after ~~((any such))~~ the meeting by written petition filed with the director, signed by not less than five affected producers. ~~((At the inception of this order, nominations may be made at the issuance hearing.))~~

(d) When only one nominee is nominated by the affected producers for any position, RCW 15.65.250 shall apply.

(6) **Election or advisory vote of board members.**

(a) ~~((Members of the board shall be elected by secret mail ballot within the month of October))~~ An election or advisory vote shall be conducted by secret ballot under the supervision of the director within the month of October. Each affected producer shall be entitled to one vote. ((Affected producer))

(b) Elected members of the board shall be elected by a majority of the votes cast by the affected producers within the affected area. ((Each affected producer within the affected area shall be entitled to one vote.

~~((b)))~~ If a nominee for an elected position does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) An advisory vote shall be conducted for producer board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(d) Notice of every election or advisory vote for board membership shall be published in a newspaper of general circulation within the affected area not less than ten days in advance of the date of ~~((such))~~ the election. Not less than ten days prior to every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears on the list of ~~((such))~~ affected producers within the affected area maintained by the ~~((director in accordance with RCW 15.65.209))~~ board pursuant to RCW 15.65.295. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his/her qualifications.

(e) Nonreceipt of a ballot by any affected producer shall not invalidate the election or advisory vote of any board members.

(7) Vacancies ~~((prior to election))~~.

(a) In the event of a vacancy on the board in an elected position, the remaining members shall select a qualified person to fill the unexpired term. The appointment shall be made at the board's first or second meeting after the position becomes vacant.

(b) In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member ~~((shall receive \$35.00 for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board, together with travel expenses at the rates allowed state employees))~~ may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce, and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel as the board determines necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from monies collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of the order. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited with the director in order to defray the costs of formulating the order.

(f) To establish a "raspberry board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, shall be deposited as often as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys, and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least sixty days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules ~~((and regulations))~~ of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or the order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(o) To authorize the members of a commodity board, or their agents or designees, to participate in federal or state hearings or other proceedings concerning regulation of the manufacture, distribution, sale, or use of any pesticide as defined by RCW 15.38.030(1) or any agricultural chemical which is of use or potential use in producing the affected commodity, and may authorize the expenditure of commission funds for this purpose.

(p) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(q) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(r) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(s) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of red raspberries.

(t) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(u) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(v) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of red raspberries including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(w) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the units of each producer's production pursuant to RCW 15.65.295. This list may be compiled from information used to collect producer assessments for a three-year period.

(x) To maintain a list of the names and addresses of persons who handle red raspberries within the affected area and data on the amount of the red raspberries handled by each person pursuant to RCW 15.65.295 for a minimum three-year period.

(y) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(z) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(11) Procedures for board.

(a) The board shall hold regular meetings, at least four times annually, and such meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). Notice of the time and place of regular meetings shall be published on or before January of each year in the Washington State Register. Notice of any change of the meeting schedule shall be published in the State Register at least twenty days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by regular news service.

(c) The board shall establish by resolution, the time, place, and manner of calling special meetings of the board with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver (~~thereof by each~~) from that member of the board. Notice of special meetings shall be in compliance with chapter 42.30 RCW.

AMENDATORY SECTION (Amending Order 1888, filed 6/6/86)

WAC 16-561-040 Assessments and collections. (1) Assessments.

(a) The annual assessment on all varieties of raspberries shall be one-half cent per affected unit (pound).

(b) For the purpose of collecting assessments, the board may:

(i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or

(ii) Require the person subject to the assessment to give adequate assurance or security for its payment; or

(iii) Require in the case of assessments against affected units stored in frozen condition:

(A) Cold storage facilities storing (~~such~~) the commodity to file information and reports with the commission regarding the amount of commodity in storage, the date of receipt, and the name and address of each such owner; and

(B) That (~~such~~) the commodity not be shipped from a cold storage facility until the facility has been notified by the commission that the commodity owner has paid the commission for any assessments imposed by the marketing order.

(c) Subsequent to the first sale, no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped, stored, or sold, both inside and outside the state.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of (~~the~~) this order during or with respect to any season or year, may be refunded on a pro rata basis at the close of (~~such~~) the season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of (~~such~~) this marketing (~~agreement~~) order, to all persons from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding season, year, or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in (~~such~~) a specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so

assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of ~~((such))~~ the assessment or ~~((such))~~ other sum on or before the date due, the board may, and is hereby authorized to, add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of ~~((the same))~~ it. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent ~~((thereon))~~, and ~~((such))~~ the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

AMENDATORY SECTION (Amending Order 1478, filed 7/29/76)

WAC 16-561-060 Termination of the order. ~~((The order shall be terminated if the director finds that fifty one percent by numbers and fifty one percent by volume of production of the affected producers favor or assent such dissolution. The director may ascertain without compliance with RCW 15.65.050 through 15.65.130 of the act whether such termination is so assented to or favored whenever twenty percent by numbers and twenty percent by volume of production of the affected producers file written application with him for such termination. The termination shall not, however, become effective until the expiration of the marketing season.))~~ Termination shall be accomplished pursuant to RCW 15.65.183 through 15.65.193.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-561-030 Marketing order purposes.



WSR 04-07-021
EXPEDITED RULES
NOXIOUS WEED
CONTROL BOARD

[Filed March 8, 2004, 2:41 p.m.]

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

Purpose: This proposal corrects spelling errors in the existing language.

Statutory Authority for Adoption: RCW 17.10.080, 17.10.070, and 17.10.010(5).

Statute Being Implemented: RCW 17.10.080.

Summary: Two spelling errors were made in the CR-102 that proposed changes to the noxious weed list for 2004. The botanical name for Class B noxious weed hoary alyssum, which is Berteroa incana, was misspelled. The common name for Bohemian knotweed, a Class C noxious weed, was misspelled. Those errors were also contained in the CR-103 published in WSR 03-24-012. This proposal corrects those spelling errors.

Reasons Supporting Proposal: Since hoary alyssum is a Class B noxious weed designated for control in some parts of the state, it could be the subject of an enforcement action under chapters 17.10 RCW and 16-750 WAC. The misspelling of the botanical name of the weed could needlessly complicate that procedure. The rule language will be more readable with Bohemian knotweed spelled correctly.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve McGonigal, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-2053.

Name of Proponent: Washington State Noxious Weed Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: It corrects two misspellings in the state noxious weed list.

Proposal Changes the Following Existing Rules: It corrects one misspelling in the Class B noxious weed list, and one misspelling in the Class C noxious weed list.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO George Huffman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, AND RECEIVED BY May 25, 2004.

March 8, 2004

Steve McGonigal
Executive Secretary

AMENDATORY SECTION (Amending WSR 03-24-012, filed 11/20/03, effective 12/21/03)

WAC 16-750-011 State noxious weed list—Class B noxious weeds.

Table with 2 columns: Name and Will be a "Class B designate" in all lands lying within. Lists various weeds like alyssum, blackgrass, blueweed, broom, bryony, bugloss, etc. with their corresponding regional designations.

EXPEDITED

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
(8) camelthorn <i>Alhagi maurorum</i>	(a) regions 1, 2, 3, 4, 5, 7, 8, 9 (b) region 6 except those portions of Sections 23, 24, 25, and 29 through 36, T16N, R27E, W.M. lying outside Intercounty Weed District No. 52 and except Sections 1 through 12, T15N, R27E, W.M. in Grant County and except the area west of Highway 17 and north of Highway 26 in Adams County (c) Franklin, Columbia, Garfield, and Asotin counties of region 10 (d) an area beginning at the Washington—Oregon border at the southwest portion of section 5, R32E, T6N, then north to the northwest corner of section 3, R32E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to southeast portion of section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning.	(14) cordgrass, common <i>Spartina anglica</i>	(a) regions 1, 3, 4, 5, 6, 7, 8, 9, 10 (b) region 2 except bays and estuaries of Skagit and Island counties and except bays and estuaries north of Everett in Snohomish County.
(9) carrot, wild <i>Daucus carota</i>	(a) regions 3, 7 (except where intentionally cultivated) (b) Spokane and Ferry counties of region 4 (except where intentionally cultivated) (c) region 6, except Yakima County (except where intentionally cultivated) (d) region 9, except Yakima County (except where intentionally cultivated) (e) region 10, except Walla Walla County (except where intentionally cultivated).	(15) daisy, oxeye <i>Leucanthemum vulgare</i>	(a) regions 7, 10 (b) region 9 except those areas lying within Klickitat and Yakima counties west of Range 13 East (c) region 6 except those areas lying within Yakima and Kittitas counties west of Range 13 E.
(10) catsear, common <i>Hypochaeris radicata</i>	(a) regions 3, 4, 6, 7, 10 (b) region 9 except Klickitat County.	(16) elodea, Brazilian <i>Egeria densa</i>	(a) regions 3, 4, 6, 7, 9, 10 (b) Lewis County of region 8 (c) Clallam County of region 1 (d) King County of region 5, except lakes Washington, Sammamish, Union and Fenwick.
(11) chervil, wild <i>Anthriscus sylvestris</i>	(a) regions 1, 3, 4, 6, 7, 9, 10 (b) region 5 except those portions of Thurston County within T15, 16, 17N, R2, 3, 4W (c) region 2 except Guemes Island in Skagit County (d) region 8 except Clark County.	(17) fanwort <i>Cabomba caroliniana</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) region 8 except T8N, R3W of Cowlitz County.
(12) cinquefoil, sulfur <i>Potentilla recta</i>	(a) regions 1, 3, 8, 10 (b) region 2 except Skagit County (c) region 4 except Stevens, Ferry, and Pend Oreille counties (d) region 5 except Thurston County (e) region 6 except Yakima County (f) region 7 except Spokane County (g) region 8 except Lewis County (h) region 9 except Klickitat County.	(18) fieldcress, Austrian <i>Rorippa austriaca</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9 (b) regions 7 and 10 except within the Palouse River Canyon from Big Palouse Falls to the Snake River.
(13) cordgrass, smooth <i>Spartina alterniflora</i>	(a) regions 1, 3, 4, 5, 6, 7, 9, 10 (b) region 2 except Padilla Bay of Skagit County (c) region 8 except bays and estuaries of Pacific County.	(19) floating heart, yellow <i>Nymphoides peltata</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) region 4 except the Spokane River between Long Lake Dam and Nine Mile Dam.
		(20) gorse <i>Ulex europaeus</i>	(a) regions 1, 3, 4, 6, 7, 9, 10 (b) Skagit and Whatcom counties of region 2 (c) Thurston, Pierce, and King counties of region 5 (d) Wahkiakum, Cowlitz, and Lewis counties of region 8.
		(21) hawkweed, mouseear <i>Hieracium pilosella</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 except Thurston County (c) Thurston County lying within T17N, R1W, S31; T16N, R2W, S30 W1/2; T16N, R3W, S25, SE1/4; T16N, R3W, S36, N1/2; T16N, R2W, S31, NW1/4.
		(22) hawkweed, orange <i>Hieracium aurantiacum</i>	(a) regions 3, 6, 9, 10 (b) Clallam County of region 1 (c) Skagit County of region 2 (d) Ferry County of region 4 (e) Thurston and King counties of region 5 (f) Lincoln and Adams counties of region 7 (g) Lewis County of region 8.
		(23) hawkweed, polar <i>Hieracium atratum</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 outside the boundaries of Mt. Rainier National Park.
		(24) hawkweed, queen-devil <i>Hieracium glomeratum</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) Ferry County of region 4.
		(25) hawkweed, smooth <i>Hieracium laevigatum</i>	(a) regions 1, 3, 4, 5, 6, 7, 8, 9, 10 (b) San Juan, Island, and Skagit counties of region 2.

EXPEDITED

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
(26) hawkweed, yellow <i>Hieracium caespitosum</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 10 (b) region 4 except Stevens and Pend Oreille counties (c) region 9 except sections 32, 33 and 34 of T6N, R12E, and sections 4, 5, 6, and 7 of T5N, R12E, and section 12 of T5N, R11E, of Klickitat County.		Townships 22 through 28N, Ranges 28 through 30 E.; those portions of Township 22 through 28N., Ranges 23 through 30E. lying in Grant County; all W.M. (c) Adams County except those areas within T15N, R36E, Section 36; T15N, R37E, Sections 22, 26, 27, 28, 31, 32, 33 and 34; T15N, R37E, western half of Sections 23, 24 and 25; T15N, R38E, Sections 2, 10, 11, 14, 15, 19 and 20; T16N, R38E, Sections 34 and 35; T17N, R37E, Sections 5 and 6 (d) Franklin County of regions 9 and 10.
(27) hedgeparsley <i>Torilis arvensis</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 8, 10 (b) Yakima, Benton, Franklin counties (c) Klickitat County except those lands lying within T4N, R10E, R11E, R12E, R13E, R14E; T3N, R10E, R11E, R12E, R13E; T2N, R12E, R13E.	(35) knapweed, meadow <i>Centaurea jacea x nigra</i>	(a) regions 1, 2, 3, 4, 7, 9, 10 (b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties (c) region 6 except Kittitas County (d) region 8 except Clark County.
(28) helmet, policeman's <i>Impatiens glandulifera</i>	(a) regions 1, 3, 4, 6, 7, 8, 9, 10 (b) region 2 except Whatcom County (c) region 5 except Pierce and Thurston counties.	(36) knapweed, Russian <i>Acroptilon repens</i>	(a) regions 1, 2, 5, 7, 8 (b) region 4 except that area lying within the boundaries of the Colville Indian Reservation within Ferry County (c) Adams County of region 6 except for the area west of Highway 17 and North of Highway 26 (d) Intercounty Weed District No. 52 (e) region 10 except Franklin County.
(29) herb-Robert <i>Geranium robertianum</i>	(a) regions 3, 4, 6, 7, 9, 10	(37) knapweed, spotted <i>Centaurea biebersteinii</i>	(a) regions 1, 2, 3, 5, 6, 9 (b) Ferry County of region 4 (c) Adams and Whitman counties of region 7 (d) region 8, except that portion of Lewis County below the ordinary high watermark of the Tilton River from Hwy. 508 to Lake Mayfield (e) region 10 except Garfield County.
(30) houndstongue <i>Cynoglossum officinale</i>	(a) Kittitas County of region 6.	(38) knotweed, giant <i>Polygonum sachalinense</i>	(a) Kittitas County of region 6 (b) Pend Oreille County of region 4.
(31) indigobush <i>Amorpha fruticosa</i>	(a) regions 1, 2, 3, 4, 5, 6 (b) regions 7 and 10 except within 200 feet of the Snake River from Central Ferry downstream (c) regions 8, 9, and 10 except within 200 feet of the Columbia River.	(39) knotweed, Himalayan <i>Polygonum polystachyum</i>	(a) Kittitas County of region 6 (b) Pend Oreille County of region 4 (c) Lewis County of region 8.
(32) knapweed, black <i>Centaurea nigra</i>	(a) regions 1, 2, 3, 4, 7, 9, 10 (b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties (c) region 6 except Kittitas County (d) region 8 except Clark County.	(40) knotweed, Japanese <i>Polygonum cuspidatum</i>	(a) Kittitas County of region 6 (b) Chelan County of regions 3 and 6 (c) Pend Oreille County of region 4.
(33) knapweed, brown <i>Centaurea jacea</i>	(a) regions 1, 2, 3, 4, 7, 9, 10 (b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties (c) region 6 except Kittitas County (d) region 8 except Clark County.	(41) kochia <i>Kochia scoparia</i>	(a) Clallam County of region 1 (b) Skagit and Whatcom counties of region 2 (c) Pend Oreille County of region 4 (d) King County of region 5 (e) Kittitas County of region 6.
(34) knapweed, diffuse <i>Centaurea diffusa</i>	(a) regions 1, 2, 5, 8 (b) Grant County lying in Townships 13 through 16 North, Ranges 25 through 27 East; Townships 17 and 18 N., Ranges 25 through 30 East; Townships 19 and 20 North, Ranges 29 and 30 East; T21N, R23E, Sections 1 through 30; T21N, R26E., Sections 5, 6, 7, 8, 17, and 18; East 1/2 Township 21N, Range 27E.; T21N, Ranges 28 through 30 E; those portions of		

EXPEDITED

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
(42) <i>lepyrodielis</i> <i>Lepyrodielis holosteoides</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10 (b) region 7 except an area within Whitman County east of the Pullman—Wawawai Road from Wawawai to Pullman and south of State Highway 270 from Pullman to Moscow, Idaho.		(e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line
(43) loosestrife, garden <i>Lysimachia vulgaris</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 except King County (c) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line.		(f) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed
(44) loosestrife, purple <i>Lythrum salicaria</i>	(a) regions 1, 4, 7, 8 (b) region 2 except Snohomish County (c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside (d) Grays Harbor, Mason, Kitsap, and Thurston counties of region 5 (e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line (f) Pierce County, except those areas lying within T2D, 21, 22N, R1W and R1E, all sections (g) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed (h) region 9 except Benton County (i) region 10 except Walla Walla County (j) Intercounty Weed Districts No. 51 and No. 52.	(46) nutsedge, yellow <i>Cyperus esculentus</i>	(g) region 9 except Benton County (h) region 10 except Walla Walla County (i) Intercounty Weed Districts No. 51 and No. 52. (a) regions 1, 2, 3, 4, 5, 7, 8 (b) region 6 except those areas lying between State Highway 26 and State Highway 28, and westerly of Dodson Road in Grant County, and except S 1/2, Sec. 2, T20N, R25E., W.M. (c) region 9 except: (i) except those areas lying within the following boundary description within Yakima County: Beginning at the intersection of Highway 12 and Parker Heights Road and continuing easterly to Konnowac Pass Road follow said road north to the intersection of Konnowac Pass Road and Nightingale Road. The northern boundary shall be the Roza Canal, continuing from the established point at Nightingale Road. The boundaries will follow the Roza Canal easterly to the County Line Road. The east boundaries will be the Yakima/Benton County Line from a point beginning at the County Line and Highway 22 (near Byron) continuing westerly along Highway 22 (to near the city of Mabton) to the intersection of Highway 22 and the Reservation Boundary (Division Road) and continuing north to the Yakima River. Then it will follow the river northwest to the Wapato-Donald Road continuing north along said road to Highway 12 then Highway 12 to Parker Heights Road. (ii) an area lying southerly of State Route 14 and within T2N, Ranges 13 and 14 E of Klickitat County
(45) loosestrife, wand <i>Lythrum virgatum</i>	(a) regions 1, 4, 7, 8 (b) region 2 except Snohomish County (c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside (d) region 5 except King County		

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
	(d) region 10 except Walla Walla County.	(55) skeletonweed, rush <i>Chondrilla juncea</i>	(a) regions 1, 2, 3, 5, 8, 9 (b) Franklin County except T13N, R36E; and T14N, R36E (c) Adams County except those areas lying east of a line running north from Franklin County along the western boundary of Range 36 East to State Highway 26 then north on Sage Road until it intersects Lee Road, then due north until intersection with Providence Road, then east to State Highway 261, then north along State Highway 261 to its intersection with Interstate 90, henceforth on a due north line to intersection with Bauman Road, then north along Bauman Road to its terminus, then due north to the Lincoln County line.
(47) oxtongue, hawkweed <i>Picris hieracioides</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) region 8 except Skamania County.		(d) region 6 except that portion lying within Grant County that is southerly of State Highway 28, northerly of Interstate Highway 90 and easterly of Grant County Road I Northwest
(48) parrotfeather <i>Myriophyllum aquaticum</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) region 8 except Clark, Cowlitz, and Wahkiakum counties.		(e) Stevens County north of Township 33 North of region 4 (f) Ferry and Pend Oreille counties of region 4 (g) Asotin County of region 10 (h) Garfield County south of Highway 12 (i) Columbia County from the Walla Walla County line on Highway 12, all areas south of Turner Road; at Turner Road to the Garfield county line, all areas south and east of Turner Road (j) Whitman County lying in Ranges 43 through 46 East of Townships 15 through 20 North; T14N, Ranges 44 through 46 East; and T13N, Ranges 45 and 46 East.
(49) pepperweed, perennial <i>Lepidium latifolium</i>	(a) regions 1, 2, 3, 4, 5, 7, 8, 10 (b) Intercounty Weed Districts No. 51 and 52 (c) Kittitas County of region 6 (d) Adams County of region 6 except for the area west of Highway 17 and north of Highway 26.		(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) region 8 except T8N, R3W, S14 of Cowlitz County.
(50) primrose, water <i>Ludwigia hexapetala</i>	(a) Skagit County of region 2 (b) Kittitas County of region 6 (c) Adams County (d) Clallam County of region 1.		(a) regions 3, 4, 6, 7, 9, 10 (b) region 5, that portion of Pierce County lying south or east of a boundary beginning at the White River and State Highway 410, then west along State Highway 410 to intersection with State Highway 162 (Orting) to intersection with Orville Road, then south along Orville Road to intersection with Kapowsin Highway (304th Street East), then west following Kapowsin Highway to intersection with State Route 7, then south along State Route 7 to intersection with State Route 702, then west along State Route 702 to intersection with State Route 507, then southwest along State Route 507 to intersection with the Nisqually River.
(51) puncturevine <i>Tribulus terrestris</i>	(a) regions 3, 4, 6, 7, 9, 10 (b) region 5, that portion of Pierce County lying south or east of a boundary beginning at the White River and State Highway 410, then west along State Highway 410 to intersection with State Highway 162 (Orting) to intersection with Orville Road, then south along Orville Road to intersection with Kapowsin Highway (304th Street East), then west following Kapowsin Highway to intersection with State Route 7, then south along State Route 7 to intersection with State Route 702, then west along State Route 702 to intersection with State Route 507, then southwest along State Route 507 to intersection with the Nisqually River.		(a) regions 1, 2, 3, 4, 7, 8, 9, 10 (b) Adams County of region 6 (c) region 5 except for sections 28, 29, 30, 31, 32, and 33 in T19N, R1E of Thurston and Pierce counties.
(52) ragwort, tansy <i>Senecio jacobaea</i>	(a) regions 1, 2, 3, 4, 5, 7, 8, unless intentionally established prior to 2004 (b) region 6 except Grant County, unless intentionally established prior to 2004 (c) region 9 except Benton and Franklin counties, unless intentionally established prior to 2004 (d) region 10 except Franklin County, unless intentionally established prior to 2004.	(56) sowthistle, perennial <i>Sonchus arvensis</i> <i>ssp. arvensis</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10 (b) region 7 except as follows: (i) T27N, R37E, Sections 34, 35, 36; T27N, R38E, Sections 31, 32, 33; T26N, R37E, Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 26; T26N, R38E, Sections 5, 6, 7, 8 of Lincoln County (ii) T24N, R43E, Section 12, Qtr. Section 3, Parcel No. 9068 of Spokane County.
(53) Saltcedar <i>Tamarix ramosissima</i>	(a) regions 1, 2, 3, 4, 5, 7, 8, unless intentionally established prior to 2004 (b) region 6 except Grant County, unless intentionally established prior to 2004 (c) region 9 except Benton and Franklin counties, unless intentionally established prior to 2004 (d) region 10 except Franklin County, unless intentionally established prior to 2004.	(57) spurge, leafy <i>Euphorbia esula</i>	
(54) sandbur, longspine <i>Cenchrus longispinus</i>	(a) regions 1, 2, 3, 4, 5, 7, 8 (b) Adams County of region 6 except for that area lying within Intercounty Weed District No. 52 (c) Intercounty Weed District No. 51 (d) Kittitas County of region 6.		

EXPEDITED

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
(58) spurge, myrtle <i>Euphorbia myrsinites</i> L	(a) Pend Oreille County of region 4.	(61) thistle, musk <i>Carduus nutans</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) Spokane and Pend Oreille counties.
(59) starthistle, yellow <i>Centaurea solstitialis</i>	(a) regions 1, 2, 3, 5, 6, 8 (b) region 4 except those areas within Stevens County bounded by a line beginning at the intersection of State Highway 20 and State Highway 25, then north to intersection with Pinkston Creek Road, then east along Pinkston Creek Road to intersection with Highland Loop Road, then south along Highland Loop Road to intersection with State Highway 20, then west along State Highway 20 to intersection with State Highway 25 (c) region 7 except those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border (d) Franklin County (e) region 9 except Klickitat County (f) in all lands lying within Asotin County, Region 10, except as follows: T11N, R44E, Sections 25, 26, 27, 28, 29, 31, 32, 33, 34, and 35; T11N, R45E, Sections 21, 22, 23, and 25; T11N, R36E, Sections 19, 20, 21, 28, 29, 30, 31, 32, and 33; T10N, R44E, Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 15, and 16; T10N, R45E, Sections 23 and 24; T10N, R46E, Sections 7, 8, 17, 18, 19, 20, 21, 22, 27, 34, and 35; T9N, R46E, Sections 1, 2, 12, 13, 14, 23, 24, 25, 26, 35, and 36; T9N, R47E, Sections 18, 19, 30, and 31; T8N, R46E, Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16, 23, and 24; T8N, R47E, Sections 8, 17, 18, 19, 20, 29, 30, 31, and 32.	(62) thistle, plumeless <i>Carduus acanthoides</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) region 4 except those areas within Stevens County lying north of State Highway 20. (c) Franklin County.
(60) Swainsonpea <i>Sphaerophysa salsula</i>	(a) regions 1, 2, 3, 4, 5, 7, 8 (b) Columbia, Garfield, Asotin, and Franklin counties (c) an area beginning at the Washington—Oregon border at the southwest portion of Section 15, R32E, T6N, then north to the northwest corner of Section 3, R32E, T7N, then east to the northeast corner of Section 3, R36E, T7N, then south to the southeast portion of Section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning (d) Weed District No. 3 of Grant County (e) Adams County of region 6.	(63) thistle, Scotch <i>Onopordum acanthium</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9 (b) region 7 except for those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border
		(64) toadflax, Dalmatian <i>Linaria dalmatica ssp. dalmatica</i>	(a) regions 1, 2, 5, 8, 10 (b) Douglas County of region 3 lying south of T25N, west of R25E, and east of R28E (c) Okanogan County lying within T 33, 34, 35N, R19, 20, 21, 22E, except the southwest, southeast, and northeast quarters of the northeast quarter of section 27, T35N, R21E; and the northeast quarter of the southeast quarter of section 27, T35N, R21E (d) Kittitas, Chelan, Douglas, and Adams counties of region 6 (e) Intercounty Weed District No. 51 (f) Weed District No. 3 of Grant County (g) Lincoln and Adams counties (h) The western two miles of Spokane County of region 7 (i) region 9 except as follows: (i) those areas lying within Yakima County (ii) those areas lying west of the Klickitat River and within Klickitat County.
		(65) watermilfoil, Eurasian <i>Myriophyllum spicatum</i>	(a) regions 1, 9, 10 (b) region 7 except Spokane County (c) region 8 except within 200 feet of the Columbia River (d) Adams County of region 6 (e) in all water bodies of public access, except the Pend Oreille River, in Pend Oreille County of region 4.

AMENDATORY SECTION (Amending WSR 03-24-012, filed 11/20/03, effective 12/21/03)

WAC 16-750-015 State noxious weed list—Class C noxious weeds.

Common Name	Scientific Name
babysbreath	<i>Gypsophila paniculata</i>
beard, old man's	<i>Clematis vitalba</i>

Common Name
 bindweed, field
 canarygrass, reed
 cockle, white
 cocklebur, spiny
 cress, hoary
 dodder, smoothseed alfalfa
 goatgrass, jointed
 groundsel, common
 hawkweed, nonnative species

Scientific Name
Convolvulus arvensis
Phalaris arundinacea
Silene latifolia ssp. alba
Xanthium spinosum
Cardaria draba
Cuscuta approximata
Aegilops cylindrica
Senecio vulgaris
Hieracium sp., except species designated in the note in the left-hand column

WSR 04-07-044

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed March 10, 2004, 9:10 a.m.]

Title of Rule: Chapter 16-662 WAC, Weights and measures—National handbooks.

Purpose: Adoption of 2004 national handbooks. NIST Handbook 44 provides uniform standards for the specifications and tolerances of weighing and measuring devices. NIST Handbook 130 provides regulations governing the labeling and the methods of sale of commodities offered for sale in the marketplace.

Statutory Authority for Adoption: Chapters 19.94 and 34.05 RCW.

Statute Being Implemented: Chapter 19.94 RCW.

Summary: These rules adopt the 2004 edition of NIST Handbook 44 (Specifications, Tolerances and other Technical Requirements for Weighing and Measuring Devices) as required by RCW 19.94.195. The rules also adopt the Packaging and Labeling Regulation and the Method of Sale Regulation in the 2004 edition of NIST Handbook 130 (Uniform Laws and Regulations in the areas of legal metrology and engine fuel quality). There is not a 2004 edition of NIST Handbook 133 (Checking the Net Contents of Packaged Goods), the 2003 edition remains the most current.

Reasons Supporting Proposal: RCW 19.94.195 requires the most current version of NIST Handbook 44 be adopted every year. The agency also adopts the current version of NIST Handbook 130 and NIST Handbook 133 each year in order to maintain uniformity with other states. Forty-eight of the fifty states adopt NIST Handbook 130, and the majority of states use NIST Handbook 44 and NIST Handbook 133.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jerry Buendel, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1856.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules will adopt the 2004 edition of NIST Handbook 44 (Specifications, Tolerances and other Technical Requirements for Weighing and Measuring Devices) as required by RCW 19.94.195. The rules will also adopt the Packaging and Labeling Regulation and the Method of Sale Regulation in the 2004 edition of NIST Handbook 130 (Uniform Laws and Regulations in the areas of legal metrology and engine fuel quality). There is not a 2004 edition of NIST Handbook 133 (Checking the Net Contents of Packaged Goods), the 2003 edition remains the most current. The current rule has adopted the 2003 versions, this change is an update.

Proposal Changes the Following Existing Rules: The change adopts the 2004 versions of NIST Handbook 44 and NIST Handbook 130. The change is being made to bring Washington's rules into alignment with the national standards.

Note:

This listing includes all species of *Hieracium*, except the following:

- Species designated as Class A noxious weeds in WAC 16-750-005;
 - Species designated as Class B noxious weeds in WAC 16-750-011;
 - Native species designated below:
 - Canada hawkweed (*H. canadense*)
 - houndstongue hawkweed (*H. cynoglossoides*)
 - long-beaked hawkweed (*H. longiberbe*)
 - narrow-leaved hawkweed (*H. umbellatum*)
 - slender hawkweed (*H. gracile*)
 - western hawkweed (*H. albertinum*)
 - white-flowered hawkweed (*H. albiflorum*)
 - woolley-weed (*H. scouleri*)
- henbane, black
 iris, yellow flag
 ivy, English, 4 cultivars only:

Hyoscyamus niger
Iris pseudocorus
Hedera hibernica 'Hibernica'
Hedera helix 'Baltica'
Hedera helix 'Pittsburgh'
Hedera helix 'Star'

((~~knotweed~~) knotweed, Bohemian
 mayweed, scentless
 poison-hemlock
 reed, common, nonnative genotype
 rye, cereal
 spikeweed
 St. Johnswort, common
 tansy, common
 thistle, bull
 thistle, Canada
 toadflax, yellow
 water lily, fragrant
 whitetop, hairy
 willow-herb, hairy
 wormwood, absinth

Polygonum x Bohemicum
Matricaria perforata
Conium maculatum
Phragmites australis

Secale cereale
Hemizonia pungens
Hypericum perforatum
Tanacetum vulgare
Cirsium vulgare
Cirsium arvense
Linaria vulgaris
Nymphaea odorata
Cardaria pubescens
Epilobium hirsutum
Artemisia absinthium

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO George Huffman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, e-mail ghuffman@agr.wa.gov, AND RECEIVED BY May 25, 2004.

March 9, 2004

Mary A. Martin Toohey
Assistant Director

AMENDATORY SECTION (Amending WSR 03-08-017, filed 3/25/03, effective 4/25/03)

WAC 16-662-105 Adoption—Weighing and measuring equipment requirements—Package checking—Packaging and labeling—Method of sale—Price verification.

(1) The specifications, tolerances, and other technical requirements for the design, manufacture, installation, performance test, and use of weighing and measuring equipment shall be those contained in the ((2003)) 2004 Edition of the National Institute of Standards and Technology (NIST) Handbook 44, published by the U.S. Department of Commerce, entitled the *National Institute of Standards and Technology Handbook 44 - Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices*.

(2) The procedures for checking the accuracy of the net contents of packaged goods shall be those contained in the Fourth Edition of National Institute of Standards and Technology (NIST) Handbook 133 published by the United States Department of Commerce, entitled *NIST Handbook 133 - Fourth Edition - Checking the Net Contents of Packaged Goods - Fourth Edition, 2003 Edition*.

(3) The requirements for packaging and labeling, method of sale of commodities, and the examination procedures for price verification shall be those contained in the ((2003)) 2004 Edition of National Institute of Standards and Technology Handbook 130, entitled the *NIST Handbook 130 - Uniform Laws And Regulations in the areas of legal metrology and motor fuel quality*, specifically:

(a) Weights and measures requirements for all food and nonfood commodities in package form shall be the *Uniform Packaging and Labeling Regulation* requirements as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, ((2003)) 2004 Edition.

(b) Weights and measures requirements for the method of sale of food and nonfood commodities shall be those found in the *Uniform Regulation for the Method of Sale of Commodities* as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of

Standards and Technology) Handbook 130, ((2003)) 2004 Edition.

(c) Weights and measures requirements for price verification shall be the *Examination Procedures for Price Verification* as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, ((2003)) 2004 Edition.

WSR 04-07-110
EXPEDITED RULES
DEPARTMENT OF
SERVICES FOR THE BLIND

[Filed March 18, 2004, 1:32 p.m.]

Title of Rule: Chapter 67-16 WAC, Department—General administration.

Purpose: The Department of Services for the Blind (DSB) plans to institute a new chapter in its WAC which will authorize criminal background checks for employees, interns, volunteers, employment applicants, contractors, and service providers who have or may have unsupervised access to vulnerable clients or potential clients.

Statutory Authority for Adoption: Chapter 74.18 RCW.

Statute Being Implemented: Chapter 74.18 RCW.

Summary: This WAC adoption will allow DSB to implement the criminal background checks authorized by revision to chapter 74.18 RCW adopted by the 2003 legislative session.

Reasons Supporting Proposal: To comply with current law.

Name of Agency Personnel Responsible for Drafting: Ellen Drumheller, Olympia, Washington, (360) 586-7022; Implementation and Enforcement: Bill Palmer, Director, Olympia, Washington, (360) 586-6981.

Name of Proponent: Department of Services for the Blind, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The new ruling will allow DSB to perform background checks, which will include checking for conviction records, pending charges, disciplinary board findings, and shall include a fingerprint check by the Federal Bureau of Investigation. The department will use the information gathered solely to determine the character, suitability, and competence of employees, applicants, service providers, contractors, student interns, volunteers and other individuals, in accordance with RCW 41.06.475, to determine if an individual(s) should be disqualified from a position.

Proposal does not change existing rules. New rule.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE

EXPEDITED

RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Ellen Drumheller, Department of Services for the Blind, P.O. Box 40933, Olympia, WA 98504-0933, AND RECEIVED BY May 24, 2004.

March 18, 2004
Ellen Drumheller
Rules Coordinator

NEW SECTION

WAC 67-16-020 Purpose and definition. The authority for conducting background checks on contractors and service providers is established in Chapter 74.18 RCW. The purpose for background checks is to ensure the suitability, character and competence of contractors and service providers to work with clients with a visual disability defined in WAC 67-75-040 (3)(a).

NEW SECTION

WAC 67-16-030 Background check process. (1) The director of the department of services for the blind (DSB) shall investigate the conviction records, pending charges and disciplinary board final decisions for contractors and service providers who will or may have unsupervised access to DSB clients.

(2) The investigation shall consist of a background check as allowed under the Washington State Criminal Records Privacy Act, RCW 10.97.050; the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the Federal Bureau of Investigation. The background check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card.

(3) The director may waive the requirement for a background check if the contractor or service provider has been cleared in a background check within the previous two years.

(4) When necessary, the director may engage a service provider or contractor on a conditional basis, pending completion of the background check.

(5) The investigation shall include an examination of state and national criminal identification data. The Director shall use the information solely for the purpose of determining the character, suitability and competence of the individual contractor or service provider to work with the department of services for the blind clients.

(6) The director shall provide the results of the background check in writing to the contractor or service provider within ten working days from receipt of the finding.

(7) The office of the director shall maintain confidential records of all background check information. Such information shall be limited to only those individuals processing the information within the department.

(8) The fingerprint criminal history records checks will be at the expense of the contractor or service provider.

(9) Current contractors or service providers for whom disqualifying crimes are discovered in the background check

process will be notified in writing within ten working days from receipt of the finding. The written notification shall include notice of termination of the contract or service provider agreement and give the individual the right to request a review by the director of the department of services for the blind.

NEW SECTION

WAC 67-16-040 Department of services for the blind—Background check requirements for employees, applicants, volunteers and student interns. (1) The executive director of the department of services for the blind shall conduct background checks on all employees in covered positions and applicants under final consideration for a covered position. A covered position is one in which a person will or may have unsupervised access to vulnerable clients or potential clients with vision disability. These clients or potential clients may also have other disabilities, such as developmental disabilities or mental health disabilities. Employees and applicants shall authorize the executive director of the department of services for the blind to conduct a background check.

(2) The requirement for background checks shall include the following:

(a) Current employees as of July 1, 2004.

(b) Any employee seeking a covered position because of a reduction in force, reallocation, transfer, promotion or demotion.

(c) Any applicant prior to appointment into a covered position, except when appointment is made on a conditional basis under subsection (6)(b).

(3) A background check will be conducted on the final preferred candidate prior to appointment.

(4) The executive director of the department of services for the blind shall use the results of a background check solely to determine the character, competence and suitability of a person for a covered position. The background check information shall consist of:

(a) A fingerprint check using a complete Washington State criminal identification fingerprint card.

(b) Conviction records, pending charges, and disciplinary board final decisions (if applicable).

(c) Evidence that substantiates or mitigates convictions, pending charges, and disciplinary board final decisions including, but not limited to:

(i) The employee or applicant's background check authorization and disclosure form;

(ii) The employee or applicant's age at the time of conviction, charge, or disciplinary board final decision;

(iii) The nature and severity of the conviction, charge, or disciplinary board final decision;

(iv) The length of time since the conviction, charge, or disciplinary board final decisions;

(v) The nature and number of previous offenses; and

(vi) The relationship between the nature of the conviction, pending charge, or disciplinary board final decision and the duties of the employee or applicant.

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(5) A permanent employee with a background check disqualification may voluntarily resign, or be subject to any of the following:

(a) Nondisciplinary separation. The employee shall be separated by the executive director after fifteen calendar days written notice unless the employee requests a shorter notice period;

(b) Disciplinary action for any of the causes listed in WAC 356-34-010; and/or

(6) Interim measures that may be used while the executive director explores availability of actions (not to exceed 30 calendar days except in cases where there are investigations of pending charges):

(a) Voluntary use of accrued vacation, exchange, and/or compensatory time.

(b) Authorized leave without pay, if there is no paid leave available, or if the employee chooses not to use paid leave.

When considering the above actions, the agency will consider the least restrictive means necessary to prevent unsupervised access.

(7) The executive director of the department of services for the blind shall:

(a) Notify employees and applicants that a background check is required for covered positions;

(b) Develop procedures specifying when employees and applicants may be hired on a conditional basis pending the results of a background check; and

(c) Develop policies and procedures pertaining to background checks;

(d) Provide the employee/applicant with the results of the background check in writing;

(e) Notify employees of their promotional register rights when they have been separated from their position, either voluntarily or involuntarily due to a background disqualification.

(8) Failure to authorize the executive director of the department of services for the blind to conduct a background check disqualifies an employee or applicant from consideration for any covered position including an employee's current covered position.

(9) An applicant for a covered position who is denied employment due to a disqualifying finding, shall be given the right to request a review of the decision by the executive director.

(a) Requests for review must be in writing and received by the executive director within fifteen calendar days of the postmark date of the notification or date of hand-delivery.

(10) A separation under subsection (5)(a) shall not be considered a disciplinary action as set forth in WAC 356-34-010.

(11) Permanent employees may appeal to the personnel appeals board in accordance with RCW 41.06.170 and rules promulgated thereunder including WAC 358-20-101 and 358-20-020.

(12) Nothing in this rule shall limit the department of services for the blind executive director's use of other authorities to conduct background checks.

(13) Information pertaining to background checks is confidential and shall be used solely for the purpose of deter-

mining the character, suitability and competence of the applicant and/or employee. Access to background check information shall be limited to only those individuals processing the information for the department. Misuse of background check information is a criminal offense and may result in prosecution and/or disciplinary action as provided under WAC 356-34-010.

(14) The department of services for the blind will pay the costs associated with the background checks for current employees, applicants, volunteers, and student interns.

WSR 04-07-142
EXPEDITED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed March 22, 2004, 4:29 p.m.]

Title of Rule: WAC 388-535-1050 Dental-related definitions and 388-535-1065 Coverage limits for dental-related services provided under state-only funded programs.

Purpose: To correct an acronym "TMD" in WAC 388-535-1050 and change the word "examinations" to "examination" in WAC 388-535-1065 (2)(a).

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.057.

Statute Being Implemented: RCW 74.04.050, 74.04-057, and 74.09.530.

Summary: The rule corrects two typographical errors that were not corrected when the rules were amended in September 2003 as WSR 03-19-077. Expedited adoption is permitted, for rule corrections do not change the effect of the rule, RCW 34.05.353 (1)(c).

Reasons Supporting Proposal: The corrections will make the rules clearer.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504, (360) 725-1342; Implementation and Enforcement: Gini Egan, P.O. Box 45506, Olympia, WA 98504, (360) 725-1580.

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, Summary, and Reasons Supporting Proposal above.

Proposal Changes the Following Existing Rules: See Purpose, Summary, and Reasons Supporting Proposal above.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU

EXPEDITED

MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, Rules and Policies Assistance Unit, Department of Social and Health Services, Mailing Address P.O. Box 45850, Olympia, WA 98504-5850, Physical Address 4500 10th Avenue S.E., Lacey, WA, AND RECEIVED BY 5:00 p.m., May 24, 2004.

March 19, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-19-077, filed 9/12/03, effective 10/13/03)

WAC 388-535-1050 Dental-related definitions. The following definitions and abbreviations and those found in WAC 388-500-0005 apply to this chapter. The medical assistance administration (MAA) also uses dental definitions found in the American Dental Association's Current Dental Terminology (CDT) and the American Medical Association's Physician's Current Procedural Terminology (CPT). Where there is any discrepancy between the CDT or CPT and this section, this section prevails. (CPT is a trademark of the American Medical Association.)

"Access to baby and child dentistry (ABCD)" is a program to increase access to dental services in targeted areas for Medicaid eligible infants, toddlers, and preschoolers up through the age of five. See WAC 388-535-1300 for specific information.

"American Dental Association (ADA)" is a national organization for dental professionals and dental societies.

"Adult" for the general purposes of the medical assistance administration's (MAA) dental program, means a client twenty-one years of age or older (MAA's payment structure changes at age nineteen, which affects specific program services provided to adults or children).

"Anterior" means teeth and tissue in the front of the mouth.

(1) **"Mandibular anterior teeth"** - incisors and canines: Permanent teeth twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, and twenty-seven; and primary teeth M, N, O, P, Q, and R.

(2) **"Maxillary anterior teeth"** - incisors and canines: Permanent teeth six, seven, eight, nine, ten, and eleven; and primary teeth C, D, E, G, and H.

"Asymptomatic" means having or producing no symptoms.

"Base metal" means dental alloy containing little or no precious metals.

"Behavior management" means using the assistance of one additional dental professional staff to manage the behavior of a developmentally disabled client or a client age eighteen or younger to facilitate the delivery of dental treatment.

"By report" - a method of reimbursement in which MAA determines the amount it will pay for a service when the rate for that service is not included in MAA's published fee schedules. Upon request the provider must submit a "report" which describes the nature, extent, time, effort and/or equipment necessary to deliver the service.

"Caries" means tooth decay through the enamel or decay of the root surface.

"Child" for the general purposes of the medical assistance administration's (MAA) dental program, means a client twenty years of age or younger. (MAA's payment structure changes at age nineteen, which affects specific program services provided to children or adults.)

"Comprehensive oral evaluation" means a thorough evaluation and recording of a client's dental and medical history to include extra-oral and intra-oral hard and soft tissues, dental caries, missing or unerupted teeth, restorations, occlusal relationships, periodontal conditions (including periodontal charting), hard and soft tissue anomalies, and oral cancer screening.

"Conscious sedation" is a drug-induced depression of consciousness during which clients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, spontaneous ventilation is adequate, and cardiovascular function is maintained.

"Core buildup" refers to building up of clinical crowns, including pins.

"Coronal" is the portion of a tooth that is covered by enamel, and is separated from the root or roots by a slightly constricted region, known as the cemento-enamel junction.

"Coronal polishing" is a procedure limited to the removal of plaque and stain from exposed tooth surfaces.

"Crown" means a restoration covering or replacing the major part, or the whole of, the clinical crown of a tooth.

"Current dental terminology (CDT)" a systematic listing of descriptive terms and identifying codes for reporting dental services and procedures performed by dental practitioners. CDT is published by the Council on Dental Benefit Programs of the American Dental Association (ADA).

"Current procedural terminology (CPT)" means a description of medical procedures and is available from the American Medical Association of Chicago, Illinois.

"Decay" is a term for caries or carious lesions and means decomposition of tooth structure.

"Deep sedation" is a drug-induced depression of consciousness during which a client cannot be easily aroused, ventilatory function may be impaired, but the client responds to repeated or painful stimulation.

"Dental general anesthesia" see "general anesthesia."

"Dentures" means an artificial replacement for natural teeth and adjacent tissues, and includes complete dentures, immediate dentures, overdentures, and partial dentures.

"Endodontic" means disease and injuries to the pulp requiring root canal therapy and related follow-up.

"EPSDT" means the department's early and periodic screening, diagnosis, and treatment program for clients twenty years of age and younger as described in chapter 388-534 WAC.

"Extraction" see "simple extraction" and "surgical extraction."

"Flowable composite resin" is a low viscosity resin that is used in cervical lesions and other small, low stress bearing restorations.

"Fluoride varnish or gel" means a substance containing dental fluoride, applied to teeth.

EXPEDITED

"General anesthesia" is a drug-induced loss of consciousness during which clients are not arousable even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Clients may require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

"High noble metal" means a dental alloy containing at least sixty percent pure gold.

"Limited oral evaluation" means an evaluation limited to a specific oral health condition or problem. Typically a client receiving this type of evaluation has a dental emergency, such as trauma or acute infection.

"Limited visual oral assessment" means a screening of the hard and soft tissues in the mouth.

"Major bone grafts" means a transplant of solid bone tissue(s).

"Medically necessary" see WAC 388-500-0005.

"Minor bone grafts" means a transplant of nonsolid bone tissue(s), such as powdered bone, buttons, or plugs.

"Noble metal" means a dental alloy containing at least twenty-five percent but less than sixty percent pure gold.

"Oral evaluation" see **"comprehensive oral evaluation."**

"Oral hygiene instruction" means instruction for home oral hygiene care, such as tooth brushing techniques or flossing.

"Oral prophylaxis" means the preventive dental procedure of scaling and polishing which includes removal of calculus, soft deposits, plaque, and stains from teeth and tooth implants.

"Partials" or **"partial dentures"** means a removable appliance replacing one or more missing teeth in one arch, and receiving its support and retention from both the underlying tissues and some or all of the remaining teeth.

"Periodic oral evaluation" means an evaluation performed on a patient of record to determine any changes in the client's dental or medical status since a previous comprehensive or periodic evaluation. This includes a periodontal charting at least once per year.

"Periodontal maintenance" means a procedure for clients who have previously been treated for periodontal disease and starts after completion of active (surgical or nonsurgical) periodontal therapy. It includes removal of the supra and subgingival microbial flora and calculus from teeth and tooth implants.

"Periodontal scaling and root planing" means instrumentation of the crown and root surfaces of the teeth or tooth implants to remove plaque, calculus, microbial flora, and bacterial toxins.

"Posterior" means teeth and tissue towards the back of the mouth.

(1) **"Mandibular posterior teeth"** - molars and premolars: Permanent teeth seventeen, eighteen, nineteen, twenty, twenty-one, twenty-eight, twenty-nine, thirty, thirty-one, and thirty-two; and primary teeth K, L, S, and T.

(2) **"Maxillary posterior teeth"** - molars and premolars: Permanent teeth one, two, three, four, five, twelve, thir-

teen, fourteen, fifteen, and sixteen; and primary teeth A, B, I, and J.

"Proximal" means the surface of the tooth near or next to the adjacent tooth.

"Reline" means to resurface the tissue side of a denture with new base material or soft tissue conditioner in order to achieve a more accurate fit.

"Root canal" is a portion of the pulp cavity inside the root of a tooth and the chamber within the root of the tooth that contains the pulp.

"Root canal therapy" is the treatment of disease and injuries of the pulp and associated periradicular conditions.

"Root planing" is a procedure to remove microbial flora, bacterial toxins, calculus, and diseased cementum or dentin on the root surfaces and pockets, including tooth implants.

"Scaling" is a procedure to remove plaque, calculus, and stain deposits from tooth surfaces, including tooth implants.

"Sealant" is a material applied to teeth to prevent dental caries.

"Simple extraction" means routine removal of tooth structure.

"Standard of care" means what reasonable and prudent practitioners would do in the same or similar circumstances.

"Surgical extraction" means removal of tooth structure with cutting of gingiva and bone, including soft tissue extractions, partial boney extractions, and complete boney extractions.

"Symptomatic" means having symptoms (e.g., pain, swelling, and infection).

"Temporomandibular joint dysfunction (TMJ/((JMD)) TMD)" means an abnormal functioning of the temporomandibular joint or other areas secondary to the dysfunction.

"Therapeutic pulpotomy" means the surgical removal of a portion of the pulp (inner soft tissue of a tooth), to retain the healthy remaining pulp.

"Usual and customary" means the fee that the provider usually charges non-Medicaid customers for the same service or item. This is the maximum amount that the provider may bill MAA.

"Wisdom teeth" means teeth one, sixteen, seventeen, and thirty-two.

"Xerostomia" means a dryness of the mouth.

AMENDATORY SECTION (Amending WSR 03-19-077, filed 9/12/03, effective 10/13/03)

WAC 388-535-1065 Coverage limits for dental-related services provided under state-only funded programs. (1) Clients who receive medical care services under the following state-funded only programs receive only the limited coverage described in subsection (2) of this section:

(a) General assistance unemployable (GA-U); and

(b) Alcohol and drug abuse treatment and support act (ADATSA) (GA-W).

(2) The medical assistance administration (MAA) covers the dental-related services described and limited in this chap-

ter for clients eligible for GA-U or GA-W only when those services are provided as part of a medical treatment for:

(a) Apical abscess verified by clinical (~~examinations~~) examination and radiograph(s), and treated by:

(i) Palliative treatment (e.g., open and drain, open and broach);

(ii) Tooth extraction; or

(iii) Root canal therapy for permanent anterior teeth only.

(b) Tooth fractures (limited to extraction).

(c) Total dental extraction prior to and because of radiation therapy for cancer of the mouth.

WSR 04-07-158
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed March 23, 2004, 1:51 p.m.]

Title of Rule: Chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.

Purpose: The department is proposing to clarify the occupational exposure to bloodborne pathogens rule (chapter 296-823 WAC) to ensure consistency with federal standards. Additional housekeeping changes will be made.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: The department is proposing to clarify the occupational exposure to bloodborne pathogens rule (chapter 296-823 WAC) to ensure consistency with federal standards. Additional housekeeping changes will be made.

WAC 296-823-100 Scope.

- The term "primary health care providers" will be replaced with "physicians." This will ensure consistency with OSHA CPL 2-2.69 Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens.
- The parenthetical language, (contaminated items with blood or OPIM,) will be removed because it broadens the definition of regulated waste. Regulated waste is already defined in the rule. Additional housekeeping changes will be made.

WAC 296-823-140 Control employee exposure.

- Clarified the requirement to use feasible controls that eliminates or minimizes employee exposure through the use of appropriate equipment, safer medical devices, and appropriate work practices.

Reasons Supporting Proposal: The department is updating the standard to be at-least-as-effective-as OSHA.

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: WAC 296-823-100 Scope, occupations outside healthcare typically covered by the chapter, the parenthetical language, "(contaminated items with blood or OPIM)" will be removed because it broadens the definition of regulated waste. Regulated waste is already defined in the rule. There are no anticipated effects of this rule making.

The term "primary health care providers" will be replaced with "physicians." This will ensure consistency with the OSHA CPL 2-2.69 Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens.

Clarified the requirement to use feasible controls that eliminates or minimizes employee exposure through the use of appropriate equipment, safer medical devices, and appropriate work practices.

Proposal Changes the Following Existing Rules: See Summary above.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Carmen Moore, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY May 24, 2004.

March 23, 2004

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-100 Scope. This chapter provides requirements to protect employees from exposure to blood or other potentially infectious materials (OPIM) that may contain bloodborne pathogens. Examples of bloodborne pathogens are the human immunodeficiency virus (HIV) and hepatitis B virus (HBV).

This chapter applies to you if you have employees with occupational exposure to blood or OPIM, even if no actual exposure incidents have occurred.

Definitions:

Occupational exposure(☉) means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or OPIM that may result from the performance of an employee's duties.

Exposure incident means a specific eye, mouth, other mucous membrane, nonintact skin or parenteral contact with blood or other potentially infectious materials (OPIM) that results from the performance of an employee's duties. Examples of nonintact skin include skin with dermatitis, hangnails, cuts, abrasions, chafing, or acne.

Parenteral contact(*) occurs when mucous membranes or skin is pierced by needlesticks, human bites, cuts, or abrasions.

~~((Regulated waste. Regulated waste is any of the following:~~

- ~~• Liquid or semiliquid blood or other potentially infectious materials (OPIM)~~
- ~~• Contaminated items that would release blood or OPIM in a liquid or semiliquid state, if compressed~~
- ~~• Items that are caked with dried blood or OPIM and are capable of releasing these materials during handling~~
- ~~• Contaminated sharps~~
- ~~• Pathological and microbiological wastes containing blood or OPIM.))~~

Occupations that are typically covered by this chapter. The following list illustrates a number of jobs typically associated with tasks that involve occupational exposure to blood or OPIM. The absence of a particular job from the list does not suggest that it falls outside the scope of this chapter. At the same time, employees in jobs found on the list are covered only if they have occupational exposure.

• **Health care.**

– ((Primary care providers)) Physicians and physicians assistants

– ((Assistants.)) Nurses, nurse practitioners, dental hygienists, and other health care employees in clinics and offices

– Employees of clinical, dental, and diagnostic laboratories

– Housekeepers in health care facilities

– Staff in laundries that provide service to health care facilities

– Tissue bank personnel

– Employees in blood banks and plasma centers who collect, transport, and test blood

– Freestanding clinic employees (for example, hemodialysis clinics, urgent care clinics, health maintenance organization (HMO) clinics, and family planning clinics)

– Employees in clinics in industrial, educational, and correctional facilities

– Staff of institutions for the developmentally disabled

– Hospice employees

– Home health care workers

– Staff of nursing homes and long-term care facilities

– HIV and HBV research laboratory and production facility workers

– Medical equipment service and repair personnel

– Emergency medical technicians, paramedics, and other emergency medical service providers

– Nuclear medical technologists.

• **Occupations outside health care.**

– Fire fighters, law enforcement personnel, and correctional officers

– Workers in laundries that service public safety institutions

– Employees assigned to provide emergency first aid by their employer (as either a primary or secondary duty)

– Employees who handle or pick up regulated waste ~~((contaminated items with blood or OPIM))~~

– Hotel/motel employees that clean up blood or OPIM

– Employees of funeral homes and mortuaries.

Regulated waste.

Regulated waste is any of the following:

- Liquid or semiliquid blood or other potentially infectious materials (OPIM)
- Contaminated items that would release blood or OPIM in a liquid or semiliquid state, if compressed
- Items that are caked with dried blood or OPIM and are capable of releasing these materials during handling
- Contaminated sharps
- Pathological and microbiological wastes containing blood or OPIM.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-11010 Develop and implement a written exposure control plan.

You must:

• Establish a written exposure control plan designed to eliminate or minimize employee exposure in your workplace.

Note: The elements of your exposure control plan may be located in other documents such as policies and procedures. Make sure to reference their location in your plan.

You must:

• Make sure the plan contains at least the following elements:

– The exposure determination, WAC 296-823-11005

– A procedure for evaluating the circumstances surrounding exposure incidents, including documentation of the routes of exposure, and the circumstances under which the exposure incident happened

– How and when you will implement applicable requirements of this rule.

Note: The implementation dates need to be included only until your exposure control plan is fully implemented or when you are adding new requirements to your plan.

You must:

• Document the infection control system used in your workplace to protect employees from exposure to blood or OPIM.

– Use universal precautions or other at least as effective infection control systems.

Note: Universal precautions is an infection control system that considers the blood and OPIM from all persons as containing a bloodborne disease, whether or not the person has been identified as having a bloodborne disease.

Other effective infection control systems include standard precautions, universal blood-body fluid precautions, and body substance isolation. These methods define all body fluids and substances as infectious. They incorporate not only the fluids and materials covered by universal precautions and this chapter, but expand coverage to include all body fluids and substances.

• Solicit input in the identification, evaluation, and selection of effective safer medical devices. This input must be solicited from nonmanagerial employees responsible for direct patient care with potential exposure to contaminated sharps.

– Document the process you used to solicit input and include the identity of the employees or positions that were involved.

- Note:**
- You are not required to request input from every exposed employee; however, the employees selected must represent the range of exposure situations encountered in the workplace. Your safety committee may assist in identifying employees.
 - Although you are required to include nonmanagerial employees, you are not prohibited from soliciting input from managerial and other employees.

You must:

• Make sure the exposure control plan is reviewed and updated:

– At least annually

AND

– Whenever necessary to:

■ Reflect new or modified tasks and procedures which affect occupational exposure

■ Reflect new or revised job classifications with occupational exposure.

((–)) ⚡ Reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens

((–)) ⚡ Document consideration and implementation of appropriate commercially available and effective safer medical devices designed to eliminate or minimize occupational exposure.

• Make sure a copy of the exposure control plan is accessible at the workplace, when exposed employees are present. For example, if the plan is stored only on a computer, all exposed employees must be trained to operate the computer.

• Make sure a copy of the plan is provided to the employee or their representative within fifteen days of their request for a copy.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-12010 Provide additional training.**You must:**

• Provide additional training when you add or change tasks or procedures that affect the employee's occupational exposure.

Note: This training may be limited to the changes in tasks and procedures.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-13005 Make hepatitis B vaccination available to employees.

~~((You must:))~~

Exemption:

• You are not required to provide the hepatitis B vaccination series to employees who meet any of the following:

– The employee has previously received the complete hepatitis B vaccination series

– An antibody test has revealed that the employee is immune to hepatitis B

– There are medical reasons not to give the vaccine.

• You are not required to provide the hepatitis B vaccination series to employees assigned to provide first aid only as a secondary duty, when you do all of the following:

– Make hepatitis B vaccination available to all unvaccinated first-aid providers who render assistance in any situation involving the presence of blood or OPIM.

■ Vaccination must be made available as soon as possible, but no later than twenty-four hours after the incident.

– Provide a reporting procedure that ensures all first-aid incidents that involve the presence of blood or OPIM are reported before the end of the work shift

– Document first-aid incidents that involve blood or OPIM, include at least:

■ The names of all first-aid providers who rendered assistance

■ The time and date of the first-aid incident

■ A description of the first-aid incident.

• Make sure that the hepatitis B vaccination series is available to all employees who have occupational exposure and that it is:

– Available at no cost to the employee

– Available to the employee at a reasonable time and location

– Administered by or under the supervision of a licensed physician or by another licensed healthcare professional

– Provided according to recommendations of the United States Public Health Service that are current at the time these evaluations and procedures take place

– Available to any employee who initially declines the vaccination but later decides to accept it while they are still covered by this chapter

– Made available after the employee has received training required by this chapter and within ten working days of initial assignment.

Link:

You can find more information about the United States Public Health Service recommendations for hepatitis B vaccination at [http://www.cdc.gov/ncidod/diseases/hepatitis/\(b/index\) b/index.htm](http://www.cdc.gov/ncidod/diseases/hepatitis/(b/index) b/index.htm).

You must:

• Make sure participation in a prevaccination screening program for antibody status is not a condition for receiving hepatitis B vaccination.

• Make sure that all laboratory tests are conducted by a laboratory licensed by the state or Clinical Laboratory Improvement Amendments (Act) (CLIA).

• Make sure employees who decline the hepatitis B vaccination, offered by you, sign a form with this statement:

"I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to me."

Helpful tool:**Sample declination form:**

The declination form can help you document employees who have declined the hepatitis B vaccine. You can find a copy of this form in the resource section of this chapter.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-14005 Use feasible controls, including appropriate equipment and safer medical devices, to eliminate or minimize occupational exposure.

You must:

• Use appropriate equipment and safer medical devices to eliminate or minimize employee exposure.

• Use work practices designed to eliminate or minimize employee exposure.

• Examine and maintain or replace equipment and safer medical devices on a regular schedule to make sure they remain effective.

- Note:**
- Examples of appropriate equipment ((~~that can be used to eliminate or minimize occupational exposure~~)) include:
 - Sharps containers
 - Biosafety cabinets
 - Splash guards
 - Centrifuge cups
 - Specimen storage and transport containers.
 - Examples of safer medical devices include:
 - Sharps with engineered sharps injury protections (SESIP)
 - Needleless systems
 - Blunt suture needles
 - Plastic capillary tubes.
 - Examples of work practices include:
 - No-hands procedures in handling contaminated sharps
 - No hand-to-hand instrument passing.

Definition: Sharps with engineered sharps injury protections (SESIP) is

A nonneedle sharp or a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids, with a built-in safety feature or mechanism that effectively reduces the risk of an exposure incident.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-14015 Handle reusable sharps properly and safely.

You must:

– Place contaminated reusable sharps immediately, or as soon as possible after use, in appropriate containers until properly decontaminated. Containers must be all of the following:

- Puncture resistant
- Labeled or color-coded as described in this chapter
- Leakproof on the sides and bottom
- Meet the same requirements as the container for disposable sharps, except they do not need to be closable.

• Store or process contaminated reusable sharps so employees aren't required to reach into the container or sink by hand

• Make sure reusable sharps containers aren't opened, emptied, or cleaned manually or in any other manner that would expose employees to contaminated sharps.

Reference: Requirements for appropriate labels and color-coding are found in WAC ((296-823-14020)) 296-823-14025.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-14025 Make sure items are appropriately labeled.

Exemptions: The following are exempt from the labeling requirements of this chapter:

- Individual containers placed in an appropriately labeled secondary container.
- Regulated waste that has been decontaminated.
- Containers of blood, blood components, or blood products that are labeled with their contents and have been released for transfusion or other clinical use.
- Extracted teeth, gallstones, kidney stones, or other tissues and body substances that are given to patients.

You must:

• Attach appropriate labels to:

- Containers used to store, transport, or ship blood or other potentially infectious materials (OPIM) including:

- Refrigerators
- Freezers.
- Sharps containers
- Contaminated equipment
- Laundry bags and containers
- Specimen containers
- Regulated waste containers.

• Make sure that labels:

- Include the following symbol:



■ Are all or mostly fluorescent orange or orange-red with lettering and symbol in a contrasting color

■ Are attached to the container by string, wire, adhesive, or other method so they can't become lost or accidentally removed.

Note: Red bags or red containers may be substituted for labels as long as they're:

- Covered in the exposure control plan
- Communicated to all affected employees (including employees of laundry services, disposal services, and transport companies) whether they're your employees or not.
- The label does not always need to be attached to each individual container.
 - For example, a cart carrying specimen containers could be labeled, rather than each individual container.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)**WAC 296-823-14050 Examine and label contaminated equipment.****You must:**

• Examine equipment which could become contaminated with blood or other potentially infectious materials (OPIM) before servicing or shipping.

– Decontaminate this equipment and its parts as necessary unless you can demonstrate that decontamination isn't feasible

– Attach an easily seen biohazard label to the equipment stating which portions remain contaminated.

Reference: Requirements for appropriate labels and color-coding are found in WAC ((296-823-14020)) 296-823-14025.

You must:

• Make sure that information on contaminated equipment is communicated to all affected employees, the servicing representative, and the manufacturer as appropriate, prior to handling, servicing, or shipping so that appropriate precautions will be taken.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)**WAC 296-823-14060 Handle regulated waste properly and safely.****Definition:**

Regulated waste is any of the following:

• Liquid or semiliquid blood or other potentially infectious materials (OPIM)

• Contaminated items that would release blood or OPIM in a liquid or semiliquid state, if compressed

• Items that are caked with dried blood or OPIM and are capable of releasing these materials during handling

• Contaminated sharps

• Pathological and microbiological wastes containing blood or OPIM.

You must:

• Discard contaminated sharps immediately, or as soon as possible, in containers that are all of the following:

– Closable

– Puncture resistant

– Leakproof on sides and bottom

– Appropriately labeled or color-coded

– Easily accessible to personnel

– Located as close as feasible to the immediate area where sharps are used or areas sharps can be reasonably anticipated to be found (for example, laundries)

– Maintained upright throughout use

– Replaced routinely and not allowed to overfill.

Exemption: Work areas such as correctional facilities, psychiatric units, pediatric units, or residential homes may have difficulty placing sharps containers in the immediate use area. In such situations, alternatives such as using lockable containers or bringing containers in and out of the work area may be used.

Note: For additional information on placement and use of sharps containers see *Selecting, Evaluating, and Using Sharps Disposal Containers*, NIOSH Publication 97-111, January 1998. You can obtain a copy of this publication by calling 1-

800-35-NIOSH or get an electronic version in pdf at [http://www.cdc.gov/niosh/publistd.\(html\) htm](http://www.cdc.gov/niosh/publistd.(html) htm).

You must:

• Make sure when you move containers of contaminated sharps, the containers are:

– Closed prior to removal or replacement to prevent spilling or protrusion of contents during handling, storage, transport, or shipping; and

– Placed in a secondary container, if leaking is possible.

The second container must be:

■ Closable

■ Constructed to contain all contents and prevent leakage during handling, storage, transport, or shipping

■ Appropriately labeled or color-coded.

• Make sure regulated waste other than sharps is placed in containers that are all of the following:

– Closable

– Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport, or shipping

– Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping

– Placed in a second container if outside contamination of the primary regulated waste container occurs.

■ The second container must meet these requirements.

– Appropriately labeled or color-coded.

• Dispose of all regulated waste according to applicable state and county regulations.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)**WAC 296-823-14065 Handle contaminated laundry properly and safely.****You must:**

• Handle laundry contaminated with blood or other potentially infectious material (OPIM) as little as possible and with a minimum of agitation

• Bag contaminated laundry or put it into a container at the location where it was used

– Do not sort or rinse at the location of use

– Place and transport contaminated laundry in bags or containers that are properly labeled or color-coded

– If your facility ships contaminated laundry off-site to a second facility that doesn't use an infection control or isolation system when handling all of their soiled laundry, your facility must place the laundry in red bags or containers that are appropriately labeled.

Note: If your facility uses an infection control or isolation system in the handling of all soiled laundry, you can use alternative labeling or color-coding so employees recognize that the containers need to be handled using these precautions.

Reference: Requirements for appropriate labels and color-coding are found in WAC ((296-823-14020)) 296-823-14025 of this chapter.

You must:

• Place and transport wet contaminated laundry that is likely to soak through or leak to the outside, in bags or containers that will prevent such leakage.

Reference: You need to follow additional requirements to make sure that employees who have contact with contaminated laundry wear protective gloves and other per-

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sonal protective equipment (PPE) as appropriate, see WAC 296-823-150, Personal protective equipment.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-15010 Make sure gloves are worn.

You must:

• Make sure gloves appropriate to the situation are worn when:

((*) = It can be reasonably anticipated that the employee may have hand contact with blood, other potentially infectious materials (OPIM), mucous membranes, or skin that is not intact

((*) = Handling or touching contaminated items or surfaces

((*) = Performing vascular access procedures, for example, drawing blood or inserting an IV.

You must:

• Do the following when you are an employer in a volunteer blood donation center and you make the judgment that employees do not require routine use of gloves when performing phlebotomies:

((*) = Periodically reevaluate your decision not to require gloves

((*) = Make gloves available to all employees who wish to use them for phlebotomy (blood drawing)

((*) = Do not discourage the use of gloves for phlebotomy

((*) = Require that gloves be used for phlebotomy in ANY of the following circumstances:

((-) ■ When the employee has a cut, scratch, or other break in the skin of his or her hand or wrist

((-) ■ When the employee judges that hand contamination with blood may occur; for example, when performing phlebotomy on an uncooperative individual

((-) ■ When the employee is receiving training in phlebotomy.

You must:

• Make sure employees who are allergic to the gloves that are normally provided have ready access to at least one of the following:

- Nonlatex gloves
- Glove liners
- Powderless gloves
- Other similar alternatives.

• Replace disposable (single use) gloves such as surgical or examination gloves:

- As soon as practical when contaminated
- As soon as practical if they are torn or punctured
- When their ability to function as a barrier is compromised.

• Make sure disposable (single use) gloves are used only once

• Discard utility gloves if they are cracked, peeling, torn, punctured, or show other signs of deterioration or when their ability to function as a barrier is compromised.

- You may decontaminate utility gloves for reuse if they can continue to function as a barrier.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-15015 Make sure appropriate masks, eye protection, and face shields are worn.

You must:

• Make sure either chin-length face shields or a combination of masks and eye protection are used, whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials (OPIM) may be generated and eyes, nose, or mouth contamination can be reasonably anticipated.

Note: Examples of eye protection devices include(
- Goggles
-) goggles and glasses with solid side shields.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-15020 Wear appropriate protective clothing.

You must:

• Make sure appropriate protective clothing is worn when splashes to skin or clothes are reasonably anticipated. The type and characteristics will depend upon the sort of work being done and how much exposure is anticipated.

Note: Examples of protective clothing include:
- Gowns
- Aprons
- Lab coats
- Clinic jackets
- Similar outer garments
- Surgical caps or hoods
- Shoe covers or boots.

You must:

• Remove(~~(, as soon as feasible,)~~) a garment as soon as feasible if blood or other potentially infectious materials (OPIM) penetrate it.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-160 Post-exposure requirements. Summary.

Your responsibility:

To make sure employees who have been exposed to blood or other potentially infectious materials (OPIM) have appropriate post-exposure evaluation and follow-up available.

You must:

Make a confidential medical evaluation and follow-up available to employees who experience an exposure incident

WAC 296-823-16005

Test the blood of the source person

WAC 296-823-16010

Provide the results of the source person's blood test to the exposed employee

WAC 296-823-16015

Collect and test the blood of the exposed employee

WAC 296-823-16020

Provide information to the healthcare professional evaluating the employee

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WAC 296-823-16025

Obtain and provide a copy of the healthcare professional's written opinion on post-exposure evaluation (~~and provide it~~) to the employee

WAC 296-823-16030.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-16005 Make a confidential medical evaluation and follow-up available to employees who experience an exposure incident.

You must:

- Make immediately available a confidential post-exposure evaluation and follow-up to all employees with occupational exposure to blood or OPIM who report an exposure incident.

(~~Note: The employer or a third-party healthcare provider identified by the employer may do the evaluation.~~)

Definition:

Exposure incident. Means a specific eye, mouth, other mucous membrane, nonintact skin or parenteral contact with blood or other potentially infectious materials (OPIM) that results from the performance of an employee's duties. Examples of nonintact skin include skin with dermatitis, hangnails, cuts, abrasions, chafing, or acne.

You must:

- Make sure that the post-exposure medical evaluation and follow-up are all of the following:

- Immediately available following an exposure incident
- Confidential

- At no cost to the employee

- At a reasonable time and place

- Administered by or under the supervision of a licensed physician or by another licensed healthcare professional

- Provided according to recommendations of the United States Public Health Service current at the time these evaluations and procedures take place.

- Make sure that the evaluation and follow-up includes AT LEAST these elements:

- Documentation of the routes of exposure, and the circumstances under which the exposure incident happened

- Identification and documentation of the source individual, unless you can establish that identification is infeasible or prohibited by state or local law

- Collection and testing of blood to detect the presence of HBV and HIV

- Post-exposure preventive treatment, when medically indicated, as recommended by the United States Public Health Service

- Counseling

- Evaluation of reported illnesses.

- Make sure that all laboratory tests are conducted by a laboratory licensed by the state or Clinical Laboratory Improvement Amendments ((~~§~~)Act(~~§~~)) (CLIA).

Note: The employer or a third-party healthcare provider identified by the employer may do the evaluation.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-16010 Test the blood of the source person.

Exemption: When the source individual is already known to be infected with HBV or HIV, you do not need to test their status.

You must:

- Arrange to test the source individual's blood for HBV and HIV as soon as feasible after getting their consent.

- If you do not get consent, you must establish that legally required consent can not be obtained

- When the law does not require the source individual's consent, their blood, if available, must be tested and the results documented.

Note: • Your local health authority enforces rules regarding HIV testing and consent which are found in WAC 246-100-206, Special diseases—Sexually transmitted diseases, and WAC 246-100-207, Human immunodeficiency virus (HIV) testing.

These rules can be found at: [http://www.leg.wa.gov/wac/\(/index.cfm?fuseaction=chapterdigest&chapter=246-400\)](http://www.leg.wa.gov/wac/(/index.cfm?fuseaction=chapterdigest&chapter=246-400)) and click on Title 246 WAC.

• Source testing: According to the Centers for Disease Control and Prevention (CDC), hepatitis C virus (HCV) infection is the most common chronic bloodborne infection in the United States. The CDC recommends testing of the source person for the presence of anti-HCV antibody. (Updated *U.S. Public Health Service Guidelines for the Management of Occupational Exposures to HBV, HCV, and HIV and Recommendations for Postexposure Prophylaxis*, MMWR, June 29, 2000/50(RR11); 1-42.)

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-16015 Provide the results of the source person's blood test to the exposed employee.

You must:

- Make sure the results of the source person's blood test are provided to the exposed employee, if possible

- Make sure the exposed employee is informed of applicable laws and regulations regarding disclosure of the identity and infection status of the source person.

Note: Law and regulations that currently apply are:

- Chapter 70.02 RCW, Medical records—Healthcare information access and disclosure.

- Chapter 70.24 RCW, Control and treatment of sexually transmitted diseases.

- Both rules can be found at (<http://www.leg.wa.gov/rcw/index.cfm?fuseaction=title&title=70>) <http://www.leg.wa.gov/wac> and click on Title 70 WAC to find these rules.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-16025 Provide information to the healthcare professional evaluating the employee.

You must:

- Provide ALL of the following information to the healthcare professional evaluating an employee after an exposure incident:

- A copy of WAC ((~~296-823-170~~) 296-823-160)

- A description of the job duties the exposed employee was performing when exposed

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- Documentation of the routes of exposure and circumstances under which exposure occurred
- Results of the source person's blood testing, if available
- All medical records that you are responsible to maintain, including vaccination status, relevant to the appropriate treatment of the employee.

Reference: Requirements for the healthcare professional's written opinion for hepatitis B vaccinations can be found in WAC ((296-823-15010)) 296-823-13010.

Note: You may meet the requirement to provide a copy of WAC ((296-823-170)) 296-823-160 to the healthcare professional by giving them the <http://www.lni.wa.gov/rules/>, as long as their office has a computer and access to the labor and industries' website.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-16030 Obtain and provide a copy of the healthcare professional's written opinion on post-exposure evaluation to the employee.

You must:

- Obtain and provide to the employee a copy of the evaluating healthcare professional's written opinion within fifteen days of the completion of their evaluation.

Note:

- If the healthcare professional provides the written opinion directly to the employee, you do not need to do so
- If the employee's personal healthcare professional completes the evaluation, you are not required to obtain the healthcare professional's written opinion.

- Make sure the healthcare professional's written opinion is limited to the following information:

- That the employee has been informed of the results of the evaluation
- That the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials (OPIM) which need further evaluation or treatment.
- Make sure that all other findings or diagnoses remain confidential and are NOT included in the written report.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-17010 Maintain a sharps injury log.

Exemption: You are exempt from the requirements to record contaminated sharps injuries if you have ten or less employees.

You must:

- Record contaminated sharps injuries on your OSHA 300 or equivalent log.

Reference: Requirements for the OSHA 300 log are found in chapter 296-27 WAC, Recordkeeping and ((~~recording~~)) reporting. <http://www.lni.wa.gov/wisha/regs/WACS/27/27.htm>.

You must:

- Record and maintain contaminated sharps injury information in a way that protects the confidentiality of the injured employee
- Also record the following additional information for contaminated sharps injuries:
 - The type and brand of device involved in the incident

- The department or work area where the exposure incident occurred

- An explanation of how the incident occurred.

(Note: ~~You may record the additional information in any format you choose, such as on the OSHA 300 and 301 forms. It must be retrievable and identifiable to each specific injury.~~)

- Maintain your contaminated sharps injury records for five years.

Note: You may record the additional information in any format you choose, such as on the OSHA 300 and 301 forms. It must be retrievable and identifiable to each specific injury.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-180 Additional requirements for HIV and HBV research laboratories and production facilities.
Summary.

Your responsibility:

To implement and enforce these additional rules in research laboratories and production facilities engaged in the culture, production, concentration, experimentation, and manipulation of HIV and HBV.

Exemption: This section does NOT apply to clinical or diagnostic laboratories engaged solely in the analysis of blood, tissues, or organs.

Note: Production and research facilities: Hepatitis C (HCV) is the virus involved in most cases of parenterally transmitted (bloodborne) non-A, non-B hepatitis in the United States. Most individuals who contract HCV become chronically infected (85%) and develop chronic hepatitis (70%). It is recommended that you also follow these requirements for HCV production and research facilities.

You must:

- Prepare, review and update a biosafety manual
WAC 296-823-18005
- Follow these special practices for the work area
WAC 296-823-18010
- Make sure these practices for contaminated material and waste are followed
WAC 296-823-18015
- Make sure these special practices for personal protective equipment (PPE) and other safe guards are followed
WAC 296-823-18020
- Protect vacuum lines
WAC 296-823-18025
- Use and handle hypodermic needles and syringes ((~~properly~~)) appropriately and safely
WAC 296-823-18030
- Handle all spills and accidents properly
WAC 296-823-18035
- Post signs
WAC 296-823-18040
- Provide additional training for facility employees
WAC 296-823-18045
- Furnish a sink for washing hands and a readily available eye wash facility
WAC 296-823-18050
- Make sure these additional criteria are followed
WAC 296-823-18055.

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AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-18015 Make sure these practices for contaminated material and waste are followed.

You must:

- Incinerate or decontaminate all regulated waste by a method known to effectively destroy bloodborne pathogens, such as autoclaving
- Make sure to place materials to be decontaminated away from the work area in a container that is:
 - Durable
 - Leakproof
 - Appropriately labeled, or color-coded
 - Closed before being removed from the work area.

Reference: You can find additional requirements for appropriate labels and color-coding in WAC ((296-823-16005)) 296-823-14025.

You must:

- Incinerate or decontaminate ALL waste from work areas and from animal rooms before ((it is disposed of)) disposal
- Make sure an autoclave is available for decontamination of regulated waste. The autoclave must be available within or as near as possible to the work area.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-18045 Provide additional training for facility employees.

You must:

- Provide initial training to employees in HIV or HBV research laboratories or production facilities in addition to the training required in WAC ((296-823-140)) 296-823-120
- Make sure that employees demonstrate proficiency in the following:
 - Standard microbiological practices and techniques
 - The practices and operations specific to the facility BEFORE being allowed to work with HIV or HBV.
- Provide a training program to employees working with HIV or HBV who have no prior experience in handling human pathogens.
 - Initial work activities must not include the handling of infectious agents
 - A progression of work activities must be assigned as techniques are learned and proficiency is developed.
- Make sure that employees participate in work activities involving infectious agents only after proficiency has been demonstrated.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-18050 Furnish a sink for washing hands and a readily available eye wash facility.

You must:

- Make sure each work area contains a sink for hand-washing and an eyewash facility is readily available.
 - For HIV and HBV production facilities, the sink must be operated automatically or by foot or elbow and must be located near the exit door of the work area.

Reference: Requirements for emergency eyewash stations can be found in WAC 296-800-15030.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-18055 Make sure these additional criteria are followed.

You must:

- Separate the HIV and HBV work areas from areas that are open to unrestricted traffic flow within the building
- Use two sets of doors to separate HIV and HBV work areas from access corridors or other contiguous areas.

Note: You may provide a physical separation of the high-containment work area from access corridors or other areas or activities by providing:

– A double-doored clothes-change room (showers may be included)

– Airlock

OR

– Other access facilities that require((s)) passing through two sets of doors before entering the work area.

- Make sure the surfaces of doors, walls, floors, and ceilings in the work area are water resistant so they can be easily cleaned. These surfaces must be sealed or capable of being sealed to facilitate decontamination

- Make sure access doors to the work area or containment module are self-closing

- Provide a ducted exhaust-air ventilation system. This system must create directional airflow that draws air into the work area through the entry area and you must verify this airflow. The exhaust air must:

- NOT be recirculated to any other area of the building
- Be discharged to the outside
- Be dispersed away from occupied areas and air intakes.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-823-200 Definitions.

Blood

Human blood, human blood components and products made from human blood. Also included are medications derived from blood, such as immune globulins, albumin, and factors 8 and 9.

Bloodborne pathogens

Pathogenic microorganisms that are present in human blood and can cause disease in humans. Examples of these pathogens include:

- Human immunodeficiency virus (HIV)
- Hepatitis B virus (HBV)
- Hepatitis C virus, malaria
- Syphilis
- Babesiosis
- Brucellosis
- Leptospirosis
- Arboviral infections
- Relapsing fever
- Creutzfeld-Jakob Disease
- Human T-lymphotrophic virus Type I
- Viral Hemorrhagic Fever.

Clinical laboratory

A workplace where diagnostic or other screening procedures are performed on blood or other potentially infectious materials (OPIM).

Contaminated

The presence or the reasonably anticipated presence of blood or other potentially infectious materials (OPIM) on an item or surface.

Contaminated laundry

Laundry that has been soiled with blood or other potentially infectious materials (OPIM) or may contain contaminated sharps.

Contaminated sharps

Any contaminated object that can penetrate the skin including, but not limited to, needles, scalpels, broken glass, broken capillary tubes, and exposed ends of dental wires.

Decontamination

The use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

Exposure incident

A specific eye, mouth, other mucous membrane, nonintact skin or parenteral contact with blood or other potentially infectious materials (OPIM) that results from the performance of an employee's duties. Examples of nonintact skin include skin with dermatitis, hangnails, cuts, abrasions, chafing, or acne.

Handwashing facilities

A facility providing an adequate supply of running potable water, soap and single use towels or hot air drying machines.

Licensed healthcare professional

A person whose legally permitted scope of practice allows him or her to independently perform the activities required by this rule.

~~((HBV~~

~~Hepatitis B virus;~~

~~HIV~~

~~Human immunodeficiency virus.))~~

Needleless systems

A device that does not use needles for any of the following:

- The collection of bodily fluids or withdrawal of body fluids after initial venous or arterial access is established
- The administration of medication or fluids
- Any other procedure involving the potential for occupational exposure to bloodborne pathogens due to percutaneous injuries from contaminated sharps.

Occupational exposure

Reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or OPIM that may result from the performance of an employee's duties.

Other potentially infectious materials (OPIM)

Includes all of the following:

- Human body fluids: Semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and

all body fluids in situations where it is difficult or impossible to differentiate between body fluids;

- Any unfixed tissue or organ (other than intact skin) from a human (living or dead);

- HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV

- Blood and tissues of experimental animals infected with bloodborne pathogens.

Parenteral contact

When mucous membranes or skin is pierced by needlesticks, human bites, cuts, or abrasions.

Personal protective equipment (PPE)

Specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (for example, uniforms, pants, shirts, or blouses) not intended to function as protection against a hazard are not considered to be PPE.

Production facility

A facility engaged in industrial-scale, large-volume or high concentration production of HIV or HBV.

Regulated waste

Regulated waste is any of the following:

- Liquid or semiliquid blood or other potentially infectious materials (OPIM)

- Contaminated items that would release blood or OPIM in a liquid or semiliquid state, if compressed

- Items that are caked with dried blood or OPIM and are capable of releasing these materials during handling

- Contaminated sharps

- Pathological and microbiological wastes containing blood or OPIM.

Research laboratory

A laboratory producing or using research-laboratory-scale amounts of HIV or HBV. Research laboratories may produce high concentrations of HIV or HBV but not in the volume found in production facilities.

Safer medical devices

Medical devices that have been engineered to reduce the risk of needlesticks and other contaminated sharps injuries. These include not only sharps with engineered sharps injury protections and needleless systems but also other medical devices designed to reduce the risk of sharps injury exposures to bloodborne pathogens. Examples include blunt suture needles and plastic or mylar-wrapped glass capillary tubes.

Secondary duty

Any job expectation outside the primary job duties assigned to that position.

Sharps with engineered sharps injury protections (SESIP)

A nonneedle sharp or a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids, with a built-in safety feature or mechanism that effectively reduces the risk of an exposure incident.

Source person

A person, living or dead, whose blood or other potentially infectious materials may be a source (OPIM) of occupational exposure to the employee. Examples include:

- Hospital and clinic patients
- Clients in institutions for the developmentally disabled
- Trauma victims
- Clients of drug and alcohol treatment facilities
- Residents of hospices and nursing homes
- Human remains
- Individuals who donate or sell blood or blood components.

Standard microbiological practices

Standard microbiological practices refer to procedures comparable to those outlined in the current edition of the Center for Disease Control "*Biosafety in Microbiological and Biomedical Laboratories*."

Sterilize

The use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

Universal precautions

An approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens.

Note: Universal Blood-Body Fluid Precautions, Body Substance Isolation, and Standard Precautions expand on the concept of universal precautions to include all body fluids and substances as infectious. These concepts are acceptable alternatives to universal precautions.

WSR 04-07-162
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed March 23, 2004, 2:06 p.m.]

Title of Rule: Chapter 296-307 WAC, Safety standards for agriculture.

Purpose: The primary reason for this rule making is to delete the pesticide application record forms currently located in WAC 296-307-14510. The Department of Agriculture is responsible for maintaining these forms and updates them periodically through the rule-making process. L&I has not always been aware of changes to these forms and as a result the forms in the two separate rules are different. So to reduce confusion with our customers L&I has decided to repeal these forms from our agriculture rule. We are adding a reference in WAC 296-307-14505 that will let our customers know that the forms can be found in the Department of Agriculture's rules chapter 16-228 WAC, General pesticide rules.

Other Identifying Information:

WAC 296-307-14505 What records must an employer keep for pesticide applications?

- Subsection (19): Add language that reads, "Pesticide application record forms can be found in chapter 16-228 WAC, General pesticide rules" for clarity.

WAC 296-307-14510 What do the pesticides forms look like?

- Change the title of this section to "Sample pesticide storage record."
- Delete all the forms in the section except for the pesticide storage record form.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: See Other Identifying Information above.

Reasons Supporting Proposal: See Other Identifying Information 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 does not change existing rules.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Carmen Moore, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY May 24, 2004.

March 23, 2004

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 01-17-033, filed 8/8/01, effective 9/1/01)

WAC 296-307-14505 What records must an employer keep for pesticide applications? (1) If you apply pesticides, or have pesticides applied for you, related to the production of an agricultural crop, you must keep records for each application. The records must include the following:

(a) The address or exact location where the pesticide was applied or stored;

Note: If you apply pesticides to one acre or more, the location must be shown on the map on the required form for at least the first application.

(b) The year, month, day, and time the pesticide was applied or stored;

(c) The product name on the registered label and the United States Environmental Protection Agency registration number, if applicable, of the pesticide that was applied or stored;

(d) The crop or site to which the pesticide was applied (application crop or site);

(e) The amount of pesticide applied per acre, or other appropriate measure;

(f) The concentration of pesticide applied;

(g) The total area to which pesticide was applied;

(h) If applicable, the licensed applicator's name, address, and telephone number and the name of the individual(s) making the application;

(i) The direction and estimated velocity of the wind at the time the pesticide was applied;

Exception: Wind information does not have to be recorded for applications of baits in bait stations and pesticide applications within structures.

(j) Any other reasonable information required by the department.

(2) A commercial pesticide applicator must provide a copy of the pesticide application records to the owner or lessee of the lands to which the pesticide is applied. Pesticide application records may be provided on any form that includes all required information.

(3) You must update records on the same day that a pesticide is applied. You may use a copy as the record of the pesticide application. You must maintain the records for at least seven years after the date of the application.

(4) You must ensure that pesticide application records are readily accessible to employees and their designated representatives in a central location in the workplace. The records must be available beginning on the day the application is made and for at least thirty days after. You may view the pesticide application records and make your own record from that information.

(5) New or newly assigned employees must be made aware of the accessibility of the application records before working with pesticides or in an area containing pesticides.

(6) When storing pesticides, you must, at least once a year, perform an inventory of the pesticides stored in any work area.

(7) The pesticide inventory records must include the following information:

(a) The location where the pesticide is stored;

(b) The year, month, day, and time the pesticide was first stored;

(c) The product name used on the registered label and the United States Environmental Protection Agency Registration Number, if applicable, of the pesticide that is stored; and

(d) The amount of pesticide in storage at the time of the inventory.

(8) You must maintain a record of pesticide purchases made between the annual inventory dates.

(a) Instead of this purchase record, you may obtain from distributors from whom you buy pesticides, a statement obligating the distributor to maintain the purchase records on your behalf to meet the requirements of this section.

(b) We may require you to submit all purchase records covering the purchases during a specified period of time or in a specified geographical area.

(9) When you end all pesticide activities, you must file the records with us. Anyone who succeeds or replaces you

must retain the records required by this section, but that person is not liable for any violations you commit.

(10) You must ensure that the records required under this section are readily accessible to us for inspection. You must also provide copies of the records on request, to:

(a) An employee or the employee's designated representative in the case of an industrial insurance claim filed under Title 51 RCW with the department of labor and industries;

(b) Treating health care personnel; or

(c) The pesticide incident reporting and tracking review panel.

(11) The designated representative or treating health care personnel are not required to identify the employee represented or treated.

(12) We will keep the name of any affected employee confidential according to RCW 49.17.080(1).

(13) When treating health care personnel request records under this section, and the record is required to determine treatment, you must provide copies of the record immediately. Information for treating health care personnel must be made immediately available by telephone, if requested, with a copy of the records provided within twenty-four hours. For all other requests, you must provide copies of the records within seventy-two hours.

(14) If requested, you must provide copies of records on a form provided by the department.

(15) If you suspect that an employee is ill or injured because of an exposure to one or more pesticides, you must immediately provide the employee with a copy of the relevant pesticide application records.

(16) If you refuse to provide a copy of a requested record, the requester may notify the department of the request and your refusal.

(a) Within seven working days, we will request that you provide us with all pertinent copies of the records, except that in a medical emergency we will request within two working days.

(b) You must provide copies of the records to us within twenty-four hours after we request.

(17) We inspect for the records required under this section as part of any on-site inspection of a workplace conducted under this chapter or chapter 49.17 RCW. We will determine, during the inspection, whether the records are readily transferable to a form adopted by the department, and readily accessible to employees. However, your records will not be inspected more than once in any calendar year, unless a previous inspection has found recordkeeping violations. If recordkeeping violations are found, we may conduct reasonable multiple inspections, according to department rules. Nothing in this section limits our inspection of records pertaining to pesticide-related injuries, illnesses, fatalities, accidents, or complaints.

(18) If you fail to maintain the records, or provide access to or copies of the records required under this section, you will be subject to penalties authorized under RCW 49.17.180.

(19) The department of labor and industries and the department of agriculture will jointly adopt by rule, forms that satisfy the information requirements of this section and RCW 17.21.100. Pesticide application record forms can be found in chapter 16-228 WAC, General pesticide rules.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-14510 (~~What do the pesticides forms look like?~~) Sample pesticide storage record.

State of Washington
Department of Agriculture
Olympia, Washington 98504

PESTICIDE APPLICATION RECORD (Version 1)

NOTE: This form must be completed same day as the application and it must be retained for 7 years. (Ref. RCW 17.21)

EXPEDITED

1. Date of Application - Year: Month: Day: Time:
2. Name of person for whom the pesticide was applied:
Firm Name (if applicable):
Street Address: City: State: Zip:
3. Licensed Applicator's Name (if different from #2 above): License No.:
Firm Name (if applicable): Tel. No.:
Street Address: City: State: Zip:
4. Name of person(s) who applied the pesticide (if different than #3 above):
License No(s), if applicable:
5. Application Crop or Site:
6. Total Area Treated (acre., sq. ft., etc.):
7. Was this application made as a result of a WSDA Permit? No Yes (if yes, give Permit No.) #.....
8. Pesticide information (please list all information for each pesticide in the tank mix):

a) Product Name	b) EPA Reg No.	c) Total amount of Pesticide Applied in Treated Area	d) Pesticide Applied/Acre (or Other Measure)	e) Concentration Applied
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

9. Address or exact location of application: NOTE: If the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form.
10. Wind direction and estimated velocity during the application:
11. Temperature during the application:
12. Apparatus license plate number (if applicable):
13. Air Ground Chemigation
14. Miscellaneous Information:

Location of Application (if the application covers more than one township or range, please indicate the township and range for the top left section of the map only):

Township.....

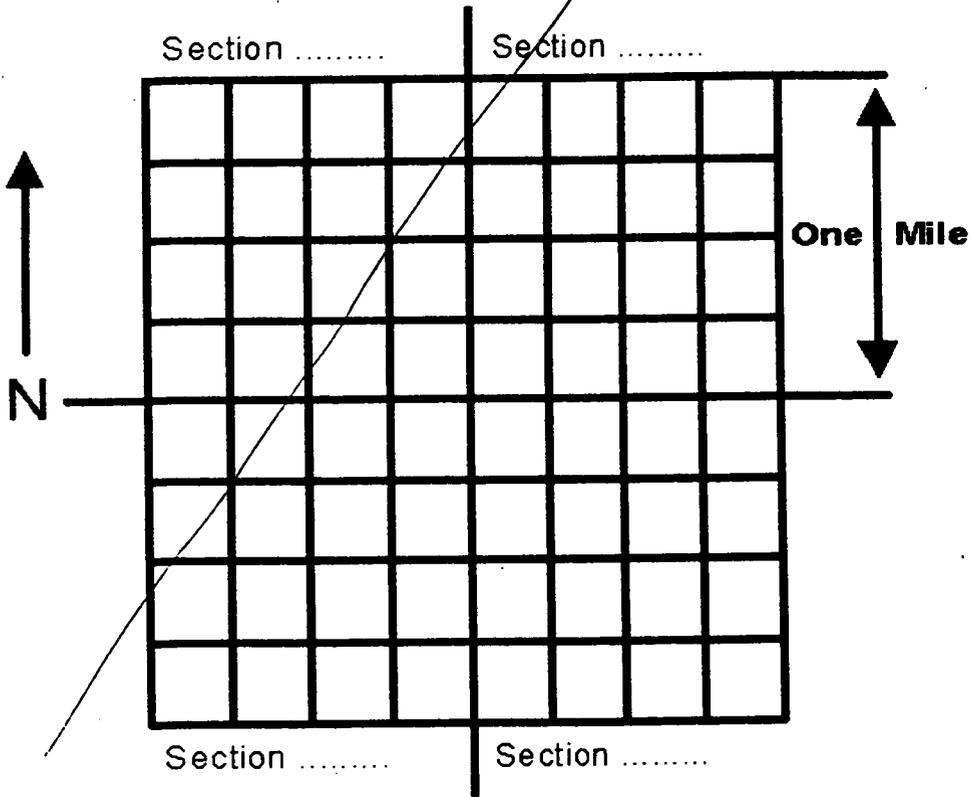
Range: E or W (please indicate).....

Section(s):.....

County:.....

PLEASE NOTE:

The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.



Miscellaneous Information:

[Handwritten scribble]

EXPEDITED

WAC 296-306A-14510 Pesticide application record (version 2).

State of Washington
 Department of Agriculture
 Olympia, Washington 98504

PESTICIDE APPLICATION RECORD (Version 2)

NOTE: Application information must be completed on the same day as the application and must be retained for seven years. (Ref. RCW 17.21)

1. Name & Address of Person for Whom Pesticide was Applied:				2. Applicator Name and Address (if different from (1)):				
3. Address or exact location of application (NOTE: If the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form)				4. Misc. Info.:				
5. Date and Time of Application	6. Crop or Site Treated <input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation	7. Acres Treated (or other measure)	8. PRODUCT NAME	9. EPA Registration Number	10. Amount of Product Applied		11. Concentration	12. Weather Conditions, Apparatus License Plate No. and Name and License No. of person(s) who applied pesticide
					Rate per acre (or other measure)	Total Product Applied		
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							

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Location of Application: (If the application covers more than one township or range, please indicate the township & range for the top left section of the map only):

TOWNSHIP: _____ N

RANGE: _____

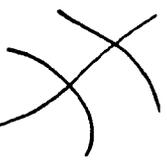
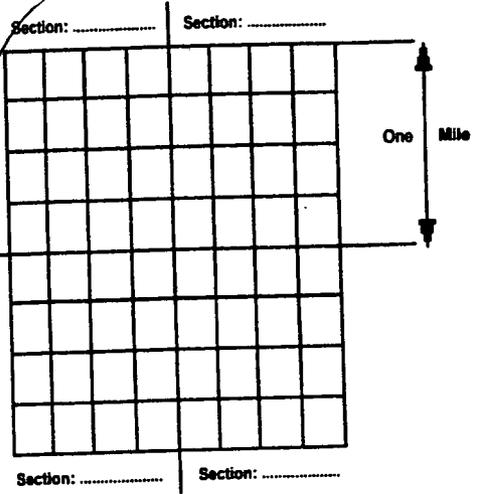
SECTION(S): _____

COUNTY: _____

PLEASE NOTE:

The map is divided into 4 sections with each section divided into quarter-quarter sections.

Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.



State of Washington
Department of Agriculture
Olympia, Washington 98504

PESTICIDE APPLICATION RECORD (Version 3)
NOTE: This form must be completed same day as the application and it must be retained for 7 years. (Ref. RCW 17.21)

EXPEDITED

1. Date of Application - Year: Month: Day(s):
2. Name of person for whom the pesticide was applied:
Firm Name (if applicable):
Street Address: City: State: Zip:
3. Licensed Applicator's Name (if different from #2 above): License No.:
Firm Name (if applicable): Tel. No.:
Street Address: City: State: Zip:
4. Air Ground Chemigation
5. Application Crop or Site:
6. Total Area Treated (acre., sq. ft., etc.):
7. Was this application made as a result of a WSDA Permit? No Yes (if yes, give Permit No.)
8. Pesticide information (please list all information for each pesticide in the tank mix):

a) Product Name	b) EPA Reg No.	c) Total amount of Pesticide Applied in Treated Area	d) Pesticide Applied/Acre (or Other Measure)	e) Concentration Applied
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

9. Address or exact location of application. NOTE: If the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form.

10. Date	11. Name of person(s) making the application	12. License No.	13. Apparatus Lic. Plate No.	14. Time		15. Acres Completed	16. Wind		17. Temp
				Start	Stop		Dir.	Vel.	

WSR 04-07-170

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed March 24, 2004, 8:47 a.m.]

Title of Rule: Chapter 16-324 WAC, Rules for the certification of seed potatoes.

Purpose: This proposal amends the current seed potato certification rules to (1) allow multiple varieties on field plot applications, (2) reduce two land use restrictions, (3) change the pest and disease tolerances, and (4) repeal the plant pathology laboratory fee schedule.

Statutory Authority for Adoption: Chapters 15.14 and 15.13 RCW, RCW 34.05.353 (1)(e), (2)(c).

Statute Being Implemented: Chapter 15.13 RCW.

Summary: Currently, seed potato growers have to submit a separate application and fee for each potato variety grown in a field plot. This proposal will allow growers to more easily test new potato varieties by putting multiple varieties on a single application for a field plot 1/8 acre or less. Due to the loss of available land for agricultural purposes, the need to reuse available fields on a more frequent basis has become necessary. This proposal will shorten the rotation period between seed potato crops which will provide growers with available land in the primary seed potato growing areas. Currently, there are separate tolerances for the first and second inspection for field diseases and pests. This proposal sets a single tolerance for the first and second inspection and puts the tolerances more in line with those of neighboring states. Finally, this proposal repeals all laboratory fee schedules, which are no longer relevant since disease testing of seed potatoes is conducted by an out-of-state laboratory.

Reasons Supporting Proposal: This proposal will reduce the application fees for testing new potato varieties and will allow the Washington seed potato industry to be more competitive in interstate and international markets.

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Tom Wessels, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1984.

Name of Proponent: The Washington Seed Potato Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Revising the rule for application and withdrawal to allow growers to put multiple varieties on a single application for a field plot 1/8 acre or less will allow growers to test new varieties more economically. Under the current rule growers have to submit a single application for each variety. This change may reduce the application fees for some growers.

A revision in the land requirement rule that would shorten the rotation period between seed potato crops is needed by the growers to assure that enough land is available in the primary seed potato area. The loss of available land due to urban expansion in Whatcom County has made it necessary to shorten the rotation period of seed potato fields.

The revision of the field inspection disease tolerances has eliminated separate tolerances for the first and second

inspection and put the tolerances more in line with those of neighboring states.

The revision will repeal all laboratory fee schedules, which are no longer relevant since disease testing of seed potatoes is conducted by an out-of-state lab.

Proposal Changes the Following Existing Rules: This proposal amends the current seed potato certification rules by (1) allowing multiple varieties in field plot applications, (2) reducing two current land use restrictions, (3) changing the pest and disease tolerances, and (4) repealing the plant pathology laboratory fee schedule.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO George Huffman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, e-mail ghuffman@agr.wa.gov, AND RECEIVED BY May 25, 2004.

March 24, 2004

Mary A. Martin Toohey

Assistant Director

AMENDATORY SECTION (Amending WSR 02-12-010, filed 5/23/02, effective 6/23/02)

WAC 16-324-375 Application and withdrawal. (1) To apply for certification, applicants must use the form provided by the department and furnish all information requested, including the date, name, signature and address of the applicant, lot number, seed source identification number, variety, class planted, acres, date planted, seed spacing at planting, average length of rows, year the field was last cropped to potatoes, along with their variety and lot number, and a map of the field location. Applications for certification must reach the department on or before June 15 of each year, accompanied by the appropriate fee, field location maps and evidence of eligibility such as tags or certificates. A North American Certified Seed Potato Health Certificate is required for evidence of eligibility for seed lots originating in other states or Canada, and must be submitted with the application. Unless prior approval has been granted, late applications will be assessed a late fee of twenty dollars per application. The department will not accept applications after July 10.

(2) Separate applications are required for each variety, seed source, and seed lot except as described in subsection (5) of this section.

(3) Separate applications are required for each field location that is separated by more than one hundred feet.

(4) Growers may withdraw a seed potato lot from certification for any reason by notifying the department in writing.

(5) Growers may use a single application for multiple varieties planted in a field plot totaling 1/8 acre or less. The

application must contain the information required in subsection (1) of this section for each variety. Growers shall use one identification number for the field plot with a separate letter designation for each variety in the field plot.

AMENDATORY SECTION (Amending WSR 00-20-070, filed 10/3/00, effective 11/3/00)

WAC 16-324-393 Land requirements. (1) The department will not accept any field infested with nematodes.

(2) Detection of ring rot in a field will make that field ineligible for production of certified seed potatoes for three years. Presence of volunteer potato plants in a field with ring rot history will disqualify the current field crop for certification. Plants outside of the defined row are considered volunteers.

(3) Nuclear class seed potatoes must be produced in a field that has not been planted with potatoes for at least ~~((six))~~ four years. (New ground is preferred.)

(4) Generation 1 class seed potatoes must be produced in a field that has not been planted with potatoes for at least ~~((four))~~ three years.

(5) Generation 2, 3, 4, and 5 class seed potatoes must be produced in a field that has not been planted with potatoes during the previous year unless the prior potato crop was certified seed potatoes of an earlier class of the same variety. Volunteer plants from a previously planted seed potato crop will cause the class designation of the current crop to be changed to the appropriate generation of the volunteer plants.

AMENDATORY SECTION (Amending WSR 02-12-010, filed 5/23/02, effective 6/23/02)

WAC 16-324-398 Field inspection disease tolerance. (1) Compliance with a 0.0% tolerance is not intended, nor should it be construed, to mean that the lot inspected is free from the disease. It means that the disease was not detected during visual inspections of the seed lot.

(2) First and second field inspection tolerances, expressed as percentages.

EXPEDITED

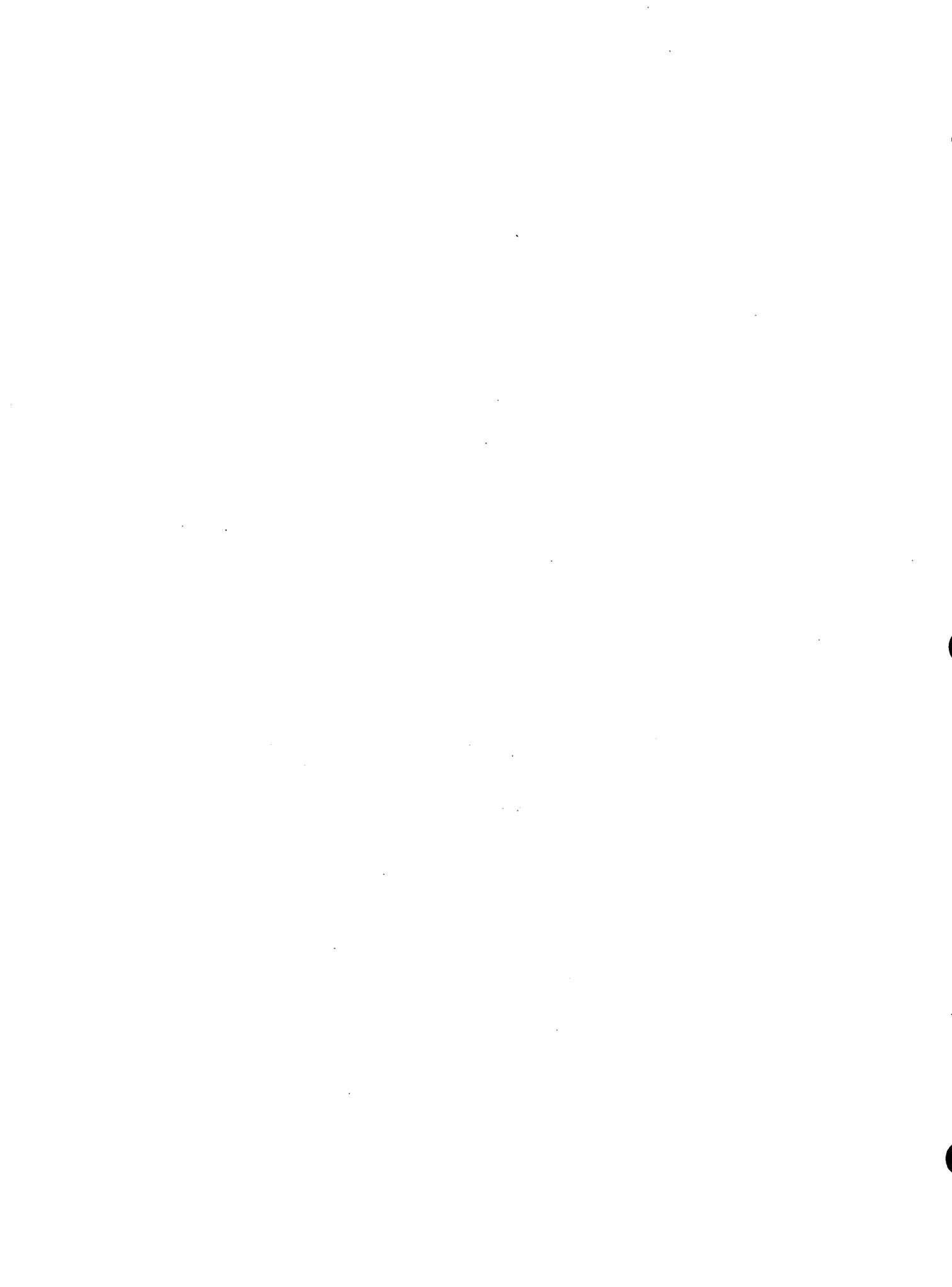
Factor	Nuclear		G 1		G 2		G 3		G 4		G 5	
	1st	2nd	1st	2nd	1st	2nd	1st	2nd	1st	2nd	1st	2nd
Varietal mixture	0.00	((0.00))	0.00	((0.00 0.02))	0.01	((0.25))	0.25	((0.25))	0.25	((0.25))	0.25	((0.25))
Mosaic	0.00	((0.00))	0.10	((0.10 0.20))	0.20	((0.50))	0.50	((1.00))	1.00	((2.00 1.00))	<u>2.00</u>	
Leafroll	0.00	((0.00))	0.05	((0.05 0.10))	0.10	((0.25))	0.25	((0.25))	0.25	((0.40))	0.25	((0.40))
Total visible virus	0.00	((0.00))	0.10	((0.00 0.50))	<u>0.30</u>	((0.75))	0.75	((1.25))	1.25	((2.40 1.25))	<u>2.25</u>	
Phytoplasmas	0.00	((0.00))	0.00	((0.00 0.10))	0.10	((0.20))	0.20	((0.50))	0.50	((1.00))	1.00	
Black leg	0.00	((0.00))	0.10	((0.10 0.50))	0.50	((1.00))	1.00	((2.00))	2.00	((4.00 2.00))	*	
Ring rot	0.00	((0.00))	0.00	((0.00 0.00))	0.00	((0.00))	0.00	((0.00))	0.00	((0.00))	0.00	
Nematode	0.00	((0.00))	0.00	((0.00 0.00))	0.00	((0.00))	0.00	((0.00))	0.00	((0.00))	0.00	
Spindle tuber viroid and other quarantined pests	0.00	((0.00))	0.00	((0.00 0.00))	0.00	((0.00))	0.00	((0.00))	0.00	((0.00))	0.00	

*Tolerance for black leg does not apply to G5.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-324-720 Laboratory testing—Fees.
- WAC 16-324-730 ELISA testing for the presence of bacteria—Fees.
- WAC 16-324-740 Entry level primary test—Fees.
- WAC 16-324-750 Tests for bacterial ring rot—Fees.



WSR 04-07-009
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-39—Filed March 4, 2004, 2:18 p.m., effective May 1, 2004]

Date of Adoption: February 6, 2004.

Purpose: Adopt sport fishing rule proposals.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-56-370; and amending see Changes
 Other Than Editing below.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 03-21-174 on October
 22, 2003, and WSR 04-01-035 on December 9, 2003.

Changes Other than Editing from Proposed to Adopted
 Version: WAC 220-12-020, 220-16-270, 220-56-550 [220-
 16-550], 220-16-800, 220-16-810, 220-56-100, 220-56-150,
 220-56-215, 232-12-019, and 232-12-168, no changes.

WAC 220-56-115

(1)(a) after "more than 2" delete "single barbless"

(1)(b) after "two" delete "single"

WAC 220-56-118

(4) delete "Grays Harbor, Willapa Bay, and in the
 Columbia River downstream from a line between Rocky
 Point and Tongue Point,".

WAC 220-56-232 do not adopt.

WAC 220-56-235

Prefatory section - restore "Unless otherwise provided
 bottomfish fishing is open the entire year."

(1)(b) after "10 fish" delete remainder of sentence; after
 "Release all" insert "canary and."

(2)(a) opposite "Rockfish" after "1 fish" insert "May 1
 through September 30"; restore "in Marine Area 5 west of
 Slip Point" and opposite this restore "3 fish of which no more
 than 1 may be other than black rockfish"; delete "0 fish."

(2)(b) opposite "Rockfish" restore "1"; delete "0" and
 after "fish" insert "May 1 through September 30."

(2)(c) opposite "Rockfish" restore "1"; delete "0" and
 under "Rockfish" insert "in Area 9 May 1 through September
 30 and in Areas 8-1, 8-2, 10, 11, and 13 when lingcod or
 salmon seasons are open. Rockfish closed in Area 12."

(2)(h) delete subsection.

(2)(i) renumber as (h); after "retain" insert "canary or";
 after "Areas" change "1" to "5."

(2)(j) renumber as (i) and after "spear fishing" insert "in
 Catch Record Card Areas 5 through 13."

(2)(j) number new subsection, which reads, "In Catch
 Record Card Areas 5 through 13, the daily limit for rockfish
 is the first legal rockfish caught, except in Area 5 west of Slip
 Point the daily limit for rockfish is the first three legal rock-
 fish caught, provided that no more than one of the three may
 be other than black rockfish. After the daily limit of rockfish
 is caught, all subsequent rockfish must be released."

WAC 220-56-250

(1)(a) after "3" insert "the Saturday closest to"; after
 "through" insert "the Sunday closest to."

(1)(b) after "4" insert "west of the Bonilla-Tatoosh line"
 after "15" insert "or the Sunday closest to October 15 if that
 Sunday is previous to October 15, whichever is earlier, (c)
 Catch Record Card Area 4 east of the Bonilla Tatoosh line -
 April 16 through October 15."

(2) restore original language and delete new text.

WAC 220-56-282

(1) change "and" to ", but"; after "freshwater" insert
 "only."

(4) change "ten" to "five."

WAC 220-56-310

(18)(b) delete "or" and insert "upstream of a line from
 the outermost end of the north jetty to the exposed end of the
 south jetty, or."

WAC 220-56-315

(10) delete "all state waters" and insert "Catch Record
 Card Areas 1 - 13"; delete new language after "sunrise."

WAC 220-56-325

(1)(a) restore "7:00"; change "1:00" to "3:00."

(1)(b) restore "7:00"; change "1:00" to "3:00."

(1)(d) restore "and Marine Area 10"; restore "7:00";
 change "1:00" to "3:00."

WAC 220-56-330

(1)(a) delete ", 6."

(1)(d) at beginning insert "Waters of Marine Area 6
 and."

(1)(e) change "Area" to "Areas"; after "8-1" insert "and
 8-2"; change "June 1" to "first Friday in June."

(1)(f) delete subsection.

WAC 220-56-335

(2)(c) after "River" insert "upstream of a line from the
 outermost end of the north jetty to the exposed end of the
 south jetty,".

WAC 220-56-350

in title delete "cockles, borers,".

in prefatory section delete ", cockles, borers."

(1)(b) change "April 15" to "June 30."

(1)(e) delete subsection and renumber.

(1)(g) (Dosewallips) change "May 31" to "July 15."

(1)(j) (Eagle Creek) change "June" to "May"; change
 "July 15" to "May 31."

(1)(k) (Fort Flagler) change "1" to "15"; change "May"
 to "June."

(1)(l) (Freeland) change "June 30" to "March 31."

(1)(q) (Hope Island) change "April 30" to "May 31."

(1)(r) (Illahee) change "Closed the entire year" to "May
 1 through May 31."

(1)(aa) (Oak Bay) change "June" to "July" throughout.

(1)(gg) (Point Whitney) change "April" to "March"
 throughout; change "30" to "31."

(1)(hh) (Point Whitney Lagoon) change "May 1" to
 "April 1"; change "15" to "31."

(1)(ii) (Port Townsend) change "April 30" to "May 31."

(1)(jj) (Potlatch DNR) change "Closed the entire year" to
 "April 1 through June 15."

(1)(kk) (Potlatch East) change "Closed the entire year" to
 "April 1 through June 15."

(1)(ll) (Potlatch State Park) change "Closed the entire
 year" to "April 1 through June 15."

(1)(uu) (South Indian Island) change "Closed the entire
 year" to "April 1 through June 30."

(1)(zz) (West Dewatto) change "is open January 1
 through May 31" to "closed the entire year."

WAC 220-56-380

(7) change "April 30" to "May 31."

PERMANENT

(9) change "Open May 15 through July 15" to "Closed the entire year."

(16) insert "Port Townsend Ship Canal/Portage Canal: Open January 1 through May 31" and renumber.

(17) (Potlatch DNR) change "Closed the entire year" to "April 1 through June 15."

(21) change "16" to "15"; change "July" to "June."

(24) change "Closed the entire year" to "April 1 through June 30."

WAC 232-12-619

(3) after "31st" delete text to end of sentence.

(6) delete "In waters requiring wild steelhead release."

(13) restore "Five - to be considered part of the trout daily catch"; delete "No"; add "Counts as a bonus limit in rivers, streams, and beaver ponds. Total of five fish, including brook trout, in these waters."

(13)(b) at beginning insert "There is a moratorium on"; delete "release is required year-round except as provided in exceptions to statewide rules" and insert "retention from April 1, 2004 through March 31, 2006."

(14) delete subsection and renumber.

WAC 232-28-619

Alkali Lake - restore original language and delete new text.

Benson Lake - delete new text.

Black Lake (Thurston County) - insert new section to read "Crappie: Daily limit ten, minimum length nine inches."

Black River - delete new text.

Bogachiel River - restore "April 30" throughout; delete "December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained."

Calawah River - restore "April 30" throughout; delete "December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained."

Cedar River - after "season." insert "Night closure."

Chimacum Creek - delete "Selective gear rules." throughout.

Cle Elum River - after "season. Selective gear rules" insert ", except December 1 through March 31 bait and one single point barbed hook three-sixteenths or smaller point to shank may be used."

Columbia River -

At end of paragraph beginning "From a true north-south line" delete new text.

At end of paragraph beginning "From the Rocky Point" insert "Sturgeon: (1) Release sturgeon May 1 through May 14 and July 24 through December 31 downstream from the Wauna powerlines. Minimum size when open to retain sturgeon is 45 inches; (2) I-5 Bridge downstream to Wauna powerlines, lawful to retain sturgeon only on Thursdays, Fridays, and Saturdays from February 1 through July 31, and October 1 through December 31. Release sturgeon on other days and during other time periods."

In paragraph beginning "From the I-5 Bridge" after "six hundred feet below the fish ladder" insert ", and closed to fishing from a floating device or fishing by any method except hand-casted gear from shore from Bonneville Dam downstream to a line from the Hamilton Island boat ramp to an Oregon boundary marker on Robins Island"; in "Sturgeon" in (1) after "Island" insert "(the Cascade Island - Bradford

Island line)" and in (2) after sturgeon delete "except with hand-casted lines" through "Beacon Rock" at the end of (3) and insert "from May 1 through July 31 from Cascade Island - Bradford Island line downstream to a line from Navigation Marker 85 on the Washington shore at a right angle to the thread of the river to the Oregon shore. (3) Cascade Island - Bradford Island line downstream to I-5 Bridge, lawful to retain sturgeon only on Thursdays, Fridays, and Saturdays from February 1 through July 31 and October 1 through December 31, except for May 1 - July 31 closure to Navigation Marker 85. Release sturgeon on other days and during other time periods."

In paragraph beginning "From Vernita Bridge" delete "June 1 through March 31 season."

Cowlitz River - after "Mayfield Dam" insert "Closed waters: Barrier Dam to boundary marker at Cowlitz salmon hatchery water intake approximately 1,700 feet upstream from dam."; end of first paragraph add "Sturgeon: Lawful to retain sturgeon on Thursdays, Fridays, and Saturdays, February 1 through July 31 and October 1 through December 31. Release sturgeon on other days and during other time periods."

Deep River - at end add "Sturgeon: Release sturgeon May 1 through May 14 and July 24 through December 31. Minimum size when open is 45 inches."

Dickey River - restore April 30 throughout; after "inches." delete "December 1 through April 30, one wild steelhead per day may be retained."

Dungeness River - delete "hatchery intake pipe at river mile 11.3: October 16 through March 15 season. From hatchery intake pipe to"; delete "during all open seasons."

Goodman Creek - delete "December 1 through last day in February one wild steelhead per day may be retained."

Goose Lake (Skamania County) - do not adopt.

Green River (King County) - delete "One wild steelhead may be retained July 1 through (various dates)" in first, second, third, and fourth paragraphs.

Hoh River - after "inches" delete "and one wild steelhead per day may be retained."

Hoko River - after "inches." delete "One wild steelhead per day may be retained December 1 through March 31."

Hoquiam River - after "all fish" insert "except up to two hatchery steelhead may be retained per day."

Horseshoe Lake (Skamania County) - do not adopt.

Klickitat River - restore original language and delete new text.

Lewis River - at end add "Sturgeon: Lawful to retain sturgeon on Thursdays, Fridays, and Saturdays from February 1 through July 31, and October 1 through December 31. Release sturgeon on other days and during other time periods."

Lewis River, North Fork - after "October 31" delete "upstream" and move "November 30" after deleted "upstream"; after "Johnson Creek" delete "to Colvin Creek."

Mayfield Lake - after "Dam:" insert "Closed waters: Tacoma Power safety signs at Onion Rock Bridge to Mossy-rock Dam."

Mosquito Lake - do not adopt.

Ollalie Lake - do not adopt.

Pysht River - delete "One wild steelhead per day may be retained December 1 through last day in February."

Quillayute River - restore "May 1"; delete "December 1 through April 30, one wild steelhead per day may be retained."

Quinault River - delete "One wild steelhead per day may be retained December 1 through"; after second "March 31" delete new text "April 15."

Riffe Lake - after "Falls Dam." insert "Closed waters: Lewis County PUD safety signs approximately 800 feet below Cowlitz Falls Dam to Dam."

Rock Creek - after "County:" insert "Mouth to falls:"; after "day." add "Above falls, additional November 1 through March 15 season."

Samish River - restore original language and delete new text.

Satsop River - after "fourteen inches." delete new text in first and second paragraphs.

Sol Duc River - restore "May 1"; restore "April 30" throughout; after "inches" delete "December 1 through April 30, from mouth to the concrete pump station at the Sol Duc Hatchery, one wild steelhead per day may be retained."

Tahkalah Lake - do not adopt.

Wishkah River - after "all fish" insert "except up to two hatchery steelhead may be retained per day."

Wynoochee River - after "inches." delete new text in first paragraph.

Yakima River - in last paragraph restore original language except delete "for whitefish."

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 22, 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: May 1, 2004.

March 2, 2004

Will Roehl, Chair

Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 03-24, filed 2/14/03, effective 5/1/03)

WAC 220-12-020 Shellfish—Classification. The following species are classified as shellfish under RCW 75.08.080 and are subject to the provisions of this title:

Abalone

(Red abalone
Pinto abalone

Haliotis refeseens)
Haliotis kamtschatkana

Mussel

Blue mussel (*Mytilus edulis*) *Mytilus trossulus*
California mussel (*Mytilis*) *Mytilus californianus*
Mediterranean mussel *Mytilus galloprovincialis*

Scallops

Pacific pink scallop *Chlamys rubida*
Rock scallop *Crassadoma gigantea*
Spiny scallop *Chlamys hastata*
Weathervane scallop *Patinopecten caurinus*

Clams

(~~Bent nose clam~~) *Macoma seeta*)
All (~~other~~) macoma clams *Macoma spp.*
Butter clam *Saxidomus giganteus*
Common cockle *Clinocardium* (~~(*nuttalli*)~~) *nuttalli*
Geoduck (*Panope*) *Panopea abrupta*
Horse or Gaper clam *Tresus* (~~(*nuttalli*)~~) *nuttallii*,
Tresus capax
Mud or soft shell clam *Mya arenaria*
Manila clam (~~(*Tapes*)~~) *Venerupis philippinarum*
Piddock *Zirfaea pilsbryi*
Razor clam *Siliqua patula*
Rock or native little neck clam *Protothaca staminea*
Varnish clam *Nuttallia obscurata*
All other (~~(*native*)~~) marine clams existing in Washington in a wild state

Oysters

(~~Eastern oyster~~) *Crassostrea virginica*
~~Olympia or native oyster~~ *Ostrea lurida*
~~Pacific oyster~~ *Crassostrea gigas*
~~Kumamoto oyster~~ *Crassostrea gigas* (~~kumamoto~~)
~~European oyster~~ *Ostrea edulis*)
All (~~other~~) oysters (Ostreidae)

Squid

(~~Pacific Coast squid~~) *Loligo opalescens*
~~Nail squid~~ *Onychoteuthis borealijaponica*
~~Flying squid~~ *Ommastrephes bartramai*)
All (~~other~~) squid (~~(*Sepioida* or *Teuthoiden*)~~)
Sepiolida or *Teuthida*

Octopus

Octopus (*Oetopus dofzeni*) *Enteroctopus dofleini*

Barnacles

Goose barnacle *Pollicipes polymerus*

PERMANENT

Shrimp

Coonstripe shrimp	<i>Pandalus danae</i>
Coonstripe shrimp	<i>Pandalus hypsinotus</i>
Ghost or sand shrimp	((<i>Callinassa</i>)) <i>Neotrypaea</i> spp.
Humpy shrimp	<i>Pandalus goniurus</i>
Mud shrimp	<i>Upogebia pugettensis</i>
Ocean pink shrimp	<i>Pandalus jordani</i>
Pink shrimp	<i>Pandalus</i> (((<i>borealis</i>))) <i>eous</i>
Sidestripe shrimp	<i>Pandalopsis dispar</i>
Spot shrimp	<i>Pandalus platyceros</i>

Crab

Dungeness or Pacific crab	<i>Cancer magister</i>
Red rock crab	<i>Cancer productus</i>
Tanner crab	<i>Chionoecetes tanneri</i>
King and box crab	<i>Lopholithodes</i> spp.

Crawfish

Crawfish	<i>Pacifastacus</i> sp.
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Sea cucumber

Sea cucumber	<i>Parastichopus californicus</i>
((Sea cucumber	<i>Cucumaria miniata</i>))

Sea urchin

Green urchin	<i>Strongylocentrotus droebachiensis</i>
Red urchin	<i>Strongylocentrotus franciscanus</i>
Purple urchin	<i>Strongylocentrotus purpuratus</i>

AMENDATORY SECTION (Amending Order 03-180, filed 8/6/03, effective 9/6/03)

WAC 220-16-270 Puget Sound Shrimp Districts. The following areas shall be defined as Puget Sound Shrimp Districts:

- (1) Discovery Bay Shrimp District - All waters south of a line from McCurdy Point on the Quimper Peninsula to the northern tip of Protection Island, then to Rocky Point on the Miller Peninsula, and including all waters of Discovery Bay.
- (2) Port Angeles Shrimp District - All waters of Port Angeles Harbor west of a line from the eastern tip of Ediz Hook to the ITT-Rayonier dock.
- (3) Sequim Bay Shrimp District - All waters of Sequim Bay south of a line projected west from Travis Spit on the Miller Peninsula.
- (4) Hood Canal Shrimp District - All waters of Hood Canal south of the Hood Canal Floating Bridge.
- (5) Carr Inlet Shrimp District - All waters of Carr Inlet north of a line from Penrose Point to Green Point.
- (6) Port Townsend Shrimp District - All waters of Port Townsend Bay south and west of a line from Marrowstone Point to Point Hudson, and north of the Port Townsend ship canal including Kilisut Harbor.

AMENDATORY SECTION (Amending Order 99-102, filed 7/20/99, effective 8/20/99)

WAC 220-16-550 Octopus Hole Conservation Area. "Octopus Hole Conservation Area" is defined as those waters, tidelands, and bedlands of Hood Canal within a line projected due east from the western shore of Hood Canal on latitude 47°27'01"N for 200 yards, thence southerly 628 yards parallel to the high water mark to latitude 47°26'40", thence due west to shore(~~((, but excluding those tidelands, bedlands and waters within 100 feet of the high water mark))~~).

NEW SECTION

WAC 220-16-800 Hardshell clam. "Hardshell clam" means all clams classified as shellfish under WAC 220-12-020 except geoduck clams, horse clams, and mud or softshell clams.

NEW SECTION

WAC 220-16-810 In a wild state. "In a wild state," when used to describe a population of animals, means the population is naturally reproducing within the state.

AMENDATORY SECTION (Amending Order 03-211, filed 8/20/03, effective 9/20/03)

WAC 220-56-100 Definitions—Personal-use fishing. The following definitions apply to personal use fishing in Titles 220 and 232 WAC:

- (1) "Bait" means any substance which attracts fish by scent or flavors. Bait includes any lure which uses scent or flavoring to attract fish.
- (2) "Barbless hook" means a hook on which all barbs have been deleted when manufactured or filed off or pinched down.
- (3) "Bow and arrow fishing" means any method of taking, or attempting to take, 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.
- (4) "Buoy 10 line" means a true north-south line projected through Buoy 10 at the mouth of the Columbia River. "Buoy 10 fishery" means a fishery between a line in the Columbia River from Tongue Point in Oregon to Rocky Point in Washington and the Buoy 10 line.
- (5) "Channel Marker 13 line" means a true north-south line through Grays Harbor Channel Marker 13.
- (6) "Daily limit" means the maximum number or pounds of fish, shellfish, or seaweed of the required size of a given species or aggregate of species which a person may retain in a single day.
- (7) "Fresh" means fish or shellfish that are refrigerated, iced, salted, or surface glazed.
- (8) "Freshwater area" means:
 - (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.

PERMANENT

(9) "Frozen" means fish or shellfish that are hard frozen throughout.

(10) "Gaffing" means an effort to take fish by impaling the fish with a hook attached directly to a pole or other device.

(11) "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.

(12) "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.

(13) "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 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 bottom fish, "angling" and "jigging" shall be identical in meaning.

(14) "In the field or in transit" means at 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 motor home or camper parked at a campsite or a vessel are not considered to be an ordinary residence.

(15) "Juvenile" means a person under fifteen year of age.

(16) "Lure" means a manufactured article constructed of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber or plastic which does not use scent or flavoring to attract fish. "Nonbuoyant lure" means a lure complete with hooks, swivels or other attachments, which does not float in freshwater.

(17) "Night closure" means closed to fishing from one hour after official sunset to one hour before official sunrise.

(18) "Nonbuoyant lure restriction" means nonbuoyant lures may have only one single hook measuring not more than 3/4 inch point to shank, no weights may be attached below or less than twelve inches above a buoyant lure, and all hooks must be attached to or no more than three inches below a buoyant lure or within three inches of ((the)) bait or a non-buoyant lure. No hook may be attached to the line above a buoyant lure.

(19) "Possession limit" means the number of daily limits allowed to be retained in the field or in transit.

(20) "Processed" means fish or shellfish which have been processed by heat for human consumption as kippered, smoked, boiled, or canned.

(21) "Seasonal wild steelhead limit" means the maximum number of wild steelhead trout any one angler may retain from April 1st through the following March 31st.

(22) "Selective gear rules" means terminal fishing gear is limited to artificial flies with barbless single hooks or lures with barbless single hooks, bait is prohibited, and fishing from a floating device equipped with a motor is prohibited unless otherwise provided. Up to three hooks may be used. In waters under selective gear rules, fish may be released until the daily limit is retained.

(23) "Slough" means any swamp, marsh, bog, pond, side-channel, or backwater connected to a river by water. Waters called sloughs that are not connected to a river are considered lakes.

(24) "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.

(25) "Spearing" or "spear fishing" means an effort to take fish or shellfish by impaling the fish or shellfish on a shaft, arrow or other device.

(26) "Stationary gear restriction" means the line and weight and lure or bait must be moving while in the water. The line and weight and lure or bait may not be stationary.

(27) "Whitefish gear rules" means terminal fishing gear is restricted to one single hook, maximum hook size three-sixteenths inch point to shank (hook size 14), and bait is allowed. All species: Release all fish except whitefish.

(28) "Wild" when used to describe the difference between a hatchery fish and a nonhatchery fish means a fish with all fins intact.

AMENDATORY SECTION (Amending Order 02-53A, filed 4/3/02, effective 5/4/02)

WAC 220-56-115 Angling—Lawful and unlawful acts. (1) It is unlawful for any person to use more than one line with three hooks while angling for personal use except:

(a) It is unlawful to use more than 2 hooks while fishing in Marine Areas 1-4, except for forage fish jigger gear.

(b) It is unlawful to use more than two barbless hooks while fishing in Marine Areas 5-13, except for forage fish jigger gear.

(c) It is lawful to use forage fish jigger gear as provided for in WAC 220-56-265 in Marine Areas 1-13 and the Columbia River downstream from a line between Rocky Point and Tongue Point, and squid jig gear as provided for in WAC 220-56-390 in Marine Areas 1-13.

(d) A second line using forage fish jigger gear is lawful while fishing in Catch Record Card Areas 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, and 13.

(2) It shall be unlawful for any person to take, fish for or possess fish taken for personal use by any means other than angling with a line attached to a pole held in hand while landing the fish or with a hand-operated line without rod or reel except as follows:

(a) It is lawful to leave the pole in a pole holder while playing or landing the fish if the pole is capable of being readily removed from the pole holder.

(b) It is lawful to use an electric power-operated reel designed for sport fishing attached to a pole.

(c) It is lawful to fish for or possess salmon taken for personal use with hand lines (lines not attached to a handheld pole) except use of hand lines is unlawful in those waters west of the mouth of the Sekiu River, the Pacific Ocean, Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10, Grays Harbor, and Willapa Bay.

(3) It shall be unlawful for any person while angling to fail to keep his angling gear under his direct and immediate physical control.

(4) In areas where a saltwater license is valid, each fisher aboard a vessel may continue to deploy angling gear or shellfish gear until the daily limit of food fish or shellfish for all licensed and juvenile anglers aboard has been retained.

NEW SECTION

WAC 220-56-118 Fish handling rules—Removal from water. In order to protect fish that are required to be released:

- (1) It is unlawful to totally or partially remove oversize sturgeon from the water.
- (2) It is unlawful to totally or partially remove six-gill shark from the water.
- (3) In all freshwater areas, except the Columbia River downstream from a line between Rocky Point and Tongue Point, it is unlawful to totally remove salmon or steelhead from the water if it is unlawful to retain those salmon or steelhead.
- (4) In Marine Areas 5 through 13, it is unlawful to bring wild salmon or a species of salmon aboard a vessel if it is unlawful to retain that salmon. For purposes of this subsection, "aboard" means inside the gunnel of a vessel.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-56-150 Unlawful to take another's limit. It is unlawful for any person to catch, dig or possess (~~food~~) fish or shellfish for another person except (~~razor clams~~) designated harvesters as provided in WAC (~~220-56-370~~) 220-55-065.

AMENDATORY SECTION (Amending Order 03-178, filed 8/6/03, effective 9/6/03)

WAC 220-56-235 Possession limits—Bottomfish. It is unlawful for any person to take in any day more than the following quantities of bottomfish for personal use. The possession limit at any time shall not exceed the equivalent of two daily limits in fresh, frozen or processed form. Unless otherwise provided bottomfish fishing is open the entire year.

- (1) Coastal (Catch Record Card Areas 1 through 4) - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:
 - (a) Lingcod - 2 fish minimum length 24 inches.
 - (b) Rockfish (~~of which no more than 1 may be a canary rockfish~~). Release all canary and yelloweye rockfish.
 - (c) Surfperch (excluding shiner perch) - 15 fish.
 - (d) Wolf-eel - 0 fish from Catch Record Card Area 4.
 - (e) Cabezon - 2 fish east of the Bonilla-Tatoosh line.
- (2) Inner Puget Sound (Catch Record Card Areas 5 through 13):

(a) Catch Record Card Areas 5 and 6 - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

Rockfish((except canary and yelloweye rockfish)) except ((May 1 through September 30)) in Marine Area 5 west of Slip Point	1 fish <u>May 1 through September 30</u>
	3 fish of which no more than 1 may be other than black rockfish((and release canary and yelloweye rockfish)))
Surfperch	10 fish
Pacific cod	2 fish
Pollock	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish
Pacific hake	2 fish

(b) Catch Record Card Area 7 - 15 fish in the aggregate of all species of bottomfish, which may include no more than:

Rockfish((except canary and yelloweye rockfish)))	1 fish <u>May 1 through September 30</u>
Surfperch	10 fish
Pacific cod	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish
Pollock	2 fish
Pacific hake	2 fish

(c) Catch Record Card Areas 8-1 through 13 - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

Rockfish((except canary and yelloweye rockfish)) in <u>Area 9 May 1 through September 30 and in Areas 8-1, 8-2, 10, 11 and 13 when lingcod or salmon seasons are open. Rockfish closed in Area 12</u>	1 fish
Surfperch	10 fish
Pacific cod	0 fish
Pollock	0 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish
Pacific hake	0 fish

PERMANENT

(d) It is unlawful to possess lingcod taken by angling less than 26 inches in length or greater than 40 inches in length.

(e) The daily limit taken by spear fishing may include no more than one lingcod. There is no size restriction on the one lingcod allowed in the daily limit if taken by spear fishing.

(f) It is unlawful to retain cabezon taken from Catch Record Card Areas 5 through 13 from December 1 through April 30.

(g) It is unlawful to retain six-gill shark taken from Catch Record Card Areas 5 through 13.

~~(h) ((It is unlawful to retain canary rockfish taken from Catch Record Card Areas 5 through 13.~~

~~(i)) It is unlawful to retain canary or yelloweye rockfish taken from Catch Record Card Areas ((4)) 5 through 13.~~

~~(i) It is unlawful to take rockfish by spear fishing in Catch Record Card Areas 5 through 13.~~

~~(j) In Catch Record Areas 5 through 13, the daily limit for rockfish is the first legal rockfish caught, except in Area 5 west of Slip Point the daily limit for rockfish is the first three legal rockfish caught, provided that no more than one of the three may be other than black rockfish. After the daily limit of rockfish is caught, all subsequent rockfish must be released.~~

AMENDATORY SECTION (Amending Order 03-209, filed 8/20/03, effective 9/20/03)

WAC 220-56-282 Sturgeon—Areas, seasons, limits and unlawful acts. (1) It is lawful to fish for sturgeon the entire year in saltwater ~~((and)), but~~ open in freshwater only concurrent with a salmon or gamefish opening unless otherwise provided~~((, except:~~

~~(a) It is unlawful to fish for sturgeon from a floating device May 1 through July 15 downstream from the boating deadline below Bonneville Dam to markers on the Oregon and Washington shores of the Columbia River at Beacon Rock;~~

~~(b) It is unlawful to fish for sturgeon inside the south navigation lock at Bonneville Dam from a marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore;~~

~~(c) It is unlawful to fish for sturgeon in those waters of the Columbia River between the upstream line of Bonneville Dam and the lowermost Bonneville power line crossing, except when fishing with hand-casted hook and line gear from the mainland shore downstream of a line from a fishing boundary on the Washington shore approximately three-quarters of a mile below the dam to the downstream end of Cascade Island, thence to the Oregon fishing boundary marker on Bradford Island, located approximately 850 feet downstream from the fish ladder entrance; and~~

~~(d) It is unlawful to retain sturgeon taken downstream from the Wauna power lines at River Mile 40 during the period July 10 through September 30).~~

(2) The daily limit is one sturgeon, with the following size restrictions:

(a) Minimum size 48 inches in length in the Columbia River and tributaries upstream from The Dalles Dam.

(b) Minimum size 42 inches in length in all other state waters.

(c) Maximum size 60 inches in length.

Once the daily limit has been retained, it is lawful to continue to fish for sturgeon in the mainstem of the Columbia River downstream from where the river forms the boundary between Oregon and Washington, provided that all subsequent sturgeon are released immediately.

(3) The possession limit is two daily limits of fresh, frozen or processed sturgeon.

(4) There is an annual personal-use limit of ~~((ten))~~ five sturgeon from April 1 through March 31, regardless of where the sturgeon were taken. After the annual limit of sturgeon has been taken, it is lawful to continue to fish for sturgeon in the mainstem Columbia River downstream from where the river forms the common boundary between Oregon and Washington, provided that all subsequent sturgeon are released immediately.

(5) It is unlawful to fish for sturgeon with terminal gear other than bait and single barbless hooks. It is lawful to use artificial scent with bait when fishing for sturgeon.

(6) It is unlawful to fish for or possess sturgeon taken for personal use from freshwater, except the Chehalis River, from one hour after official sunset to one hour before official sunrise.

(7) It is unlawful to possess in the field sturgeon eggs without having retained the intact carcass of the fish from which the eggs have been removed.

(8) It is unlawful to use a gaff or other fish landing aid that penetrates the fish while restraining, handling or landing a sturgeon.

(9) It is unlawful to fail to immediately return to the water any undersize sturgeon.

~~((10) It is unlawful to totally or partially remove over-size sturgeon from the water.))~~

AMENDATORY SECTION (Amending Order 02-53, filed 3/29/02, effective 5/1/02)

WAC 220-56-310 Shellfish—Daily limits. It is unlawful for any one person to take in any one day for personal use more than the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, other than razor clams, geoduck clams and horse clams, 40 clams in the aggregate, or 10 pounds, whichever is achieved first except:

(a) In Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance - diggers may additionally retain up to 20 pounds of eastern softshell clams in the shell.

(b) Willapa Bay - diggers may additionally retain up to twenty-four cockles.

(2) Razor clams: 15 clams.

(3) Geoduck clams: 3 clams.

(4) Horse clams: 7 clams.

(5) Oysters: 18 oysters, shucked and the shells left on the beach. Minimum size before shucking two and one-half inches along the longest dimension of the shell.

(6) Rock scallops: 12 scallops.

(7) 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 (~~Puget Sound~~) waters - total weight 10 pounds(~~(7)~~) and fishers must retain the heads of all shrimp taken while in the field except in the Hood Canal and Port Angeles Shrimp Districts. Spot shrimp: Maximum 80 shrimp as part of the 10 pound limit. Spot shrimp minimum size one and three-sixteenths inch from the base of the eyestalk to the top rear edge of the carapace except in the Hood Canal and Port Angeles Shrimp Districts.

(b) (~~In the Discovery Bay Shrimp District - Spot shrimp: Maximum 50 shrimp as part of the 10 pound limit.~~)

(~~e~~) In the Port Angeles Shrimp District - Spot shrimp: No minimum size.

(~~(c)~~) (c) In the Hood Canal Shrimp District - 80 shrimp regardless of weight. No minimum size for spot shrimp. Fishers are not required to retain the heads of shrimp.

(10) Octopus: 1 octopus.

(11) Pinto abalone: Closed statewide.

(12) Crawfish: 10 pounds in the shell. Minimum size 3 1/4 inches from tip of rostrum to tip of tail. Female crawfish with eggs or young attached to the abdomen must be released immediately.

(13) Squid: 10 pounds or 5 quarts.

(14) Sea cucumbers: 25 sea cucumbers.

(15) Red sea urchins: 18 sea urchins.

(16) Purple sea urchins: 18 sea urchins.

(17) Green sea urchins: 36 sea urchins.

(18) Dungeness crabs:

(a) In all waters except the Columbia River and when fishing from the north jetty of the Columbia River - 6 male crabs.

(b) In the Columbia River upstream of a line from the outermost end of the north jetty to the exposed end of the south jetty, or when fishing from the north jetty of the Columbia River - 12 male crabs.

(19) Red rock crabs: 6 crabs.

(20) 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 statewide.

AMENDATORY SECTION (Amending Order 02-224, filed 9/6/02, effective 10/7/02)

WAC 220-56-315 Crabs, shrimp, crawfish—Unlawful acts. (1) It is unlawful to take and possess crabs, shrimp, and crawfish taken for personal use except by hand or with hand dip nets, ring nets, shellfish pots, and any hand-operated instrument that will not penetrate the shell.

(2) It is unlawful to use more than two units of gear at any one time except:

(a) In Puget Sound waters other than Hood Canal Shrimp District it is unlawful to use at any one time more than two units of crab gear and two additional units of shrimp gear.

(b) In Hood Canal Shrimp District it is unlawful to use more than one shrimp pot and a total of two star traps or ring nets during the Hood Canal shrimp season.

(c) It is unlawful for the operator of any boat from which shrimp pots are set or pulled in Catch Record Card Areas 4

through 13 to have on board or to fish more than four shrimp pots.

(d) In the Columbia River it is unlawful to use more than three units of crab gear.

(3) It is unlawful for any person to operate a shellfish pot not attached to a buoy bearing that person's name, except that a second person may assist the pot owner in operation of the gear.

(4) It is unlawful to salvage or attempt to salvage shellfish pot gear from Hood Canal that has been lost without first obtaining a permit authorizing such activity issued by the director, and it is unlawful to fail to comply with all provisions of such permit.

(5) It is unlawful to fish for or possess crab taken for personal use from the waters of Fidalgo Bay within 25 yards of the Burlington Northern Railroad trestle connecting March Point and Anacortes.

(6) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Padilla Bay or Swinomish Slough within 25 yards of the Burlington Northern Railroad crossing the northern end of Swinomish Slough except from one hour before official sunrise to one hour after official sunset.

(7) It is unlawful to dig for or possess ghost or mud shrimp taken for personal use by any method except hand operated suction devices or dug by hand.

(8) One unit of gear is equivalent to one ring net or one shellfish pot.

(9) Each unit of gear must be attached to its own buoy line and have a separate buoy for each unit of gear.

(10) No fisher may set or pull shellfish pots (~~except crawfish pots~~), ring nets or star traps from a vessel in (~~all state waters~~) Catch Record Card Areas 1-13 from one hour after official sunset to one hour before official sunrise.

(11) It is unlawful to possess soft-shelled crab for any personal use purpose. Violation of this subsection shall be an infraction, punishable under RCW 77.15.160.

AMENDATORY SECTION (Amending Order 03-24, filed 2/14/03, effective 5/1/03)

WAC 220-56-325 Shrimp—Areas and seasons. (1) (~~The following areas shall be defined as shrimp fishing districts:~~

(a) ~~Discovery Bay Shrimp District—All waters south of a line from McCurdy Point on the Quimper Peninsula to the northern tip of Protection Island, to Rocky Point on the Miller Peninsula, and including all waters of Discovery Bay;~~

(b) ~~Port Angeles Shrimp District—All waters of Port Angeles Harbor west of a line from the eastern tip of Ediz Hook to the ITT Rayonier dock;~~

(c) ~~Sequim Bay Shrimp District—All waters of Sequim Bay south of a line projected west from Travis Spit on the Miller Peninsula;~~

(d) ~~Hood Canal Shrimp District—All waters of Hood Canal south of the Hood Canal Floating Bridge;~~

(e) ~~Carr Inlet Shrimp District—All waters of Carr Inlet north of a line from Penrose Point to Green Point;~~

~~(f) Port Townsend Shrimp District—All waters of Port Townsend Bay south and west of a line from Marrowstone Point to Point Wilson, including Kiliisut Harbor.~~

~~(2)) It shall be unlawful to fish for or possess shrimp taken for personal use from the following areas, except as otherwise provided in this section:~~

~~(a) Discovery Bay Shrimp District - Open 7:00 a.m. through 3:00 p.m., beginning the first Saturday in June and open only on days set by emergency rule;~~

~~(b) Port Angeles Shrimp District - Open 7:00 a.m. through 3:00 p.m., beginning the first Saturday in June ((through September 30)) and open only on days set by emergency rule;~~

~~(c) Hood Canal Shrimp District - Open 9:00 a.m. through 1:00 p.m., beginning on the third Saturday in May and open only on days set by emergency rule;~~

~~(d) Port Townsend Shrimp District and Marine Area 10 - Open 7:00 a.m. through 3:00 p.m., beginning the third Saturday in April and open only on days set by emergency rule;~~

~~(e) ((All other)) Marine Area(s) 4 east of the Bonilla-Tatoosh line and Marine Areas 5 through 13, except for Shrimp Districts - Open 7:00 a.m. the third Saturday in April through October 15 except:~~

~~(i) Closed in Sequim Bay Shrimp District and Carr Inlet Shrimp District.~~

~~(ii) Marine Areas 8-1, 8-2, and 9 closed Monday through Wednesday of each week during the open period;~~

~~(f) Marine Areas 1 through 3 and Marine Area 4 west of the Bonilla-Tatoosh line - Open year-round.~~

~~((3)) (2) During the general shrimp seasons described above, it is unlawful to retain spot shrimp except as provided below:~~

~~(a) Discovery Bay Shrimp District - Spot shrimp may be retained on Saturdays only.~~

~~(b) Port Angeles Shrimp District - Spot shrimp may be retained on Saturdays and Sundays only.~~

~~(c) Marine Areas 8-1, 8-2, and 9 - Spot shrimp may be retained only as set by emergency rule.~~

~~(d) All other areas - Spot shrimp may be retained each open day.~~

AMENDATORY SECTION (Amending Order 01-24, filed 3/5/01, effective 5/1/01)

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 is year-around.~~

~~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)) from Puget Sound except during the following seasons:~~

(a) Marine Areas 4 east of the Bonilla-Tatoosh line, 5, 9, 10, 11, 12 and 13 - Open 7:00 a.m., June 1 through the last day in February.

(b) Those waters of Marine Area 7 south of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island, and east of a line that extends from the Anacortes ferry dock at Shannon Point, northward to the southeastern tip of Sinclair Island, thence from the northernmost tip of Sinclair Island through Lummi Rocks to Lummi Island - Open 7:00 a.m. June 16 through March 15.

(c) Those waters of Marine Area 7 north and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island due west to the international boundary and north of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island - Open 7:00 a.m. August 16 through April 15.

(d) Waters of Marine Area 6 and those waters of Marine Area 7 south and west of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island due west to the international boundary; and westerly of a straight line from the northernmost tip of Sinclair Island through Lummi Rocks to Lummi Island; and west of a line projected from the southeast point of Sinclair Island to the ferry dock at Shannon Point - Open 7:00 a.m. June 16 through last day in February.

(e) Marine Areas 8-1 and 8-2 - Open 7:00 a.m., the first Friday in June through September 30.

(2) It is unlawful to fish for or possess crab taken for personal use with shellfish pot gear from Marine Areas 1, 2, 3, and Area 4 west of the Bonilla-Tatoosh line except during the period December 1 through September 15. Open to gear other than shellfish pot gear year-round.

(3) The Columbia River upstream from a line projected from the outermost end of the north jetty to the exposed end of the south jetty is open to crab fishing for personal use year-round.

AMENDATORY SECTION (Amending Order 02-53, filed 3/29/02, effective 5/1/02)

WAC 220-56-335 Crab—Unlawful acts. (1) It is unlawful for any person to take or possess for personal use any female Dungeness crabs.

(2) It is unlawful to take or possess any male Dungeness crabs taken for personal use which measure less than the following sizes:

(a) In Puget Sound (all contiguous waters east of the Bonilla-Tatoosh Line) - 6 1/4 inch minimum size.

(b) In coastal waters west of the Bonilla-Tatoosh Line, Pacific Ocean waters except when fishing from the north jetty of the Columbia River, Grays Harbor, Willapa Bay - 6 inch minimum size.

(c) In the Columbia River upstream of a line from the outermost end of the north jetty to the exposed end of the south jetty, and when fishing from the north jetty of the Columbia River - 5 3/4 inch minimum size.

(3) It is unlawful to take or possess any red rock crabs taken for personal use that measure less than five inches.

(4) All measurement shall be made at the widest part of the shell (caliper measurement) immediately in front of the points (tips).

(5) It is unlawful to possess in the field any crab or parts thereof without retaining the back shell.

AMENDATORY SECTION (Amending Order 03-24, filed 2/14/03, effective 5/1/03)

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) Ala Spit: Closed the entire year.

(b) Brown Point (DNR 57-B): Open January 1 through (~~April 15~~) June 30.

(c) Cama Beach State Park: Closed the entire year.

(d) Camano Island State Park: Closed the entire year.

(e) (~~Cline Spit: Closed the entire year.~~)

(~~f~~) Cutts Island State Park: Open January 1 through June 15.

(~~g~~) (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.

(~~h~~) (g) Dosewallips State Park: Open March 1 through (~~May 31~~) July 15 only in area defined by boundary markers and signs posted on the beach.

(~~i~~) (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 open March 1 through December 31.

(~~j~~) (i) Dungeness Spit and Dungeness National Wildlife Refuge Tidelands - Open May 15 through September 30.

(~~k~~) (j) Eagle Creek: Open (~~June~~) May 1 through (~~July 15~~) May 31.

(~~l~~) (k) Fort Flagler State Park including that portion of the spit west of the park boundary (Rat Island): Open April (~~1~~) 15 through (~~May~~) June 15.

(~~m~~) (l) Freeland County Park - Open January 1 through (~~June 30~~) March 31.

(~~n~~) (m) Frye Cove County Park - Open January 1 through May 31.

(~~o~~) (n) Garrison Bay: Tidelands at Guss Island and those tidelands at British camp between the National Park Service dinghy dock at the north end and the park boundary at the south end are closed the entire year.

(~~p~~) (o) Gertrude Island - All tidelands at Gertrude Island closed the entire year.

(~~q~~) (p) Hoodspout: Tidelands at Hoodspout Salmon Hatchery are closed the entire year.

(~~r~~) (q) Hope Island State Park (South Puget Sound): Open April 1 through (~~April 30~~) May 31.

(~~s~~) (r) Illahee State Park: (~~Closed the entire year.~~) May 1 through May 31.

(~~t~~) (s) Kayak Point County Park: Closed the entire year.

(~~u~~) (t) Kitsap Memorial State Park: Open May 15 through June (~~15~~) 30.

(~~v~~) (u) Kopachuck State Park: Open June 1 through July 31.

(~~w~~) (v) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of clams the entire year.

(~~x~~) (w) McNeil Island - All tidelands on McNeil Island are closed the entire year.

(~~y~~) (x) Mukilteo State Park - Closed the entire year.

(~~z~~) (y) Mystery Bay State Park: Open October 1 through April 30.

(~~aa~~) (z) North Bay - All state-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed to the harvest of clams the entire year except state-owned Tidelands on the east side of North Bay north of the power transmission lines and south of the power transmission lines for 1,600 feet.

(~~bb~~) (aa) Oak Bay County Park: Open (~~June~~) July 1 through (~~June~~) July 15.

(~~cc~~) (bb) Oyster Reserves: Puget Sound and Willapa Bay state oyster reserves are closed the entire year except as follows:

(i) Case Inlet: Tidelands on the east side of North Bay at the north end of the inlet open the entire year.

(ii) North Bay: State-owned oyster reserves on the east side of North Bay north of the power transmission lines which cross the bay at the north end of Case Inlet open the entire year.

(iii) Oakland Bay: Tidelands at the north end of Oakland Bay and on the channel of the northwest shore of the Bay-shore Peninsula between department markers open the entire year.

(iv) Willapa Bay - Long Island oyster reserve: North-west side of Long Island between reserve monuments 39 and 41 and southwest side of Long Island between reserve monuments 58 and 59.

(~~dd~~) (cc) Penrose Point State Park: Open April 1 through April 30.

(~~ee~~) (dd) Picnic Point County Park: Closed the entire year.

(~~ff~~) (ee) Pitship Point: Closed the entire year.

~~((gg))~~ (ff) Pitt Island - All tidelands on Pitt Island are closed the entire year.

~~((hh))~~ (gg) Point Whitney (excluding Point Whitney Lagoon): ~~((April))~~ March 1 through ((April 30)) March 31.

~~((ii))~~ (hh) Point Whitney Lagoon: Open ~~((May))~~ April 1 through May ((15)) 31.

~~((jj))~~ (ii) Port Townsend Ship Canal/Portage Canal: Open January 1 through ~~((April 30))~~ May 31.

~~((kk))~~ (jj) Potlatch DNR tidelands: ~~((Closed the entire year-))~~ April 1 through June 15.

~~((ll))~~ (kk) Potlatch East: ~~((Closed the entire year-))~~ April 1 through June 15.

~~((mm))~~ (ll) Potlatch State Park: ~~((Closed the entire year-))~~ April 1 through June 15.

~~((nn))~~ (mm) Purdy Spit County Park: The southern shore of the spit from the boat ramp to the bridge is closed the entire year.

~~((oo))~~ (nn) Quilcene Bay Tidelands - 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 state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open April 1 through December 31, daily from official sunrise to official sunset only.

~~((pp))~~ (oo) Rendsland Creek: Open January 1 through May 31.

~~((qq))~~ (pp) Saltwater State Park: Closed the entire year.

~~((rr))~~ (qq) Scenic Beach State Park - Open April ~~((16))~~ 15 through June ((15)) 30.

~~((ss))~~ (rr) Seahurst County Park: Closed the entire year.

~~((tt))~~ (ss) Sequim Bay State Park - Open May 1 through June 15.

~~((uu))~~ (tt) Shine Tidelands State Park: Open January 1 through May 15.

~~((vv))~~ (uu) South Indian Island County Park: ~~((Closed the entire year-))~~ April 1 through June 30.

~~((ww))~~ (vv) Spencer Spit State Park: Open March 1 through July 31.

~~((xx))~~ (ww) Triton Cove Tidelands: Open July 15 through September 15.

~~((yy))~~ (xx) Triton Cove State Park: Open April 1 through June 30.

~~((zz))~~ (yy) Twanoh State Park: Closed the entire year.

~~((aaa))~~ (zz) West Dewatto: DNR Beach 44A ~~((is open January 1 through May 31))~~ closed the entire year.

~~((bbb))~~ (aaa) Willapa Bay: State-owned tidelands east of the department Willapa Bay Field Station and Nahcotta Tidelands Interpretive Site are closed year-round.

~~((ccc))~~ (bbb) Wolfe Property State Park: Open January 1 through May 15.

(2) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for

personal use from the Pacific Ocean beaches from November 1 through March 31.

AMENDATORY SECTION (Amending Order 03-24, filed 2/14/03, effective 5/1/03)

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))~~ (1) Brown Point (DNR 57-B): Closed the entire year.

~~((b))~~ (2) 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))~~ (a) State-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires.

~~((ii))~~ (b) State-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north.

~~((iii))~~ (c) 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.

~~((e))~~ (3) Dosewallips State Park: Open March 1 through December 31 only in areas defined by boundary markers and signs posted on the beach.

~~((f))~~ (4) Duckabush - All state-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are open to the harvest of oysters March 1 through December 31.

~~((g))~~ (5) Frye Cove County Park: Open January 1 through May 31.

(6) Hoodspout: Tidelands at the Hoodspout Salmon Hatchery are closed the entire year.

~~((h))~~ (7) Hope Island State Park (South Puget Sound): Open April 1 through May 31.

(8) Illahee State Park: Open May 1 through June 30.

~~((i))~~ (9) Kitsap Memorial State Park: ~~((Open May 15 through July 15-))~~ Closed the entire year.

~~((j))~~ (10) Kopachuck State Park: Open March 1 through July 31.

~~((k))~~ (11) 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.

~~((l))~~ (12) Mystery Bay State Park: Open October 1 through April 30.

~~((m))~~ (13) 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 state-owned tidelands on the east side of North Bay north of the power transmission lines and south of the power transmission lines for 1,600 feet.

~~((n))~~ (14) Oyster Reserves: Puget Sound and Willapa Bay oyster reserves are closed the entire year except the following are open the entire year:

((+)) (a) Oakland Bay - Tidelands at the north end of Oakland Bay and on the channel of the northwest shore of the Bayshore Peninsula between department markers - open the entire year.

((+)) (b) North Bay - State-owned reserves on the east side of North Bay north of the power transmission lines.

((+)) (c) 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.

((+)) (15) Penrose Point State Park: Open April 1 through April 30.

((+)) (16) Port Townsend Ship Canal/Portage Canal: Open January 1 through May 31.

(17) Potlatch DNR Tidelands: April 1 through June 15.

(18) Potlatch East: Open April 1 through June 15.

((+)) (19) Potlatch State Park: Open April 1 through June 15.

((+)) (20) Quilcene Bay Tidelands - 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 state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open April 1 through December 31, daily from official sunrise to official sunset, only.

((+)) (21) Scenic Beach State Park: Open April 15 through June 30.

((+)) (22) Sequim Bay State Park: Open May 1 through June 15.

(23) Shine Tidelands State Park: Open January 1 through May 15.

(24) South Indian Island County Park: April 1 through June 30.

(25) Triton Cove State Park: Open April 1 through June 30.

((+)) (26) 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.

((+)) (27) Wolfe Property State Park: Open January 1 through May 15.

~~((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.)~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-370 Razor clams—Disability permits.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-215 Unlawful possession of snagged ~~(salmon)~~ fish taken in freshwater. It ~~(shall be)~~ is unlawful to possess ~~(salmon)~~ fish taken for personal use from freshwater areas that were not hooked inside the mouth or on the head, the head being defined as all parts of the fish anterior

rior of the rear margin of the gill plate, except this rule does not apply to forage fish taken with forage fish jigger gear.

AMENDATORY SECTION (Amending Order 03-24, filed 2/14/03, effective 5/1/03)

WAC 220-56-250 Lingcod—Areas and seasons. It is unlawful to take, fish for or possess lingcod for personal use except during the seasons and within the areas herein provided:

(1) Coastal area (a) Catch Record Card Areas 1 through 3 - the Saturday closest to March 16 through the Sunday closest to October 15, (b) Catch Record Card Area 4 west of the Bonilla-Tatoosh line - April 16 through October 15 or the Sunday closest to October 15 if that Sunday is previous to October 15, whichever is earlier, (c) Catch Record Card Area 4 east of the Bonilla-Tatoosh line - April 16 through October 15.

(2) Catch Record Card Areas 5 through 13 - May 1 through June 15 by angling and May 21 through June 15 by spear fishing.

AMENDATORY SECTION (Amending Order 02-53, filed 3/29/02, effective 5/1/02)

WAC 232-12-019 Classification of game fish. As provided in RCW 77.12.020 and in addition to those species identified in RCW 77.08.020 the following species of the class *Osteichthyes* are classified as game fish:

Scientific Name	Common Name
<i>Salvelinus confluentus</i>	Bull Trout
<i>Catostomus columbianus</i>	Bridgelip Sucker
<i>Catostomus macrocheilus</i>	Largescale Sucker
<i>Catostomus catostomus</i>	Longnose Sucker
<i>Catostomus platyrhynchus</i>	Mountain Sucker
<i>Ctenopharyngodon idella</i>	Grass Carp
<i>Esox lucius</i> and hybrids involving genus <i>Esox</i>	Northern Pike Tiger Muskellunge
<i>Meilocheilus caurinus</i>	Peamouth Chub
<i>Oncorhynchus tshawytscha</i> (in its landlocked form as defined in WAC 232-12-018)	Chinook salmon
<i>Oncorhynchus kisutch</i> (in its landlocked form as defined in WAC 232-12-018)	Coho salmon
<i>Pylodictus olivaris</i>	Flathead Catfish
<i>Ptychocheilus oregonensis</i>	Northern Pikeminnow
<i>Salmo trutta</i> and <i>Salvelinus</i> <i>fontinalis</i> hybrid	Tiger Trout

Northern pikeminnow lawfully taken may be offered for sale, sold, purchased or traded.

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AMENDATORY SECTION (Amending Order 02-53, filed 3/29/02, effective 5/1/02)

WAC 232-12-168 Fishing contests. (1) Contest defined: By definition, a fishing contest exists when 6 or more licensed persons fish competitively and determine winners, regardless of prize value.

(2) Application:

(a) Fishing contest permit applications should be submitted to the department by November 1 of each year for contests that are to take place the following calendar year. After November 1, applications must be submitted not less than 30 days prior to the date for which the contest is proposed.

(b) Applications must include the permit fee required by RCW 77.32.211. The fee will be returned if the permit is denied. No more than seven permits will be issued to any one permittee during a calendar year. The fee is \$24 per permit.

(c) For purposes of application for a fishing contest permit, "permittee" means a "person" as defined in RCW 77.08.010. All applications from a permittee must be in a single name.

(3) Approval:

(a) Fishing contests which adversely affect fish or wild-life resources or other recreational opportunity may be denied.

(b) Contests will not be allowed on sea-run cutthroat trout, Dolly Varden or bull trout.

(4) Prize value: Total prize value per contest will not exceed \$1,000 when trout, steelhead, char, whitefish, grayling, or kokanee are included as target species; provided that contests wherein other species not listed above are targeted, or where bass or walleye are the targeted species and at least 90 percent of bass or walleye are released alive and in good condition after the contest, may qualify for no limitation on amount of prize.

(5) Legal requirements, all contests:

(a) Fishing contest permits must be in the possession of the contest sponsor or official at the contest site.

(b) Contests are restricted to the species and waters approved on the permit. Only those species listed as a target of the contest may be retained by contest participants during bass or walleye contests where all contestants fish at the same time and place.

(c) Sponsors must report contest information requested by the department within 30 days after the contest has ended. Subsequent contest permits will not be issued for one year after the date of the contest for which the report was not returned if this requirement is not fulfilled.

(d) Contest participants may not restrict public access at boat launches.

(e) Contests for bass and walleye where ((aH)) participants expect to fish at the same time from boats on lakes or reservoirs will not last longer than three consecutive days and have the following limits per water:

ACRES	BOATS PER CONTEST	
	CONTESTS PER DAY	CONTEST DAY
Less than 300	1	15
301 - 3,000	1	35
3,001 - 6,000	2	50
6,001 - 10,000	2	100
More than 10,000	3	250

* No more than four weekend days per month nor more than two weekends per month may be scheduled on any water when contestants fish at the same time, and are allowed to fish from boats.

(f) It is unlawful for the fishing contest permittee or any of the contest participants to fail to comply with the conditions of the fishing contest permit, or of general fishing rules not specifically exempted by this permit. Failure of the permittee or any of the contestants to comply with all provisions of the contest permit or of other fishing regulations during a contest may lead to revocation of the permit and result in denial of fishing contest permits to the permittee and related organizations or individuals sponsoring contests for two years.

(6) Special regulations, bass and walleye contests:

(a) In any contest targeting either bass or walleye, all live bass or walleye must be released alive into the water from which they were caught after being weighed and/or measured. At the end of each day's competition, if the mortality of target fish caught that day exceeds 10%, the contest will be suspended. Suspended contests may be continued (within assigned permit dates) only if the cause of the high mortality can be positively identified, and the cause of the mortality (high waves, equipment deficiency, etc.) ceases or is corrected by contest officials.

(b) During bass and walleye contests only, participants may continue to fish while holding up to five fish in possession, as long as one fish is released immediately upon catching a fish which would make the angler in excess of five fish if kept. The fish released may come either from the one just caught, or from the livewell, but at no time may the angler have more than five fish in the livewell.

(c) During bass contests, contestants may not use live bait.

(d) During bass and walleye contests participants may retain up to five bass and walleye of any size to be weighed in. A tournament angler may not be in possession of more than five bass or walleye from the water being fished, except as authorized under (6)(e) below.

(e) The contest director or director designee may exceed possession limits for bass or walleye for the purpose of transporting fish from a weigh-in site to an open-water area. During transportation, the transport boat must not leave the water the fish were caught from and a copy of the contest permit must be on board during actual fish transport.

(f) Livewell dimensions: During walleye tournaments, all livewells used to hold walleye must be at least 34 inches in length and have a water capacity of at least 20 gallons. Not

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more than 6 walleye may be placed in a single livewell. All livewells must have both a functional freshwater pump and backup aeration capability.

(g) Boat identification: All boats used for fishing in bass and walleye contests must be clearly identified according to criteria established by the department.

(7) Zebra mussel decontamination. Prior to participating in a Washington state fishing contest:

(a) All contest participants are required to sign a zebra mussel decontamination statement that their boats and/or boat trailers have or have not been in physical contact with any waters east of the Continental Divide for thirty days immediately preceding the contest and, if the boat and/or trailer has been in contact with such waters the participant must complete a decontamination report indicating that the following actions have been taken:

(i) A physical inspection has been made of the hull, motor, trailer, livewell and bilge by the contest director or designee, and any zebra mussels, if found, have been disposed of in a garbage container; and

(ii) The vessel has been decontaminated by the hull having been:

(A) Pressurized washed with hot soapy water; or

(B) Washed with a household bleach solution of one part bleach to 19 parts water, or the equivalent;

(iii) The motor has been run in a household bleach solution of one part bleach to 19 parts water, or the equivalent, for a minimum of one minute; and

(iv) The bilge and any livewells have been flushed, and the flush water disposed in such a manner that the wastewater will not directly enter state waters, either ground or surface.

(b) The zebra mussel decontamination statement and decontamination report shall be submitted to the department as part of the fishing contest report.

AMENDATORY SECTION (Amending Order 02-53, filed 3/29/02, effective 5/1/02)

WAC 232-12-619 Permanent Washington statewide game fish rules. The following statewide rules 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 and fishing is allowed 24 hours per 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.

(c) Feed or use any substance to attract game fish unless specifically authorized by special regulations.

(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 exceptions to state-wide rules.

(3) Seasonal steelhead limit: Each angler who possesses a valid steelhead catch record card may not retain more than thirty steelhead April 1st through the following March 31st (~~of which no more than five may be wild steelhead from waters in which wild steelhead retention is allowed~~).

(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) 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.

(6) 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.

(7) Free fishing weekend: The Saturday and Sunday following the first Monday in June is declared as free fishing weekend in Washington. On this weekend 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 catch record card. During free fishing weekend only the licensing requirement is affected, and all other rules remain in effect.

(8) 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.

(9) 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.

(10) 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 five hooks may be used.

(11) Rainbow trout taken from landlocked lakes: Rainbow trout taken from landlocked lakes shall not be considered steelhead and no catch record card is required.

(12) 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.

(13) Daily limits and minimum sizes:

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GAME FISH SPECIES	DAILY LIMIT	MINIMUM SIZE LIMIT
BASS	Five - release bass greater than twelve but less than seventeen inches in length, only one over seventeen inches may be retained Bass may be caught, retained, and released alive from a livewell until a daily limit is in possession.	None
GRASS CARP.... It is TROUT (except Eastern Brook trout)	It is unlawful to fish for or retain grass carp. A total of five trout, of which no more than two may be from Rivers, Streams, and Beaver Ponds. No more than two of the trout daily catch limit of 5 may be Steelhead.	None in Lakes, Ponds, and Reservoirs. Eight inches in Rivers, Streams, and Beaver Ponds.
EASTERN BROOK TROUT (Salvelinus fontinalis)	Five - to be considered part of the trout daily catch limit. <u>Counts as a bonus limit in rivers, streams and beaver ponds. Total of five fish, including brook trout, in these waters.</u>	None
BURBOT	Five	None
CHANNEL CATFISH	Five.	None.

(a) The following game fish species are managed as trout:

- Eastern brook trout
- Brown trout
- Cutthroat trout
- Dolly Varden/Bull trout
- Golden trout
- Grayling
- Kokanee/Silver trout
- Lake trout

Landlocked Atlantic salmon
Rainbow trout/Steelhead
Landlocked chinook and coho
Tiger trout

(b) There is a moratorium on wild steelhead ((release is required year round except as provided in exceptions to statewide rules)) retention from April 1, 2004, through March 31, 2006.

(c) All waters, statewide, 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 statewide rules, Dolly Varden/Bull Trout count as part of the combined trout daily limit of five.

WALLEYE	Five, not more than one over twenty-two inches Walleye may be caught, retained, and released alive from a livewell until a daily limit is in possession.	Sixteen inches
WHITEFISH	Fifteen	None
ALL OTHER GAME FISH	No Limit	None
BULLFROGS	No Limit	None

~~(14) ((Daily wild steelhead limit: It is unlawful for any person to retain more than one wild steelhead per day from those waters in which wild steelhead retention is allowed.~~

~~(15))) Possession limit. Except as otherwise provided, the possession limit is two daily limits in fresh, frozen or processed form.~~

~~((16)))~~ (15) Marine waters rules: These rules 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):

(a) 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.

(b) License requirements: A valid current Washington state department of fish and wildlife saltwater license, and, if appropriate, a sport catch record card, is required to fish for game fish including steelhead in marine waters. All steelhead taken from marine areas shall be entered on the catch record card using the words Marine Area and followed by the appropriate marine area code number.

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(c) 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.

(d) All species: Release all fish except up to two hatchery steelhead may be retained per day.

AMENDATORY SECTION (Amending Order 03-181, filed 8/6/03, effective 9/6/03)

WAC 232-28-619 Washington food fish and game fish—Freshwater exceptions to statewide rules. (1) All freshwater streams and lakes not listed as open for salmon fishing are closed.

(2) County freshwater exceptions to statewide rules:

(a) Adams and Grant counties: All seasons in specific freshwater exceptions to statewide rules apply to inlet and outlet streams of named lakes in Grant and Adams counties.

(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 statewide 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.

(3) Specific freshwater exceptions to statewide 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 August 31 and November 1 through March 15 season. Trout: ~~((Minimum length fourteen inches. Release wild cutthroat.))~~ Release all ~~((steelhead June 1 through August 31))~~ fish except up to two hatchery steelhead may be retained per day.

From Abernathy Falls to posted markers five hundred feet downstream from salmon hatchery: Closed waters.

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. Trout: Daily limit one.

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.

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 and March 1 through last Saturday in April. Selective gear rules except electric motors allowed. 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): Mouth to Highway 20 Bridge: September 1 through October 31 season. Nonbuoyant lure restriction and night closure. Trout: Minimum length four-

teen inches, except Dolly Varden/Bull Trout. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Salmon: Open only July 1 through July 31. Nonbuoyant lure restriction and night closure. Daily limit 2 sockeye salmon.

Highway 20 Bridge to Baker River fish barrier dam: Closed waters.

Banks Lake (Grant County): Chumming allowed. Perch: Daily limit twenty-five.

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, holders of disability licenses, and licensed adults accompanied by a juvenile only.

Bear River (Pacific County): June 1 through March 31 season. Nonbuoyant lure restriction and night closure August 16 through November 30. Single point barbless hooks required August 16 through November 30 downstream from the Lime Quarry Road. Upstream from the Lime Quarry Road: Selective gear rules June 1 through March 31. All game fish: Release all fish. Salmon: Open only September 1 through November 30 from mouth to Lime Quarry Road. Daily limit 6 fish of which no more than 2 may be adult fish and of these two fish no more than one may be a wild adult coho. Release adult chinook.

Beaver Creek (tributary to Elochoman River) (Wahkiakum County): Closed waters.

Beaver Lake (Clallam County): Selective gear rules except electric motors allowed. Trout: (~~Daily limit one~~) Maximum size 12 inches in length.

Beaver Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

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 August 31 season. (~~Trout: Release all cutthroat trout.~~) Selective gear rules. All species: Release all fish.

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): Crappie: Daily limit ten, minimum length nine inches. Salmon: Landlocked salmon rules apply.

Big Meadow Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Big Quilcene River (Jefferson County):

From mouth to upper boundary of Falls View Campground: June 1 through last day in February season. Closed waters: August 16 through October 31 from mouth to Rodgers Street. Rodgers Street to the Highway 101 Bridge: Selective gear rules June 1 through last day in February and night closure August 16 through December 31. From electric weir to upper boundary of Falls View Campground: Selective gear rules June 1 through last day in February. All game fish: Release all fish from mouth to campground. Salmon: Open only August 16 through October 31 from Rodgers Street to the Highway 101 Bridge. Daily limit 4 coho salmon.

From Highway 101 Bridge upstream to the electric weir at the Quilcene National Fish Hatchery: Closed waters.

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.~~) Selective gear rules. All species: Release all fish.

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 Lake (Thurston County): Crappie: Daily limit ten, minimum length nine inches.

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, Beaver Creek, Salmon Creek and Blooms Ditch: Selective gear rules. Trout: Minimum length fourteen inches.

Blockhouse Creek (Klickitat County): Trout: Daily limit five.

Bloodgood Creek (Klickitat County): Trout: Daily limit five.

Blue Creek (Lewis County), from mouth to Spencer Road: Closed waters except December 1 through December 31 season from mouth to posted sign at rearing pond outlet. Closed waters: Upstream from cable crossing to posted signs at fence. Nonbuoyant lure restriction and night closure. Only wheelchair-bound anglers may fish from posted signs above rearing pond to posted signs approximately 40 feet downstream at fence including the rearing pond outlet. Trout: Daily limit five. Minimum size 12 inches no more than two fish over 20 inches. Release wild cutthroat, wild steelhead and hatchery steelhead with missing right ventral fin.

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): April 1 through September 30 season.

Bogachiel River (Clallam County), from mouth to Olympic National Park boundary: June 1 through April 30 season. December 1 through April 30, selective gear rules from Highway 101 to Olympic 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.~~) Salmon: Open only July 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of

which no more than 2 may be adult salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and wild adult chinook. September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or a combination of adult chinook and adult wild coho.

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 waterfall approximately 2 miles upstream: Closed waters. From waterfall approximately 2 miles upstream of mouth to USFS Road #4930 Bridge: Selective gear rules.

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.

Bradley Lake (Pierce County): Salmon: Landlocked salmon rules apply.

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 Creek (Pend Oreille County): Fly fishing only.

Browns Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: No more than one fish greater than 11 inches in length may be retained.

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. Whitefish gear rules apply.

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, mouth to confluence of East and West Forks (Okanogan County): Closed waters.

Cady Lake (Mason County): Fly fishing only. Fishing from a floating device equipped with an internal combustion motor prohibited. 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.))~~ Salmon: Open only July 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and wild adult chinook. September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or a combination of adult chinook and adult wild coho.

Calawah River, South Fork (Clallam County) from mouth to Olympic 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): April 1 through August 31: Selective gear rules and all species: Release all fish.

Campbell Lake (Skagit County): Crappie: Daily limit ten, minimum length nine inches.

Canyon Creek (Clark County): Trout: Daily limit five.

Canyon River (Mason County and Grays Harbor 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.

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 March 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: June 1 through July 31 daily limit five, minimum length eight inches. August 1 through March 31 daily limit two, minimum length fourteen inches. Salmon: Open only July 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Carbon River (Pierce County), from its mouth to Voight Creek: June 1 through ~~((March 31))~~ last day in February season. Nonbuoyant lure restriction, night closure and single barbless hooks August 1 through November 30. Trout: Minimum length fourteen inches. Voight Creek to Highway 162 Bridge: June 1 through August 15 and December 1 through ~~((March 31))~~ last day in February season: Trout: Minimum length 14 inches. Salmon: Open only September 1 through November 30 mouth to Voight Creek. Daily limit 6 fish of which no more than 4 may be adult salmon and of these 4 fish no more than 2 may be adult hatchery chinook. Release wild adult chinook and chum salmon.

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.))~~ Salmon: Landlocked salmon rules apply.

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 November 30 seasons. Fishing from a floating device equipped with an internal combustion motor prohibited. Salmon: Landlocked salmon rules apply.

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 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. Salmon: Open only September 16 through November 30. Daily limit 4 hatchery coho salmon.

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.

Cases Pond (Pacific County): Last Saturday in April through November 30 season. Juveniles only. Salmon: Landlocked salmon rules apply.

Cassidy Lake (Snohomish County): Crappie: Daily limit ten, minimum length nine inches.

Castle Lake (Cowlitz County): Selective gear rules. Trout: Daily limit one, minimum length sixteen inches.

Cattail Lake (Grant County): April 1 through September 30 season.

Cavanaugh Lake (Skagit County): Chumming permitted.

Cedar Creek (tributary of N.F. Lewis) (Clark County), from mouth to 100 feet upstream of the falls: 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))~~ all fish except up to two hatchery steelhead may be retained per day.

Cedar Creek (Jefferson County): June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches. ~~((December 1 through last day in February wild steelhead may be retained.))~~

Cedar Creek (Okanogan County), from mouth to Cedar Falls: Closed waters.

Cedar Lake (Stevens County): Last Saturday in April through October 31 season.

Cedar River (King County), from mouth to Landsburg Road: June 1 through August 31 season. Night closure. All species: Release all fish. Landsburg Road to Cedar Falls: Closed waters.

Chain Lake (Pend Oreille County): Last Saturday in April through October 31 season. Release kokanee.

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. Salmon: Open only July 1 through November 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

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 Highway 101 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 August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only April 16 through July 31 from mouth to high bridge, October 1 through January 31 from mouth to Porter Bridge, and October 16 through last day in February from Porter Bridge to high bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. October 1 through November 30, mouth to Porter Bridge, release adult chinook. October 16 through November 30, Porter Bridge to High Bridge, release adult chinook. December 1 through January 31, mouth to Porter Bridge, the daily limit may contain no more than one wild adult coho, and release adult chinook. December 1 through last day in February, Porter Bridge to High Bridge, release adult chinook and wild adult coho. Sturgeon: Open year-round from mouth to high bridge on Weyerhaeuser 1000 line.

Chehalis River, South Fork (Lewis County), from mouth to Highway Bridge at Boistfort School: 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 Hatchery Creek (Chelan County): Closed waters.

Chelan Lake (Chelan County): Closed waters: Within 400 feet of all tributaries south of a line from Purple Point at Stehekin and Painted Rocks. Trout except kokanee and lake trout: Daily limit 5. Release wild cutthroat. Lake trout not counted in daily trout limit. Lake trout no minimum size, no daily limit. Kokanee not counted in daily trout limit. Kokanee daily limit five, no minimum length. Burbot: Set line gear allowed. North of a line between Purple Point at Stehekin and Painted Rocks: April 1 through July 31: All species: Release all fish. Salmon: Open only May 1 through May 31 south of a line from Purple Point to Painted Rocks: Daily limit 1, minimum length 15 inches.

Chelan Lake Tributaries (Chelan County), from mouths upstream one mile except Stehekin River: August 1 through September 30 season. Selective gear rules. Trout: Release wild cutthroat.

Chelan River (Chelan County): ~~((Closed waters.))~~ From the railroad bridge to the Chelan P.U.D. safety barrier below the power house: May 15 through August 31 season. Nonbuoyant lure restriction. Trout: Release all trout.

Chewuch River (Chewack River) (Okanogan County), from mouth to Eight Mile Creek: June 1 through September 30 season. Selective gear rules. All species: Release all fish.

Upstream from Eight Mile Creek to Pasayten Wilderness boundary: Closed waters June 1 through October 31.

From mouth to Pasayten Wilderness boundary: Additional December 1 through March 31 season. Whitefish gear rules apply.

Chikamin Creek (Chelan County): Selective gear rules.

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): Mouth to Fool Hen Creek: Closed waters.

Chiwawa River (Chelan County): Mouth to Buck Creek: Closed waters.

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: Release all cutthroat. Additional season November 1 through May 31, release all game fish other than steelhead. Salmon: Open year around. Daily limit 6 fish, of which no more than 2 fish may be adult salmon. Salmon minimum size 8 inches. Release wild coho at all times and release wild chinook January 1 through July 31.

Cispus River, North Fork (Lewis County): Trout: No more than one over twelve inches in length. Release cutthroat.

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 Creek (Chelan County): Closed waters.

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): Last Saturday in April through October 31 season. Chumming permitted. Salmon: Land-locked salmon rules apply.

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.~~) Salmon: Open only September 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon.

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. Year-round

season. Selective gear rules, except December 1 through March 31 bait and one single point barbed hook three-sixteenths or smaller point to shank may be used. Trout: Release all trout. Above Cle Elum Lake to outlet of Hyas Lake except Tucquala Lake: Selective gear rules. (~~Additional December 1 through March 31 season-mouth to Cle Elum Dam. Whitefish gear rules apply.~~)

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 fourteen inches.

From mouth to Highway 8 Bridge: Additional March 1 through March 31 season. Trout: Minimum length fourteen inches.

Clogh 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 two, minimum length twelve inches.

Coal Creek (Cowlitz County), from mouth to four hundred feet below falls: June 1 through August 31 and November 1 through last day in February season. Trout: (~~Minimum length fourteen inches.~~) Release ((wild cutthroat)) all fish except up to two hatchery steelhead may be retained per day.

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 September 15 season. Selective gear rules except motors allowed. Trout: Daily limit two. Bass: Daily limit two, maximum length fourteen inches. Crappie: Daily limit ten, minimum length nine inches.

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.

Collins Lake (Mason County): Last Saturday in April through October 31 season.

Columbia Basin Hatchery Creek (Grant County): Hatchery outflow to confluence with mainstem Hatchery Creek: (~~Open year-round.~~) April 1 through September 30 season. Juveniles and holders of reduced fee disability licenses only. Mainstem Hatchery Creek: ((Open year-round.) April 1 through September 30 season. Juveniles and ((Heensed adults accompanied by a juvenile)) holders of reduced fee disability licenses only.

Columbia Park Pond (Benton County): Juveniles and holders of reduced fee disability licenses only. All species: Daily limit of five fish combined.

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: Below Priest Rapids Dam: 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 game fish: 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 a line between Rocky Point in Washington to Tongue Point in Oregon: Trout: Release wild cutthroat. Release all trout April 1 through July 31. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Fishing from the north jetty is allowed during salmon season openings. Salmon: Open only August 1 through March 31. August 1 through August 15, daily limit 2 salmon of which not more than one may be a chinook salmon. Release chum, sockeye, wild coho, chinook less than 24 inches in length, and coho less than 16 inches in length. August 16 through September 30, daily limit 3 salmon of which not more than one may be a chinook salmon. Release sockeye, chum, wild coho, chinook less than 24 inches in length and coho less than 16 inches in length. October 1 through December 31, daily limit 6 fish of which no more than 3 may be adult salmon and not more than one of which may be a chinook salmon. Release chum, sockeye, and wild coho. January 1 through March 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release chum, sockeye, wild coho and wild chinook. Fishing from the north jetty for salmon open during both Area 1 and Buoy 10 fishery openings.

From the Rocky Point - Tongue Point line to the I-5 Bridge: Trout: Release wild cutthroat. Release all trout April 1 through May 15. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Salmon: Open only May 16 through March 31. May 16 through July 31 daily limit 6 hatchery jack chinook. August 1 through March 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release chum, sockeye, and wild coho. Release wild chinook January 1 through March 31. Sturgeon: (1) Release sturgeon May 1 through May 14 and July 24 through December 31 downstream from the Wauna powerlines. Minimum size when open to retain sturgeon is 45 inches; (2) I-5 Bridge downstream to Wauna powerlines, lawful to retain sturgeon only on Thursdays, Fridays, and Saturdays from February 1 through July 31, and

October 1 through December 31. Release sturgeon on other days and during other time periods.

From the I-5 Bridge to the Highway 395 Bridge at Pasco: Closed waters: (1) From the upstream line of Bonneville Dam to boundary markers located six hundred feet below the fish ladder, and closed to fishing from a floating device or fishing by any method except hand-casted gear from shore from Bonneville Dam downstream to a line from the Hamilton Island boat ramp to an Oregon boundary marker on Robins Island. (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 the downstream navigation lock wall 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. August 1 through October 15: Nonbuoyant lure restriction and night closure from Bonneville Dam to The Dalles Dam. 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. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Sturgeon: (1) Sturgeon fishing is closed from Bonneville Dam to a line from a boundary marker on the Washington shore approximately 4,000 feet below the fish ladder to the downstream end of Cascade Island to an Oregon angling boundary on Bradford Island (the Cascade Island - Bradford Island line). (2) ~~It is unlawful to fish for sturgeon ((except with hand-casted lines from shore from Bonneville Dam to a line from the Hamilton Island boat ramp to an Oregon boundary marker on Robins Island.~~ (3) ~~It is unlawful to fish for sturgeon or possess sturgeon taken from a floating device May 1 through July 15 downstream from the Bonneville Dam boating deadline to a line between markers on the shore at Beacon Rock)) from May 1 through July 31 from Cascade Island - Bradford Island line downstream to a line from Navigation Marker 85 on the Washington shore at a right angle to the thread of the river to the Oregon shore.~~ (3) Cascade Island - Bradford Island line downstream to I-5 Bridge, lawful to retain sturgeon only on Thursdays, Fridays, and Saturdays from February 1 through July 31 and October 1 through December 31, except for May 1 - July 31 closure to Navigation Marker 85. Release sturgeon on other days and during other time periods. (4) Release sturgeon September 1 through December 31 from the upstream line of Bonneville Dam and 400 feet below McNary Dam. Salmon: Open only June 16 through December 31 except closed November 1 through December 31 from Beacon Rock to Bonneville Dam. June 16 through July 31, daily limit 6 hatchery jack chinook. August 1 through December 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and sockeye. Release wild coho downstream of Bonneville Dam.

From the Highway 395 Bridge at Pasco to the old Hanford townsite (wooden towers) powerline crossing, in Sec. 30, T13N, R28E except Ringold Hatchery waters: Closed

waters: Ringold Springs Creek (Hatchery Creek). Trout: Release all trout except hatchery steelhead having both adipose and ventral fin clips may be retained October 1 through March 31. Release hatchery steelhead having only adipose fin clips. Salmon: Open only August 16 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Ringold Springs Rearing Facility waters (from WDFW markers 1/4 mile downstream from the Ringold wasteway outlet to WDFW markers 1/2 mile upstream from Spring Creek): Open only April 1 through April 15 to fishing from the bank on the hatchery side of the river. Trout: Release all fish except hatchery steelhead having both adipose and ventral fin clips. Release hatchery steelhead having only adipose fin clips.

From the old Hanford townsite (wooden towers) power-line crossing in Sec. 30, T13N, R28E, to Vernita Bridge, (Highway 24): All species: February 1 through October 22 season. Trout: Release all trout. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Salmon: Open only August 16 through October 22. Daily limit 6 fish of which no more than 2 fish may be adult salmon.

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. Trout: Release all trout. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Salmon: Open only August 16 through October 22. Daily limit 6 fish of which no more than 2 may be adult salmon.

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 fishing from a floating device from the boundary marker to the Corps of Engineers safety zone marker. Trout: Release all trout. Sturgeon: Release all sturgeon.

Above Chief Joseph Dam: See Lake Roosevelt and Rufus Woods Lake.

Colville River (Stevens County):

From mouth to bridge at Town of Valley: Year-round 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 five fish not more than one of which may be longer than 18 inches. Sturgeon: Unlawful to fish for or retain sturgeon.

From bridge at Valley upstream and tributaries: Selective gear rules.

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.

Cooper River (Kittitas County): Mouth to Cooper Lake: Selective gear rules.

Coot Lake (Grant County): April 1 through September 30 season.

Copolis River (Grays Harbor County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through January 31 from mouth to Carlisle Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Cottage Lake (King County): Last Saturday in April through October 31 season.

Cottonwood Creek (Lincoln County): Year-round 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.

Coweeman River (Cowlitz County), from mouth to Mulholland Creek: June 1 through March 15 season. Trout: (~~Minimum length twelve inches.~~) Release ((wild cutthroat)) all fish except up to two hatchery steelhead may be retained per day.

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 and salmon: Minimum length eight inches. Trout: Release cutthroat. Salmon: Daily limit 6 fish, of which not more than 2 may be adult salmon. Release wild coho. Release wild chinook June 1 through July 31.

Cowlitz River (Lewis County):

From mouth to Mayfield Dam: Closed waters: Barrier Dam to boundary marker at Cowlitz salmon hatchery water intake approximately 1,700 feet upstream from dam. Year-round season except closed to fishing from south bank May 1 through June 15 from Mill Creek to the barrier dam. Lawful to fish up to four hundred feet or the posted deadline at barrier dam. Lawful to fish up to Tacoma Power safety signs at Onion Rock below Mossyrock Dam. Lawful to fish up to Lewis County P.U.D. safety signs below Cowlitz Falls 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. Nonbuoyant lure restriction and night closure April 1 through October 31 from mouth of Mill Creek to the barrier dam. All game fish: 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. Salmon: Open year-round. Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than 2 may be adult chinook salmon, except January 1 through April 30 the daily limit may contain no more than 2 adult salmon and May 1 through July 31 the daily limit may contain no more than one adult salmon. Release chum and wild coho August 1 through April 30. Release wild chinook January 1 through July 31. Mill Creek to Blue Creek - release all chinook October 1 through December 31. Sturgeon: Lawful to retain sturgeon on Thursdays, Fridays and Saturdays, February 1 through July 31 and October 1 through December 31. Release sturgeon on other days and during other time periods.

From posted PUD sign on Peters Road to mouth of Ohanepecosh River and mouth of Muddy Fork: ~~((Year-round season-))~~ Trout: Release cutthroat. Additional November 1 through May 31 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round from upstream boundary of Lake Scanewa. Daily limit 6 fish of which no more than 2 may be adult salmon. Salmon minimum size 8 inches. Release wild coho. Release wild chinook January 1 through July 31.

Cowlitz River, Clear and Muddy Forks (Lewis County): Trout: Release cutthroat.

Coyote Creek and Ponds (Adams County): April 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/Grant counties) and tributaries: Year-round season. March 1 through May 31 terminal gear restricted to one single hook measuring 3/4 inch or less point to shank in those waters from Grant County Road 7 to the fountain buoy and shoreline markers or 150 feet downstream of the Alder Street fill, and from Moses Lake downstream to the confluence of the outlet streams.

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.

Crescent Lake (Pierce County): Last Saturday in April through October 31 season.

Crocker Lake (Jefferson County): Closed waters.

Crystal Lake (Grant County): March 1 through July 31 season.

Cup Lake (Grant County): March 1 through July 31 season.

Curl Lake (Columbia County): 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.

Cushman Reservoir (Mason County): Salmon: Landlocked salmon rules apply.

Dakota Creek (Whatcom County): Salmon: Open only October 1 through December 31 from mouth to Giles Road Bridge. Daily limit 2 salmon.

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): April 1 through August 31: Selective gear rules except electric motors allowed, and all species: Release all fish.

Davis Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Dayton Pond (Columbia County): Juveniles only.

Deadman Lake (Adams County): April 1 through September 30 season.

De Coursey Pond (Pierce County): Last Saturday in April through November 30 season. Juveniles only. Salmon: Landlocked salmon rules apply.

Deep Creek (Clallam County): December 1 through last day in February season. All species: Release all fish except up to two hatchery steelhead may be retained.

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-round season. Trout: ~~((Minimum length 14 inches.))~~ Release ~~((wild cut-throat))~~ all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round from mouth to town bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Sturgeon: Release sturgeon May 1 through May 14 and July 24 through December 31. Minimum size when open is 45 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.

De Roux Creek (Yakima County): Selective gear rules.

Deschutes River (Thurston County): Closed waters: From 400 feet below lowest Tumwater Falls fish ladder to Old Highway 99 Bridge. From old U.S. Highway 99 Bridge near Tumwater to Henderson Boulevard Bridge near Pioneer Park: June 1 through March 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

From Henderson Boulevard Bridge upstream: Year-round season. Selective gear rules. All game fish: Release all fish except hatchery steelhead. Salmon: Open only July 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

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): Mouth to Bear Creek-Dewatto Road ~~((June 1 through last day in February season.))~~; Selective gear rules ~~((except September 16 through October 31 single point barbless hooks only from mouth to Dewatto-Holly Road Bridge)).~~ ~~((All))~~ Game fish ~~((species))~~: Release all fish. Salmon: Open only September 16 through October 31 mouth to Dewatto-Holly Road Bridge. Daily limit two coho. Release all salmon other than coho.

Upstream from Bear Creek-Dewatto Road: Selective gear rules. Game fish: Release all fish.

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.))~~ Salmon: Open only July 1 through November 30 from mouth to East Fork Dickey, including Olympic National Park. Daily limit 6 fish of which no more than 2 may be adult salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and wild adult chinook. September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or a combination of adult chinook and adult wild coho.

Dillacort Creek (Klickitat County): Trout: Release all trout.

Dog Lake (Yakima County): Trout: Daily limit may contain not more than 1 fish over 14 inches in length.

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 except closed September 1 through October 31 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only November 1 through December 15 from mouth to Highway 101 Bridge. Daily limit 2 chum salmon.

Dot Lake (Grant County): March 1 through July 31 season.

Downs Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season. Crappie: Daily limit ten, minimum length nine inches.

Dry Falls Lake (Grant County): April 1 through November 30 season. Selective gear rules. Trout: Daily limit one.

Duck Lake (Grays Harbor County): Crappie: Daily limit ten, minimum length nine inches.

Duckabush River (Jefferson County), from mouth to the Olympic National Park Boundary: June 1 through last day in February season except closed September 1 through October 31 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. All game fish: Release all fish except

that up to two hatchery steelhead per day may be retained. Salmon: Open only November 1 through December 15 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. Daily limit 2 chum salmon.

Dungeness River (Clallam County):

From mouth to junction of Gray Wolf and Dungeness rivers(;;): October 16 through last day in February season. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through December 31 from mouth to the hatchery intake pipe at river mile 11.3. Daily limit 4 hatchery coho salmon.

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))~~ November 30 season. Selective gear rules. Trout: Daily limit one fish.

Early Winters Creek (Okanogan County): Closed waters.

East Twin River (Clallam County): Trout: Minimum length fourteen inches.

Easton Lake (Kittitas County): Saturday before Memorial Day through October 31 season. Trout: Daily limit five fish of which no more than 2 may be trout other than Eastern brook trout. Minimum length 8 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.

Echo Lake (Snohomish County): Last Saturday in April through October 31 season.

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. Single point barbless hooks required August 16 through November 30 downstream of the confluence of the east and middle branches. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from Highway 105 Bridge to the confluence of the East and Middle Branches. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

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. Nonbuoyant lure restriction and night closure September 1 through October 31. ~~((Fishers may not allow their line, lure or bait to remain stationary in the water))~~ Stationary gear restriction September 1 through October 31. Trout: ~~((Minimum length fourteen inches.))~~ Release ~~((wild cutthroat))~~ all fish except up to two hatchery steelhead may be retained per day. Salmon: Open only September 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult chinook. Release chum and wild coho. October 1 through December 31 release chinook upstream of Highway 4 Bridge.

Eloika Lake (Spokane County): Crappie: Daily limit ten, minimum length nine inches.

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, except closed June 1 through September 30 mouth to marker at outfall of rearing channel at about river mile 3.2. Fishing from any floating device prohibited. August 1 through September 30, fly fishing only from mouth to the marker at the outfall of the WDFW rearing channel. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 15. Daily limit 6 coho salmon of which no more than 4 may be adult coho salmon.

From Lake Aldwell upstream to Olympic National Park boundary, 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: December 1 through March 31 season. Whitefish gear rules apply.

Ephrata Lake (Grant County): Closed waters.

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.

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-round season. Trout: Minimum length fourteen inches.

Upstream from Highway 530 Bridge: Trout: Minimum length fourteen inches.

Fishhook Pond (Walla Walla County): March 1 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.

Forde Lake (Okanogan County): Last Saturday in April through October 31 season.

Fort Borst Park Pond (Lewis County): Last Saturday in April through last day in February season. Juveniles ~~((and licensed adults accompanied by a juvenile))~~ 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): April 1 through September 30 season.

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 August 31 and November 1 through March 15 season. Trout: ~~((Minimum length fourteen inches.))~~ Release ~~((wild cutthroat. Release steelhead June 1 through August 31))~~ all fish except up to two hatchery steelhead may be retained per day.

Gibbs Lake (Jefferson County): Selective gear rules except electric motors allowed. Trout: Release all trout.

Gillette Lake (Stevens County): Last Saturday in April through October 31 season.

Gissberg Pond, North (Snohomish County): Juveniles only.

Gissberg Ponds (Snohomish County): Channel catfish: Daily limit 2, no minimum size.

Goat Creek (Okanogan County): Closed waters.

Gobar Creek (tributary to Kalama River) (Cowlitz County): June 1 through March 15 season. Trout: ~~((Minimum length twelve inches. Release wild cutthroat.))~~ Release ~~((steelhead))~~ all fish except up to two hatchery steelhead may be retained per day.

Gold Creek, Gold Creek Pond and Outlet Channel (tributary to Keechelus Lake) (Kittitas County): Closed waters.

Gold Creek (Okanogan County): From mouth to confluence north fork Gold Creek: Closed waters.

Goldsborough Creek (Mason County): Trout: Minimum length fourteen inches.

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.

Goose Creek (Lincoln County), within the city limits of Wilbur: Year around season. Juveniles and holders of disability licenses only.

Goose Lake, Lower (Adams County): Crappie: ~~((Not more than five over eight inches in length.))~~ Daily limit ten, minimum length nine inches. 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-round season. Selective gear rules

September 1 through May 31. Trout: Minimum length ten inches, maximum length twenty inches.

From County Road Bridge upstream to Oregon state line and all tributaries: June 1 through October 31 season. Selective gear rules, June 1 through August 31 and barbless hooks required September 1 through October 31. Additional season November 1 through April 15: Barbless hooks required. All tributaries: Closed waters. All species: Release all fish except whitefish and hatchery steelhead. Trout: Daily limit three hatchery steelhead.

Granite Creek and tributaries (Pend Oreille County): Closed waters.

Granite Lakes (near Marblemount) (Skagit County): Grayling: Release all grayling.

Grass Lake (Mason County): Last Saturday in April through October 31 season.

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: September 1 through October 15 and November 15 through March 15 season; and from Highway 4 Bridge to mouth of South Fork: September 1 through October 15 and December 15 through March 15 season. Nonbuoyant lure restriction ~~((and)), night closure and stationary gear restriction~~ September 1 through October 15. ~~((Fishers may not allow their line, lure or bait to remain stationary in the water September 1 through October 15.))~~ All game fish: Release all fish except hatchery steelhead. Salmon: Open only September 1 through October 15 from mouth to South Fork. Daily limit 6 fish of which no more than two may be adult salmon. Release chinook, chum, and wild coho.

Grays River, East Fork (Wahkiakum County): Selective gear rules. Trout: ~~((Minimum length fourteen inches.))~~ Release ~~((cutthroat))~~ all fish except up to two hatchery steelhead may be retained per day.

Grays River, West Fork (Wahkiakum County), downstream from hatchery intake footbridge: June 1 - August 31 season. Trout: Additional December 15 through March 15 season downstream from hatchery intake footbridge. Release all fish other than hatchery steelhead.

Green Lake (Okanogan County): April 1 through November 30: Selective gear rules except electric motors allowed, and all species: Release all fish.

Green Lake (Lower) (Okanogan County): April 1 through November 30: Selective gear rules, and all species: Release all fish.

Green River (Cowlitz County): Closed waters: All tributaries.

From mouth to 2800 Bridge: April 1 through November 30 season except closed from 400 feet above to 400 feet below the water intake at the upper end of the hatchery grounds during the period September 1 through November 30 and from 400 feet or posted signs above and below the

salmon hatchery rack when the rack is installed in the river. Nonbuoyant lure restriction and night closure September 1 through October 31 from mouth to 400 feet below salmon hatchery rack. All game fish: Release all fish except steelhead. Salmon: Open only April 1 through May 31 from mouth to 400 feet below the water intake at the upper end of the hatchery grounds and June 1 through November 30 from mouth to 2800 Bridge. April 1 through July 31: Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild chinook. August 1 through November 30: Daily limit 6 salmon not more than 3 of which may be adult salmon and of the adult salmon not more than 2 may be adult chinook salmon. Release chum and wild coho. October 1 through November 30 release chinook.

From 2800 Bridge to source: Closed waters.

Green (Duwamish) River (King County):

From the First Avenue South Bridge to SW 43rd Street/South 180th Street Bridge: June 1 through July 31 and September 16 through last day in February season. Nonbuoyant lure restriction and night closure September 16 through November 30. Fishing from any floating device prohibited November 1 through last day in February. Trout: Minimum length fourteen inches. ~~((One wild steelhead per day may be retained July 1 through July 31 and September 16 through November 30.))~~ Salmon: Open only September 16 through December 31. Daily limit 6 fish of which not more than 2 may be adult salmon. Release chinook salmon.

From the SW 43rd Street/South 180th Street Bridge to South 277th Street Bridge in Auburn: June 1 through July 31 and October 1 through last day in February season. Nonbuoyant lure restriction and night closure October 1 through November 30. Fishing from any floating device prohibited November 1 through last day in February. Trout: Minimum length fourteen inches. ~~((One wild steelhead per day may be retained July 1 through July 31 and October 1 through November 30.))~~ Salmon: Open only October 1 through December 31. Daily limit 6 fish of which not more than 2 may be adult salmon. Release chinook salmon.

From the 277th Street Bridge to Auburn-Black Diamond Road Bridge: June 1 through July 31 and October 16 through March 15 season. Nonbuoyant lure restriction and night closure October 16 through November 30. Fishing from a floating device prohibited November 1 through March 15. Trout, minimum length fourteen inches. ~~((One wild steelhead per day may be retained July 1 through July 31 and October 16 through November 30.))~~ Salmon: Open only October 16 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chinook.

From the Auburn-Black Diamond Road Bridge to the Tacoma Headworks Dam: June 1 through March 15 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Closed waters: Within 150 feet of the Palmer Pond outlet rack and within 150 feet of the mouth of Keta Creek. Trout: Minimum length 14 inches. ~~((One wild steelhead per day may be retained July 1 through November 30.))~~ Salmon: Open only November 1 through December 31. Daily limit 2 chum salmon.

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): April 1 through September 30 season.

Halfmoon Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Hamilton Creek (Skamania County): Trout: ~~((Minimum length twelve inches-))~~ Release ~~((wild cutthroat))~~ all fish except up to two hatchery steelhead may be retained per day. 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 August 31 and November 1 through last day in February season. 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): April 1 through September 30 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.

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-round season.

Hays Creek and Ponds (Adams County): April 1 through September 30 season.

Headgate Pond (Asotin County): Last Saturday in April through October 31 season. Juveniles, seniors and holders of disability 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.

Hen Lake (Grant County): April 1 through September 30 season.

Heritage Lake (Stevens County): Last Saturday in April through October 31 season.

Herman Lake (Adams County): April 1 through September 30 season.

Hicks Lake (Thurston County): Last Saturday in April through October 31 season.

Hog Canyon Creek (Spokane County): Hog Canyon Dam to Scroggie Road: Year-round 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 Olympic National Park boundary below mouth of South Fork: June 1 through April 15 season. Selective gear rules June 1 through October 15 from Willoughby Creek to Morgan's Crossing Boat Launch, June 1 through November 30 from Morgan's Crossing Boat Launch to the mouth of south fork, and December 1 through April 15 from DNR Oxbow Campground Boat Launch to mouth of south fork. Trout: Minimum length fourteen inches. December 1 through April 15, from mouth to DNR Oxbow Campground Boat Launch: Trout: Minimum length fourteen inches ~~((and one wild steelhead per day may be retained))~~. Salmon: Open only May 16 through November 30 mouth to Willoughby Creek and October 16 through November 30 Willoughby Creek to Morgan's Crossing Boat Launch. Daily limit 6 fish of which no more than 2 may be adult salmon except May 16 through August 31 from mouth to Willoughby Creek open Wednesday through Sunday only of each week and daily limit may contain no more than one adult salmon.

Hoh River South Fork (Jefferson County), outside Olympic National Park: June 1 through April 15 season. Selective gear rules. Trout: Minimum length fourteen inches.

Hoko River (Clallam County): From mouth to upper Hoko Bridge: Fly fishing only September 1 through October 31. Additional November 1 through March 15 season. Trout: Minimum length fourteen inches. ~~((One wild steelhead per day may be retained December 1 through March 15-))~~

From upper Hoko Bridge to Ellis Creek Bridge (river mile 18.5): ~~((Additional November))~~ June 1 through March 31 season. Fly fishing only. All species: Release all fish except that up to two hatchery steelhead per day may be retained.

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. Single point barbless hooks required August 16 through November 30. Selective gear and all species: Release all fish except up to two hatchery steelhead may be retained per day, from March 1 through March 31. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from mouth to bridge on Dekay Road on mainstem and East Fork mouth to the abandoned flat car bridge downstream of the mouth of Berryman Creek. Daily limit 6 fish of which no more than 2 may be adult salmon, except release adult chinook.

Horseshoe Lake (Clark/Cowlitz counties): Trout: No more than 2 trout 20 inches or greater in length may be retained. Salmon: Landlocked salmon rules apply.

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. Salmon: Landlocked salmon rules apply.

Horseshoe Lake (Pend Oreille County): Last Saturday in April through October 31 season. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit five.

Horsethief Lake (Klickitat County): Last Saturday in April through October 31 season.

Hourglass Lake (Grant County): April 1 through September 30 season.

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 except closed March 1 through March 31 from Highway 101 Bridge to forks. Night closure and single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through January 31 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult coho. October 16 through October 31 the daily limit may contain no more than 1 adult chinook. November 1 through January 31 release adult chinook.

Humtulpis River, East Fork (Grays Harbor County), from mouth to concrete bridge on Forest Service Road between Humtulpis Guard Station and Grisdale: Nonbuoyant lure restriction and night closure August 16 through November 30. Trout: Minimum length fourteen inches.

Humtulpis River, West Fork (Grays Harbor County), from mouth to Donkey Creek: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 16 through November 30. Trout: Minimum length fourteen inches.

Hutchinson Lake (Adams County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

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: Closed waters. From Leavenworth National Fish Hatchery rack 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): From mouth to waterfall approximately 5 and three-quarters miles upstream: Closed waters. Upstream of waterfall: Eastern brook trout do not count as part of trout daily limit. Eastern brook trout: No minimum size and no daily limit.

Indian Heaven Wilderness Lakes (Skamania County): Trout: Daily limit three.

Ingall's Creek (Chelan County): Mouth to Wilderness boundary: Closed waters.

Issaquah Creek (King County): Closed waters.

Jackson Lake (Pierce County): Last Saturday in April through October 31 season.

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): Upstream from State Highway 109 Bridge to Ocean Beach Road Bridge: June 1 through November 30 season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Johns Creek (Mason County): Closed waters.

Johns River, mouth to Ballon Creek including North and South Forks (Grays Harbor County): June 1 through last day in February season. Waters above Ballon Creek, including North and South Forks, are closed. Single point barbless hooks required August 16 through November 30 from mouth to Ballon Creek. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon, except release adult chinook.

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 waterfall approximately one-half mile above Mineral Creek: Closed waters.

Kalaloch Creek (Jefferson County), outside Olympic National Park: Closed waters: Those waters within the section posted as the Olympic National Park water supply June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches. ~~((One wild steelhead per day may be retained December 1 through last day in February.))~~

Kalama River (Cowlitz County): Release wild cutthroat.

From mouth upstream to one thousand feet below fishway at upper salmon hatchery: Year-round 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. Nonbuoyant lure restriction, night closure, and stationary gear restriction September 1 through October 31 from mouth to one thousand five hundred feet below the rack. Fishing from a floating device equipped with a motor prohibited upstream of Modrow Bridge. September 1 through October 31: Fly fishing only from the pipeline crossing to the posted deadline at the intake to the lower salmon hatchery. Trout: ~~((Minimum length 20 inches.))~~ Release all trout except up to two hatchery steelhead may be retained per day. Salmon: Open year-round. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. October 1 through December 31 release chinook upstream from natural gas pipeline crossing.

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-round season. Fishing from a floating device equipped with a motor prohibited. Selective gear rules. Trout: Minimum length 14 inches. Release steelhead in mainstem and tributaries.

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. Fishing from a floating device equipped with a motor prohibited. Fly fishing only. Trout: Minimum length 14 inches. Release steelhead in mainstem and tributaries.

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.

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. Nonbuoyant lure restriction and night closure October 1 through December 31. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from mouth to northbound Highway 101 Bridge. Barbless hooks required. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Kennedy Creek Pond (Thurston County): Last Saturday in April through October 31 season.

Kettle River (Stevens County):

June 1 through October 31 season. ~~((Trout))~~ All species: Selective gear rules(~~(;)~~). Trout: Minimum length 12 inches. Sturgeon: Unlawful to fish for or retain sturgeon.

Additional season: November 1 through May 31. Whitefish gear rules apply.

Ki Lake (Snohomish County): Last Saturday in April through October 31 season.

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.

Kiwanis Pond (Kittitas County): Juveniles and holders of disability licenses only.

Klaus Lake (King County): Last Saturday in April through October 31 season. Closed waters: The inlet and outlet to first Weyerhaeuser spur.

PERMANENT

Klickitat River (Klickitat County):

From mouth to Fisher Hill Bridge: May 1 through January 31 season. Nonbuoyant lure restriction and night closure May 1 through May 31. Nonbuoyant lure restriction August 1 through January 31. Game fish: Closed December 1 through January 31. Release game fish other than steelhead May 1 through May 31. Trout: Minimum length twelve inches. Steelhead and salmon: May 1 through May 31 Mondays, Wednesdays and Saturdays only, daily limit 2 hatchery steelhead or 2 salmon or one of each. Salmon: June 1 through January 31 daily limit 6 fish of which no more than 2 may be adult salmon.

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. Salmon: Open only June 1 through November 30 from 400 feet above No. 5 Fishway to boundary markers below Klickitat Salmon Hatchery. June 1 through July 31: Daily limit 6 salmon. Release adult salmon. August 1 through November 30: Daily limit 6 fish of which no more than 2 may be adult salmon. Release chinook November 1 through November 30. Additional December 1 through March 31 season. Whitefish gear rules apply.

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. Salmon: Landlocked salmon rules apply.

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))~~ all fish except up to two hatchery steelhead may be retained per day.

Lake Creek (Okanogan County): Mouth to Black Lake: Closed waters. Black Lake to Three Prong Creek: Selective gear rules.

Langlois Lake (King County): Last Saturday in April through October 31 season.

Latah (Hangman) Creek (Spokane County): Year-round season.

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))~~ one over ~~((twelve))~~ 14 inches in length.

Lemna Lake (Grant County): April 1 through September 30 season.

Lenice Lake (Grant County): March 1 through November 30 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-round season. Trout: ~~((Minimum length twelve inches.))~~ Release ~~((wild cutthroat))~~ all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round. January 1 through July 31 daily limit six fish of which not more than 2 may be adult salmon. August 1 through December 31, daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than 2 may be adult chinook salmon. Release chum and wild coho August 1 through April 30. Release wild chinook January 1 through July 31. Sturgeon: Lawful to retain sturgeon on Thursdays, Fridays and Saturdays, February 1 through July 31 and October 1 through December 31. Release sturgeon on other days and during other time periods.

Lewis River, East Fork (Clark/Skamania counties): Closed waters: From the posted markers at the lower end of Big Eddy 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 upstream including all tributaries above Horseshoe Falls.

Mouth to 400 feet below Horseshoe Falls: June 1 through March 15 season. Trout: Release all trout except up to two hatchery steelhead per day may be retained. Mouth to top boat ramp at Lewisville Park: Additional April 16 through May 31 season. Selective gear rules. Release all fish except up to two hatchery steelhead may be retained per day.

Lewis River, North Fork (Clark/Skamania counties):

From mouth to Colvin Creek: Year-round season except those waters shoreward of the cable buoy and corkline at the mouth of the Lewis River Salmon Hatchery fish ladder are

closed waters. Fishing from a floating device prohibited from May 1 through July 31 from Johnson Creek to Colvin Creek. Nonbuoyant lure restriction and night closure April 1 through ~~((October 31 upstream))~~ November 30 from Johnson Creek to Colvin Creek. Trout: ~~((Minimum length twenty inches. Release wild cutthroat.))~~ Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round. January 1 through July 31 daily limit six fish of which not more than 2 may be adult salmon. August 1 through December 31 daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than 2 may be adult chinook salmon. Release chum and wild coho August 1 through April 30. Release wild chinook January 1 through July 31.

From mouth of Colvin Creek to overhead powerlines at Merwin Dam: June 16 through September 30 and December 16 through April 30 season. Nonbuoyant lure restriction and night closure April 1 through September 30. Trout: ~~((Minimum length twenty inches. Release wild cutthroat.))~~ Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open only August 1 through September 30 and January 1 through April 30. August 1 through September 30: Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than 2 may be adult chinook salmon. January 1 through April 30: Daily limit 6 salmon not more than 2 of which may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through April 30.

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: Closed waters.

From Eagle Cliff Bridge to lower falls including all tributaries: Selective gear rules. All species: Release all fish.

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.

Limerick Lake (Mason County): Last Saturday in April through October 31 season.

Lincoln Pond (Clallam County): Juveniles only. Salmon: Landlocked salmon rules apply.

Lions Park Pond (Walla Walla 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 Hoko 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 Pend Oreille River (Stevens County) from the Little Pend Oreille wildlife refuge boundary about 1 mile downstream from the refuge headquarters office to Crystal Falls: Selective gear rules, and all species: Release all fish except up to five Eastern brook trout may be retained.

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. Closed waters: Mouth to Highway 101 Bridge September 1 through October 31. Trout: Minimum length fourteen inches.

Little Spokane River (Spokane County):

From mouth to SR 291 Bridge: Year-round season.

From SR 291 Bridge upstream to the West Branch: Last Saturday in April through October 31 season. Additional December 1 through March 31 season. Whitefish gear rules apply.

Upstream from bridge at Friderger Road: Closed waters: From the inlet to Chain Lake upstream one-quarter mile to the railroad crossing culvert. Trout: Release kokanee taken upstream from bridge.

Little Twin Lake (Okanogan County): April 1 through November 30: Selective gear rules and all species: Release all fish.

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: Closed waters.

Little White Salmon River (Skamania County): Closed waters: From the orange fishing boundary markers at Drano Lake upstream to the intake near the Little White Salmon National Fish Hatchery north boundary. Trout: Daily limit five. Drano Lake (waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery): May 1 through March 15 season, except closed Wednesdays May 1 through May 31. Night closure and nonbuoyant lure restriction May 1 through June 30. Nonbuoyant lure restriction August 1 through December 31. May 1 through June 30 daily limit of two fish, of which two fish one or both may be hatchery steelhead or one or both may be chinook salmon. Trout and salmon: May 1 through June 30 release all fish except hatchery steelhead and chinook salmon. Trout: July 1 through March 15 ~~((minimum size twelve inches.))~~ release ((wild cutthroat)) all fish except up to two hatchery steelhead may be retained per day. Salmon:

Open only August 1 through December 31. Daily limit six fish of which no more than two may be adult salmon.

Lone Lake (Island County): Selective gear rules, except electric motors allowed. Trout: Daily limit one, minimum length 18 inches.

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 (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 (Mason County): Last Saturday in April through October 31 season-))~~ Lost Lake (Kittitas County): Trout: Not more than 1 fish over 14 inches in length.

Lost Lake (Okanogan County): Unlawful to fish from a floating device equipped with an internal combustion engine.

Lost River (Okanogan County):

From mouth to mouth of Monument Creek: Closed waters.

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.

Lucky Duck Pond (Stevens County): Juveniles only.

Ludlow Lake (Jefferson County): Last Saturday in April through October 31 season.

Lyle Lake (Adams County): April 1 through September 30 season.

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 November 30 season. Salmon: Landlocked salmon rules apply.

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.

Mattoon Lake (Kittitas County): Fishing from a floating device equipped with an internal combustion engine prohibited.

May Creek (tributary of Lake Washington) (King County): Closed waters.

Mayfield Lake (Reservoir) (Lewis County): Mayfield Dam to 400 feet below Mossyrock Dam: Closed waters: Tacoma Power safety signs at Onion Rock Bridge to Mossyrock Dam. Trout and salmon: Minimum length eight inches. Trout: Release cutthroat. Salmon: Open only September 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

McAllister Creek (Thurston County): Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 30 from mouth to Olympia - Steilacoom Road Bridge. Daily limit 6 fish of which no more than 4 may be adult salmon.

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 a line 50 feet north of and parallel to the Mud Bay Road Bridge to a line 100 feet upstream and parallel to the south bridge on Highway 101: June 1 through November 30 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Game fish: Release game fish November 1 through November 30. Trout: Minimum length fourteen inches upstream from the south bridge. Salmon: Open only July 1 through November 30. Closed to salmon fishing: Waters within 400 feet of Allison Springs Pond outfall. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

From a line 100 feet upstream and parallel to the south bridge on Highway 101 upstream: Nonbuoyant lure restrictions and night closure August 1 through October 31. Trout: Minimum length fourteen inches.

McLane Creek Ponds (Thurston County): Last Saturday in April through October 31 season.

McManaman Lake (Adams County): April 1 through September 30 season.

McMurray Lake (Skagit County): Last Saturday in April through October 31. Salmon: Landlocked salmon rules apply.

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 November 30 season. Selective gear rules. Trout: Daily limit one.

Merwin Lake (Reservoir) (Clark/Cowlitz County): Salmon: Landlocked salmon rules apply.

Methow River (Okanogan County):

Mouth to Gold Creek: Closed waters June 1 through October 31. Gold Creek to Weeman Bridge: June 1 through September 30 season: Selective gear rules. All species: Release all fish. Upstream from Weeman Bridge to the falls above Brush Creek: Closed waters June 1 through October 31: From mouth upstream to the falls above Brush Creek. Additional season: December 1 through March 31. Whitefish gear rules apply.

Methow River tributaries not otherwise provided for: 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): June 1 through August 31 and November 1 through March 15 seasons. Trout: ((Minimum

~~length fourteen inches~~)) Release ((~~wild cutthroat~~)) all fish except up to two hatchery steelhead may be retained per day.

Mill Creek (Lewis County): Additional season December 1 through December 31, mouth to hatchery road crossing culvert. Nonbuoyant lure restriction and night closure. All species: Release all fish except that up to two hatchery steelhead with intact ventral fins may be retained per day.

Mill Creek (Mason County): Trout: Minimum length fourteen inches.

Mill Creek (Walla Walla County):

From mouth to ((9th)) Gose St. Bridge: June 1 through April 15 season. All species: Barbless hooks required and release all fish except hatchery steelhead September 1 through April 15. Trout: Daily limit three hatchery steelhead.

From ((9th)) Gose St. Bridge to Roosevelt St. Bridge, within city limits of Walla Walla: Closed waters.

From Roosevelt St. Bridge 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.

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 June 1 through October 31. Trout: Minimum length fourteen inches. Salmon: Open only November 1 through December 31 from mouth to 50 feet downstream of the hatchery rack. Daily limit 4 chum.

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 the Quinalt Indian Reservation: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Molson Lake (Okanogan County): Fishing from a floating device equipped with an internal combustion engine prohibited.

Monte Christo Lake (Snohomish County): June 1 through October 31 season. Selective gear rules.

Moose Pond (Pacific County): June 1 through October 31 season.

Moran Slough (including inlet and outlet streams) (Grant County): Closed waters.

Morgan Lake (Adams County): April 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. Bass: Fish twelve to seventeen inches in length may be retained as part of the daily limit. No more than 3 bass over fifteen inches in length may be retained. Walleye: Minimum length eighteen inches. Up to five fish eighteen to twenty-four inches in length may be retained in the daily limit. No more than one walleye over 24 inches in length may be retained.

Mosquito Creek (Jefferson County), outside Olympic National Park: June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches. ~~((One wild steelhead per day 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 one.

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 one.

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. Release trout June 1 through October 31 from confluence with Tieton River to mouth of Rattle Snake Creek. Additional December 1 through March 31 season. Whitefish gear rules apply.

Naneum Creek (Kittitas County): Selective gear rules.

Naneum Pond (Kittitas County): Juveniles only.

Napeequa River (Chelan County): Mouth to Twin Lakes Creek: Closed waters.

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 waters within four hundred feet both upstream and downstream of the entrance to the Naselle Salmon Hatchery attraction channel.

Mainstem: June 1 through ~~((March 31))~~ April 15 season, except sturgeon. Single point barbless hooks required August 16 through November 30 upstream from Highway 4 Bridge to Crown Main Line (Salme) Bridge. Nonbuoyant lure restriction and night closure August 16 through November 30 downstream from North Fork. Stationary gear restrictions downstream from the Crown Main Line Bridge ~~((fishers may not allow their line, lures or bait to remain stationary in the water during the period))~~ August 16 through November 30. Selective gear rules March 1 through April 15 from mouth to North Fork. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through January 31 from Highway 101 Bridge to Highway 4 Bridge and October 16 through January 31 from the Highway 4 Bridge to the Crown Main Line Bridge. Daily limit 6 fish of which no more than 3 may be adult salmon and of these 3 adult fish no more than 1 may be a wild adult coho and not more than 2 may be adult chinook no more than 2 chum may be retained.

Sturgeon: Open year-round from mouth to Highway 4 Bridge.

From mouth of North Fork to source: Selective gear rules. All species: Release all fish.

South Fork, from mouth to Bean Creek: June 1 through last day in February season, except sturgeon. Game fish: Selective gear rules except nonbuoyant lure restriction and night closure August 16 through November 30. Release game fish. Sturgeon: Open year-round.

Nason Creek (Chelan County): From the mouth upstream to Smith Brook: Closed waters.

From Smith Brook to Stevens Creek: Selective gear rules.

Negro Creek (Lincoln County): Year-round season from mouth at Sprague Lake to ~~((town of Sprague))~~ the fish barrier dam at Fishtrap Lake.

Negro Creek (Whitman County): Last Saturday in April through July 15 season.

Nemah River, North, Middle, and South: June 1 through March 31 season. Single point barbless hooks required on North Nemah upstream to the lower bridge on dead end lower Nemah Road October 1 through November 30, on Middle Nemah upstream to the Department of Natural Resources Bridge on Middle Nemah A-line Road August 16 through November 30, and on South Nemah upstream to confluence with Middle Nemah August 16 through November 30. Selective gear rules on Middle Nemah above DNR Bridge. Night closure August 16 through November 30 on South and Middle Nemah and October 1 through November 30 on North

Nemah. Nonbuoyant lure restriction on North Nemah upstream from bridge on dead end lower Nemah Road August 16 through November 30. On the North Nemah from the mouth to the lower bridge on dead end lower Nemah Road, fishers may not allow their line, lures or bait to remain stationary in the water during the period August 16 through November 30. All game fish: Release all fish except up to two hatchery steelhead per day may be retained in the North Nemah. Salmon: Open only August 1 through January 31 on Middle Nemah from mouth to DNR Bridge and South Nemah from mouth to confluence with Middle Nemah and October 1 through January 31 on North Nemah from mouth to the lower bridge on dead end Lower Nemah Road. Middle and South Nemah: Daily limit 6 fish of which no more than 2 may be adult salmon and of the two adult fish no more than one may be a wild adult coho. North Nemah: Daily limit 6 salmon of which not more than 3 may be adult salmon and of the adult fish no more than one may be a wild adult coho and no more than two may be adult chinook. No more than two chum may be retained.

Newhalem Ponds (Whatcom County): Closed waters.

Newaukum River, main river and South Fork upstream to Highway 508 Bridge near Kearny Creek (Lewis County): June 1 through March 31 season. Night closure and single point barbless hooks required August 16 through November 30 from mouth to Gheer Creek. Trout: Minimum length fourteen inches mouth to Highway 508 Bridge near Kearny Creek. Salmon: Open only October 16 through last day in February from mouth to Gheer Creek. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook. Release wild adult coho December 1 through last day in February.

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 400 feet below Chehalis city water intake upstream: Closed waters.

Niawiakum River (Pacific County): From Highway 101 Bridge to the South Bend/Palix Road Bridge: Night closure and single point barbless hooks required August 16 through November 30. All game fish: Release all fish. Salmon: Open only September 1 through November 30 from Highway 101 Bridge to South Bend/Palix Road Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult fish not more than one may be a wild adult coho. Release adult chinook.

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 January 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Game fish: Closed Decem-

ber 1 through January 31. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through January 31 from mouth to Military Tank Crossing Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon.

Nooksack River (Whatcom County), from mouth to forks, Middle Fork to Dam and North Fork to Nooksack Falls: June 1 through last day in February season except closed June 1 through September 30 in mainstem from Mount Baker High School bus barn at Deming to confluence of the North and South Forks. Fishing from floating devices equipped with motors prohibited on the North and Middle Forks November 1 through last day in February. Nonbuoyant lure restriction and night closure August 1 through November 30 on mainstem and North Fork to Maple Creek. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31 in mainstem from Lummi Indian Reservation boundary to Mount Baker High School bus barn. Open only October 16 through December 31 in mainstem from the bus barn to the confluence of the North and South Forks, and October 1 through October 31 on the North Fork from confluence to Maple Creek. Daily limit 2 salmon, except release chinook and wild coho.

Nooksack River, South Fork (Skagit/Whatcom counties): From mouth to Skookum Creek: June 1 through last day in February season. Selective gear rules. Night closure August 1 through October 31. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through December 31. Daily limit 2 salmon, except release chinook and wild coho.

From Skookum Creek upstream: Closed waters.

No Name Lake (Pend Oreille County): Last Saturday in April through October 31 season.

North Creek (Okanogan County): From mouth to falls at river mile 0.8: Selective gear rules.

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: June 1 through last day in February season, except sturgeon. Night closure August 16 through November 30. Single point barbless hooks required August 16 through November 30 upstream to Salmon Creek. Nonbuoyant lure restriction from Salmon Creek to Falls River August 16 through November 30. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only September 1 through November 30 from Highway 105 Bridge to Salmon

Creek. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult fish not more than one may be a wild adult coho. Release adult chinook. Sturgeon: Open year-round from Highway 105 Bridge to Salmon Creek.

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 November 30 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 Limerick): Closed waters.

Oasis Park Pond (Grant County): Third Saturday in April through Labor Day season. Juveniles and holders of reduced fee disability licenses only.

Ohanapecosh Creek (tributary to Cowlitz River) (Lewis/Pierce counties): Selective gear rules. Trout: Minimum length twelve inches.

Ohop Lake (Pierce County): Last Saturday in April through October 31 season.

Okanogan River (Okanogan County):

From the mouth to the highway bridge at Malott: Year-round season. Trout: Release all trout. Upstream from the highway bridge at Malott: June 1 through August 31 season. Trout: Release all trout.

Closed waters: 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)) all fish except up to two hatchery steelhead may be retained per day.

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.

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 March 31 season, except sturgeon. Single point barbless hooks and night closure August 16 through November 30 upstream to the confluence of the South and Middle Forks. Above the confluence of the South and Middle Forks: Selective gear rules. Nonbuoyant lure restriction and night closure August 16 through November 30. All game fish: Release all fish. Salmon: Open only September 1 through November 30 from the Highway 101 Bridge to the confluence of the South and Middle Forks. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult salmon not more than one may be a wild adult coho. Release adult chinook. Sturgeon: Open year-round from the Highway 101 Bridge to the confluence of the South and Middle Forks.

Palouse River and tributaries, except Rock Creek (Whitman County): Year around season.

Palmer Lake (Okanogan County): Burbot: Set line gear allowed.

Pampa Pond (Whitman County): March 1 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): April 1 through September 30 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): Juveniles only.

Pearrygin Lake (Okanogan County): Last Saturday in April through September 30 season.

Pend Oreille River (Pend Oreille County): Year-round season. All sloughs within the boundaries of the Kalispell Reservoir 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.

Peshastin Creek (Chelan County): Mouth to Ruby Creek: Closed waters.

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.

Pheasant Lake (Jefferson County): Last Saturday in April to October 31 season.

Phelps Creek (Chelan County): From mouth to falls at river mile 1: Selective gear rules.

Philippa Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Phillips Lake (Mason County): Last Saturday in April through October 31 season.

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 gear rules. Trout: Minimum length fourteen inches. Additional December 1 through last day in February season. Trout: Minimum length fourteen inches.

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.

From 500 feet below diversion dam upstream: Closed waters.

Pillar Lake (Grant County): April 1 through September 30 season.

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.

Pit Lake (Douglas County): Juveniles only.

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): April 1 through September 30 season.

Portage Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Potholes Reservoir (Grant County): Crappie: Minimum length nine inches. Crappie and bluegill: Combined daily limit twenty-five fish. Perch: 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. Selective gear rules. All species: Release all fish.

Puyallup River (Pierce County):

From mouth to the Electron power plant outlet: June 1 through January 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30 from the mouth to the Carbon River. Trout: Minimum length fourteen inches. Salmon: Open only August 1 through December 31 from mouth to Carbon River. Daily limit 6 fish of which no more than 2 may be adult salmon.

From mouth to the Soldier's Home Bridge in Orting: Additional February 1 through (~~March 31~~) last day in February season. Trout: Minimum length fourteen inches.

Pysht River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches. ~~((One wild steelhead per day may be retained December 1 through last day in February.))~~

Pysht River South Fork (Clallam County): 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.

Quigg Lake (Grays Harbor County): June 1 through April 15 season. Trout: Daily limit 2. Minimum length fourteen inches. Salmon: Open only October 1 through January 31. Daily limit 6 hatchery coho salmon of which no more than 4 may be adult hatchery coho.

Quillayute River (Clallam County): Open year-round. May 1 through May 31 release all fish except up to two hatchery steelhead per day may be retained. Trout: Minimum length fourteen inches. ~~((December 1 through April 30, one wild steelhead per day may be retained.))~~ Salmon: Open only March 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon March 1 through August 31 and 3 may be adult salmon September 1 through November 30. September 1 through November 30 the 3 adult salmon may contain no more than 2 adult chinook or 2 adult wild

coho or 1 adult chinook and 1 adult wild coho. March 1 through August 31 release wild adult coho and wild adult chinook.

Quinault River, Upper (Jefferson County), from mouth at upper end of Quinault Lake to the National Park boundary: June 1 through ~~((March 31))~~ April 15 season. Trout: Minimum length fourteen inches. ~~((One wild steelhead per day may be retained December 1 through March 31.))~~ Salmon: Open only July 1 through October 31. Daily limit 6 fish except release adult salmon.

Quincy Lake (Grant County): March 1 through July 31 season.

Radar Ponds (Pacific County): Salmon: Landlocked salmon rules apply.

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.

Railroad Pond (Franklin County): Selective gear rules. Trout: Daily limit two.

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.

Rat Lake (Okanogan County): April 1 through November 30: Selective gear rules except electric motors allowed, and all species: Release all fish.

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.

Riffe Lake (Reservoir) (Lewis County): Mossyrock Dam to 400 feet below Cowlitz Falls Dam. Closed waters: Lewis County PUD safety signs approximately 800 feet below Cowlitz Falls Dam to Dam. Lawful to fish up to the base of Swofford Pond Dam. Salmon: Landlocked salmon rules apply.

Rigley Lake (Stevens County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length ~~((fourteen))~~ twelve 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 (Adams/Whitman counties): Mouth to Endicott Road year-round season.

Endicott Road to bridge on George Knott Road at Revere: Selective gear rules. All species: Release all fish.

Upstream from bridge on George Knott Road: Year-round season.

Rock Creek (Chelan County): Selective gear rules.

Rock Creek (Cedar River tributary below Landsburg Dam) (King County): Closed waters.

Rock Creek (Skamania County): Mouth to falls: June 1 through March 15 season. Trout: ~~((Minimum length twelve inches.))~~ Release ~~((wild cutthroat))~~ all fish except up to two hatchery steelhead may be retained per day. Above falls, additional November 1 through March 15 season.

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.

Roesiger Lake (Snohomish County): Crappie: Daily limit ten, minimum length nine inches.

Roosevelt Lake (Ferry/Lincoln/Stevens counties): Chumming allowed. All species: Closed February 1 through May 31 in San Poil arm upstream from outlet of French Johns Lake, and April 1 through May 31 in Kettle arm upstream to Barstow Bridge. Trout except kokanee: Daily limit five. No more than two over twenty inches in length. Kokanee daily limit two. Walleye: No minimum size. Daily limit 5 fish not more than one of which may be longer than 18 inches. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon from Roosevelt Lake and tributaries.

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): Closed waters.

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): Chumming allowed. Trout: Daily limit two. Sturgeon: Unlawful to fish for or retain sturgeon from Rufus Woods Lake and tributaries.

Sacheen Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Saddle Mountain Lake (Grant County): Closed waters.

Sago Lake (Grant County): April 1 through September 30 season.

Salmon Creek (Clark County), from mouth to 72nd Avenue N.E.: June 1 through March 15 season. Trout: (~~Minimum length twelve inches-~~) Release (~~(wild cutthroat)~~) all fish except up to two hatchery steelhead may be retained per day. (~~(Release all steelhead June 1 through October 31-)~~)

Salmon Creek, including all forks (Jefferson County): Closed waters.

Salmon Creek, mainstem (Okanogan 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. Selective gear rules. All species: Release all fish.

Salmon River (Jefferson County): June 1 through last day in February season. Trout: Minimum length fourteen inches. (~~(One wild steelhead per day may be retained November 1 through last day in February-)~~) Hatchery steelhead in this river are steelhead with a dorsal fin height of less than 2-1/8 inches or with an adipose or ventral fin clip. Salmon: Open only September 1 through November 30 from mouth to Q 1000 Bridge. Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than 2 may be adult chinook salmon.

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 Hickson Bridge: June 1 through March 15 season. From Highway 99 Bridge to department

salmon rack: Closed waters. Nonbuoyant lure restriction and night closure August 1 through December 31.

Trout: Minimum length fourteen inches. Salmon: Open only July 1 through December 31 from mouth to Thomas Road Bridge and October 1 through December 31 from Thomas Road Bridge to I-5 Bridge. Daily limit two salmon.

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. Salmon: Closed to salmon fishing within 100 yards of the mouth of Issaquah Creek. Open only August 16 through November 30. Daily limit two salmon. Release sockeye.

Sammamish River (Slough) (King County), from the 68th Avenue N.E. Bridge to Lake Sammamish: Closed waters: All tributaries. (~~(June)~~) January 1 through August 31 season. Selective gear rules. Trout: Release all trout.

Sandyshore Lake (Jefferson County): Last Saturday in April to October 31 season.

San Poil River (Ferry County): Unlawful to fish for or retain sturgeon.

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, (Grays Harbor County): Trout: Minimum length 14 inches in mainstem and all forks. Mainstem and East Fork, single point barbless hooks and night closure August 16 through November 30 except only August 16 through October 31 on East Fork upstream from bridge at Schafer State Park. Middle and West forks downstream from Cougar Smith Road nonbuoyant lure restriction and night closure August 16 through November 30. Middle and West Forks upstream from Cougar Smith Road night closure and nonbuoyant lure restriction August 16 through October 31. (~~(All open periods: Trout: Minimum length fourteen inches-)~~)

From mouth to bridge at Schafer Park: Additional November 1 through March 31 season. Salmon: Open only October 1 through January 31. Daily limit 6 fish of which no more than 2 may be adult salmon, except release adult chinook.

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.

From the mouth of the White Chuck River to headwaters, including North Fork and South Fork upstream to Elliot Creek: 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.

South Fork upstream from Elliot Creek: June 1 through August 31 season. Selective gear rules.

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. Crappie: Daily limit ten, minimum length nine inches.

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.

Serene Lake (Snohomish County): Last Saturday in April through October 31 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): April 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.

Shoveler Lake (Grant County): April 1 through September 30 season.

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. Fishing from a floating device equipped with an internal combustion engine prohibited.

Silvas Creek (Klickitat County): Trout: Release all trout.

Silver Creek (tributary to Cowlitz River) (Lewis County), mouth to USFS Road 4778: Selective gear rules. Trout: Minimum length twelve inches.

Silver Lake (Pierce County): Last Saturday in April through October 31 season.

Silver Lake (Spokane County): Crappie: Daily limit ten, minimum length nine inches.

Silver Lake, North (Spokane County): March 1 through September 30 and November 1 through December 31 season. Selective gear rules. March 1 through September 30: Trout: Daily limit 2 fish, minimum length 14 inches, except release fish with clipped adipose fin. November 1 through December 31: All species: Release all fish.

Silver Lake (Whatcom County): Last Saturday in April through October 31 season.

Silvernail Lake (Okanogan County): Juveniles only.

Similkameen River (Okanogan County):

From mouth to Enloe Dam: December 1 through March 31 season. Whitefish gear rules apply.

From Enloe Dam to Canadian border: Additional December 1 through March 31 season. Whitefish gear rules apply.

Sinlahekin Creek (Okanogan County), from Palmer Lake to Cecile Creek bridge: June 1 through August 31 season. Selective gear rules. Additional December 1 through March 31 season. Whitefish gear rules apply.

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-round season. Selective gear rules March 1 through May 31 except lawful to fish from a floating device equipped with a motor. 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. Salmon: Open only August 16 through December 31. August 16 through October 31: Daily limit four salmon of which not more than three may be coho salmon or two may be chum salmon and release chinook. November 1 through December 31: Daily limit 2 salmon and release chinook.

From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to Gilligan Creek: 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. Salmon: Open only August 16 through December 31. August 16 through October 31: Daily limit four salmon of

which not more than three may be coho salmon or two may be chum salmon and release chinook. November 1 through December 31: Daily limit 2 salmon and release chinook.

From Gilligan Creek to Bacon Creek: June 1 through March 15 season except closed June 16 through June 30 and August 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. Nonbuoyant lure restriction and night closure July 1 through November 30. 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. Salmon: Open only September 16 through December 31 Gilligan Creek to the Dalles Bridge at Concrete. September 16 through October 31: Daily limit four salmon of which not more than three may be coho salmon or two may be chum salmon and release chinook. November 1 through December 31: Daily limit two salmon and release chinook.

From the Dalles Bridge at Concrete to the Cascade River - Salmon open July 1 through July 31, except closed from 200 feet above the mouth of the Baker River to the Cascade River. Daily limit two sockeye salmon. Release all salmon except sockeye salmon. Salmon open September 16 through December 31. September 16 through October 31: Daily limit four salmon of which not more than three may be coho salmon or two may be chum salmon and release chinook. November 1 through December 31: Daily limit two salmon and release chinook.

From Bacon Creek to Gorge Powerhouse: June 1 through last day in February season. Nonbuoyant lure restriction and night closure July 1 through November 30. 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.

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.

Skamokawa 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: Night closure, nonbuoyant lure restriction and single point barbless hooks required August 1 through November 30 mouth to Highway 101. June 1 through last day in February season. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through December 15 mouth to Highway 101 Bridge. Daily limit 1 salmon August 1 through September 30. Release chum salmon. Daily limit 6 salmon October 1 through December 15, except daily limit may contain no more than 4 adult fish and of these adults not more than one

may be an adult chinook. October 1 through October 15 release chum salmon.

Skokomish River, North Fork (Mason County):

From mouth to lower dam: June 1 through last day in February season. 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.

Skokomish River, South Fork (Mason County):

From mouth to mouth of Church Creek: June 1 through last day in February season. All species: Release all fish except up to two hatchery steelhead per day may be retained.

From mouth of Church Creek to mouth of Rule Creek: Closed waters.

From mouth of Rule Creek to headwaters: Selective gear rules. Trout: Minimum length twelve inches.

Skookum Creek (Mason County): Trout: Minimum length fourteen inches.

Skookum Lakes, North and South (Pend Oreille County): Last Saturday in April through October 31 season.

Skookumchuck Creek (Klickitat County): Trout: Release all trout.

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: June 1 through April 30 season. Single point barbless hooks and night closure August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through last day in February. Daily limit 6 fish of which no more than 2 may be adult salmon, except December 1 through the last day in February release adult wild coho. Release adult chinook.

From Skookumchuck Reservoir upstream and all tributaries: Selective gear rules. Trout: Minimum length twelve inches.

Skykomish River (Snohomish County):

From mouth to mouth of Wallace River: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30 mouth to Lewis Street Bridge in Monroe and June 1 through November 30 from Lewis Street Bridge in Monroe to Wallace River. 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. Additional season March 1 through April 30 mouth to Sultan River: Selective gear rules and all species - Release all fish. Salmon: Open June 1 through July 31 Lewis Street Bridge in Monroe to Wallace River. Daily limit 1 hatchery chinook. Open September 1 through December 31. Daily

limit four salmon of which a total of not more than two may be coho and chum salmon. Release chinook.

From the mouth of the Wallace River to the forks: June 1 through last day in February 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. Nonbuoyant lure restriction and night closure August 1 through November 30. 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 August 1 through last day in February. 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. Salmon: Open only September 1 through December 31. Daily limit four salmon of which a total of not more than two may be coho and chum salmon. Release chinook.

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. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

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. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

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, except sturgeon. Single point barbless hooks, and night closure August 16 through November 30 upstream to the Highway 101 Bridge. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only September 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult salmon not more than one may be an adult wild coho. Release adult chinook. Sturgeon: Open year-round from mouth to Highway 101 Bridge.

Snake River: Year-round 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)~~ three over twenty inches. Release all steelhead June 16 through August 31. Barbless hooks required when fishing for steelhead. Sturgeon: Unlawful to retain sturgeon in mainstem and tributaries upstream from Lower Granite Dam. Bass: Fish twelve to seventeen inches in length may be retained as part of the daily limit. No more than 3 bass over fifteen inches in length may

be retained. Walleye: ~~((Minimum length eighteen inches. Up to five fish eighteen to twenty four inches in length may be retained in the daily limit. No more than one walleye over 24 inches in length may be retained.))~~ Daily limit 10 fish. No minimum size. No more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Channel catfish: No daily limit.

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): April 1 through September 30 season.

Snohomish River (Snohomish County), including all channels, sloughs, and interconnected waterways, but excluding all tributaries: June 1 through last day in February season, except sturgeon. Nonbuoyant lure restriction and night closure August 1 through November 30. 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. Salmon: Open only August 16 through December 31. Daily limit four salmon of which no more than a total of two salmon may be coho and chum salmon. Release chinook. Sturgeon: Open year-round from mouth to Highway 2 Bridge.

Snoqualmie River (King County):

From mouth to the falls: June 1 through last day in February 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 last day in February from the mouth of Tokul Creek downstream to the boat ramp at Plumb access, about one-quarter mile. Night closure September 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31. Daily limit 2 fish. Release chinook and pink.

From Snoqualmie Falls upstream, 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 except Pratt and Taylor rivers: Year-round season. Selective gear rules. All species: Release all fish.

Snow Creek (Jefferson County), including all tributaries: Closed waters.

Snyder Creek (Klickitat County): Trout: Release all trout.

Sol Duc River (Clallam County): Open year-round. May 1 through May 31 release all fish except up to two hatchery steelhead per day may be retained. Selective gear rules from the concrete pump station at the Soleduck Hatchery to the

Highway 101 Bridge downstream of Snider Creek November 1 through April 30, and from the Highway 101 Bridge to Olympic National Park June 1 through October 31. Trout: Minimum length fourteen inches. ~~((December 1 through April 30, from mouth to the concrete pump station at the Seleduck Hatchery, one wild steelhead per day may be retained.))~~ Salmon: Open only March 1 through November 30 from mouth to concrete pump station. Daily limit 6 fish of which no more than 2 may be adult salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and wild adult chinook. September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or a combination of adult chinook and adult wild coho.

Sooes River (Suez River) (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Soos Creek (King County), from mouth to bridge near hatchery residence: June 1 through August 31 season except salmon. Trout: Minimum length fourteen inches. Salmon: Open only October 11 through November 2 to fishing by juveniles only. Night closure October 11 through October 31. Terminal gear restricted to one single hook. Daily limit two coho salmon.

Bridge near hatchery residence to Salmon hatchery rack: June 1 through August 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: Maximum length twelve inches.

Spada Lake (Reservoir) tributaries (Snohomish County): Closed waters.

Spanaway Lake and Spanaway Lake outlet downstream to the dam (approximately 800 feet) (Pierce County): Year-round season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Spearfish Lake (Klickitat County): Last Saturday in April through last day in February season.

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-round season except walleye. Trout: Daily limit five, no more than two over twenty inches in length. Walleye: Daily limit five, no minimum length, no more than one over eighteen inches in length. April 1 through May 31 release all

walleye. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon.

From Seven Mile Bridge upstream to the Monroe Street Dam: Year-round season. Selective gear rules. Trout: Daily limit one. Release wild trout. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon.

From Monroe Street Dam upstream to Upriver Dam: Year-round season. Salmon: Landlocked salmon rules apply.

From Upriver Dam upstream to the Idaho/Washington state line: Selective gear rules, except fishing from a floating device equipped with a motor permitted. All species: Release all fish.

Sprague Lake (Adams/Lincoln counties):

Waters south of the lakeside edge of the reeds and waters of Cow Creek south to Danekas Road: July 1 through September 15 season. Crappie: Daily limit ten, minimum length nine inches.

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 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.

Stan Coffin Lake (Grant County): Bass: Release all bass.

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. Release cutthroat. Additional March 1 through June 30 season. Selective gear rules. All species: Release all fish.

Stetattle 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. Kokanee: Kokanee not included in trout daily limit. Kokanee daily limit ten fish.

Steves Lake (Mason County): Last Saturday in April through October 31 season.

Stickney Lake (Snohomish County): Last Saturday in April through October 31 season.

Stillaguamish River (Snohomish County):

From mouth to ~~((Warm Beach Stanwood Highway))~~ Marine Drive, including all sloughs: Year-round season.

Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31. Daily limit four salmon of which a total of not more than two may be coho and chum salmon. Release chinook.

From ~~((Warm Beach Stanwood Highway))~~ Marine Drive 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. Night closure August 1 through November 30. Selective gear rules June 1 through November 30 except fishing from a floating device equipped with a motor allowed. Game fish: June 1 through November 30 release all fish except hatchery steelhead. Trout: Minimum length fourteen inches December 1 through last day in February. Salmon: Open only September 1 through December 31. Daily limit four salmon of which a total of not more than two may be coho and chum salmon. Release chinook.

Stillaguamish River, North Fork (Snohomish County), from mouth to Swede Heaven Bridge: Year-round season. Nonbuoyant lure restriction and night closure August 1 through November 30. Fishing from any floating device prohibited upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge). Fishing from any floating device equipped with a motor prohibited downstream from the Highway 530 Bridge. March 1 through November 30: All species: Release all fish except hatchery steelhead. April 16 through November 30 fly fishing only. December 1 through last day in February: Trout: Minimum length fourteen inches.

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. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

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. Nonbuoyant lure restriction and night closure August 1 through November 30.

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.

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.

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.

Swale Creek (Klickitat County): Trout: Release all trout.

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. From posted markers below Eagle Cliff Bridge to Bridge: Selective gear rules except fishing from a floating device equipped with a motor is allowed. Salmon: Landlocked salmon rules apply.

Swofford Pond (Lewis County): Fishing from a floating device equipped with an internal combustion motor prohibited.

Tahuya River (Mason County): Mouth to Bear Creek-Dewatto Road crossing: ~~((June 1 through last day in February season. Game fish:))~~ Selective gear rules ~~((except single point barbless hooks required September 16 through October 31))~~ and release all fish except salmon. Salmon: Open only September 16 through October 31 mouth to marker one mile above North Shore Road Bridge. ~~((Single point barbless hooks required.))~~ Daily limit 2 coho salmon.

Bear Creek-Dewatto Road crossing upstream: Selective gear rules and release all fish.

Taneum Creek (Kittitas County): Selective gear rules.

Tanwax Lake (Pierce County): Last Saturday in April through October 31 season. Crappie: Daily limit ten, minimum length nine inches.

Tapps Lake (Reservoir) and Tapps Lake (Reservoir) intake canal (Pierce County), to within four hundred feet of the screen at Dingle Basin: Year-round season.

Tarboo Lake (Jefferson County): Last Saturday in April through November 30 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Salmon: Landlocked salmon rules apply.

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 Lakes (North and South) (Grant County): April 1 through September 30 season.

Teal Lake (Jefferson County): Last Saturday in April to ~~(October)~~ August 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Additional September 1 through March 30 season. Selective gear rules. All species: Release all fish.

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)~~ 31 except fishing from floating dock permitted.

Thomas Lake (Stevens County): Last Saturday in April through October 31 season.

Thornton Creek (tributary to Lake Washington) (King County): Closed waters.

Thread Lake (Adams County): April 1 through September 30 season.

Tibbetts Creek (tributary to Lake Sammamish) (King County): Closed waters.

Tieton River (Yakima County): Lawful to fish to base of Tieton (Rimrock) Dam. Additional December 1 through March 31 season: Whitefish gear rules apply.

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. Release cutthroat. Salmon: Open only June 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult fish. Release wild coho.

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.

Tokul Creek (King County):

From mouth to the posted cable boundary marker located approximately seven hundred feet upstream of the mouth: December 1 through last day in February season, closed 5:00 p.m. to 7:00 a.m. daily. Nonbuoyant lure restriction. Trout: Minimum length fourteen inches.

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.

From the USGS trolley cable to the falls in Sec. 21, Twp 26N., R 8 E. on the North Fork, and to the dam on the South Fork: Closed waters.

From falls upstream on North Fork: Selective gear rules. All species: Release all fish.

From dam upstream on South Fork: Selective gear rules. Trout: Minimum length ten inches.

Touchet River (Columbia/Walla Walla counties):

From confluence of north and south forks upstream, including Robinson and Wolf Forks: Selective gear rules. Trout: Release all steelhead. Bass: No minimum or maximum size. No more than three bass over fifteen inches in length may be retained. Tributaries other than North Fork, South Fork, Robinson Fork, and Wolf Fork: Closed waters.

North Fork: Upstream of Spangler Creek June 1 through August 31 season.

South Fork: Upstream from Griffin Creek June 1 through August 31 season.

Wolf Fork: Upstream from Coates Creek June 1 through August 31 season.

From mouth to confluence of north and south forks: Additional season: November 1 through April 15. Barbless hooks required. All species: Release all fish except hatchery steelhead and brown trout. Trout: Daily limit three fish.

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. Nonbuoyant lure restriction and night closure September 1 through October 15 on North Fork from confluence with South Fork to mouth of Green River. All game fish: Release all fish except hatchery steelhead. Salmon: Open only August 1 through November 30. Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than 2 may be adult chinook salmon. Release chum and wild coho. Release all chinook October 1 through November 30 in North Fork upstream from Kidd Valley Bridge.

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 hatchery steelhead. 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 hatchery steelhead.

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 mouth upstream to Turner Road Bridge: Additional November 1 through April 15 season. Barbless hooks required. All species: Release all fish except hatchery steelhead and whitefish. Trout: Daily limit three hatchery steelhead.

From the Turner Road Bridge upstream to the ~~((Cummings Creek))~~ Tucannon Hatchery 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 hatchery steelhead and whitefish. Trout: Daily limit three hatchery steelhead.

From the ~~((Cummings Creek))~~ Tucannon Hatchery Bridge upstream to 500 feet above the Rainbow Lake intake: Closed waters.

From 500 feet above the Rainbow Lake intake to the Cow Camp Bridge: Selective gear rules. Release steelhead.

From Cow Camp Bridge upstream: Closed waters.

Tucuala Lake (Kittitas County): June 1 through October 31 season.

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 War Creek: June 1 through September 30 season. Selective gear rules. All species: Release all fish. War Creek to South Fork Twisp River: Closed waters.

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): Mouth to ~~((lower))~~ North Shore Road Bridge ~~((on Old Belfair Highway, June 1 through last day in February season))~~. All species: Release all fish except sturgeon.

From North Shore Road Bridge to lower bridge on Old Belfair Highway: ~~((Closed waters August 16 through October 31))~~ June 1 through August 15 season. Selective gear rules. All species: Release all fish except sturgeon.

From ~~((North Shore Road Bridge))~~ lower bridge on Old Belfair Highway upstream to watershed boundary: Selective gear rules. All species: Release all fish except sturgeon ~~((from mouth to watershed boundary))~~.

From watershed boundary to source, including all tributaries: Closed waters.

Upper Wheeler Reservoir (Chelan County): Closed waters.

Valley Creek (Clallam County): 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 November 30 season. Juveniles, holders of a senior license and holders of a department disability license only. Salmon: Landlocked salmon rules apply. Pond Two: Last Saturday in April through November 30 season. Salmon: Landlocked salmon rules apply.

Vancouver Lake and all other waters west of Burlington-Northern Railroad from Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County): Closed waters: April 1 through May 30 the Vancouver Lake flushing channel is closed and it is closed to fishing from the lake shoreline within 400 feet east and west of the channel exit. Chumming permitted. Trout: Daily limit two, minimum length twelve inches.

Vanes Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Van Winkle Creek (Grays Harbor County): Mouth to 400 feet below outlet of Lake Aberdeen Hatchery: Game fish: Minimum length 14 inches. Salmon: Open only September 1 through January 31. Daily limit 6 fish of which not more than 2 may be adult fish. Release chum, adult chinook and wild adult coho.

Vic Meyers (Rainbow) Lake (Grant County): Last Saturday in April through September 30 season.

Vogler Lake (Skagit County): Last Saturday in April through October 31 season. Fly fishing only. All species: Release all fish.

Voight Creek (Pierce County): From mouth to Highway 162 Bridge: Closed waters.

Wagners Lake (Snohomish County): Last Saturday in April through October 31 season.

Wahkiacus Creek (Klickitat County): Trout: Release all trout.

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 200 feet upstream of the water intake of the salmon hatchery: June 1 through last day in February 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 during the period June 1 through August 31. Fishing from any floating device prohibited November 1 through last day in February. 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. Salmon: Open only September 1 through November 30. Daily limit 2 coho.

From 200 feet upstream of the water intake of the salmon hatchery to mouth of Olney Creek: 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.

Walla Walla River (Walla Walla County):

From mouth to the Touchet River: Year-round season. Trout: Barbless hooks required when fishing for steelhead. Trout: Release trout April 1 through May 31. Daily limit three hatchery steelhead. Bass: No minimum or maximum size. No more than three fish over fifteen inches in length may be retained.

From the Touchet River upstream to state line: Trout: All tributaries except Mill Creek, maximum length twenty inches. Bass: No minimum or maximum size. No more than three fish over fifteen inches in length may be retained. Additional season November 1 through April 15. All species: Barbless hooks required and release all fish except hatchery steelhead. Trout: Daily limit three hatchery 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. Trout: Release all trout. 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): Last Saturday in April through September 30 season.

Washburn Island Pond (Okanogan County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Washburn Lake (Okanogan County): Last Saturday in April through October 31 season. Trout: Daily limit two.

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, daily limit 5, no minimum length. Release steelhead and rainbow trout over twenty inches in length. March 1 through June 30, daily limit 5, minimum length twelve inches. Release 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. Salmon: Open only September 16 through October 31 north of Highway 520 Bridge and east of Montlake Bridge. Daily limit two coho 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-round. 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. Nonbuoyant lure restriction, night closure and stationary gear restriction September 1 through October 31. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained. Salmon: Open only August 1 through March 15. Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than 2 may be adult chinook salmon. Release chum and wild coho. Upstream of Little Washougal River, release chinook October 1 through December 31.

From mouth to Mt. Norway Bridge: Additional April 16 through May 31 season. Selective gear rules. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained.

From bridge at Salmon Falls to its source, including tributaries: 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: Release all trout except up to 2 hatchery steelhead per day may be retained.

Watson Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Waughop Lake (Pierce County): Salmon: Landlocked salmon rules apply.

Wenas Lake (Yakima County): Trout: Daily limit five, of which not more than two may be brown trout.

Wenaha River tributaries within Washington: June 1 through August 31 season.

Wenatchee Lake (Chelan County): Selective gear rules except fishing from a floating device equipped with a motor allowed. Trout except kokanee: Daily limit two, minimum length twelve inches. Release kokanee. Kokanee/sockeye under sixteen inches will be considered kokanee while those sixteen inches and over will be considered sockeye salmon.

Wenatchee River (Chelan County):

December 1 through March 31 season, from mouth to Highway 2 Bridge at Leavenworth only. Whitefish gear rules apply.

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. Nonbuoyant lure restriction and night closure August 1 through December 31. Closed waters: Woburn Street Bridge upstream to the stone bridge. Trout: Minimum length fourteen inches. Salmon: Open only August 1 through December 31 from mouth to markers below Dupont Street. Daily limit 6 fish of which not more than 2 may be adult salmon.

From stone bridge at Whatcom Falls Park upstream to Lake Whatcom: Last Saturday in April through October 31 season. Juveniles only. Nonbuoyant lure restriction and night closure August 1 through October 31. 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: Release cutthroat trout.

Whatcom, Lake, tributaries (Whatcom County): Closed waters.

Wheeler Creek (Klickitat County): Trout: Release all trout.

White River (Chelan County), from mouth upstream to White River Falls: Closed waters.

White (Stuck) River (Pierce County):

From mouth to R Street Bridge in Auburn: October 1 through last day in February season: Nonbuoyant lure restriction and night closure October 1 through November 30. Trout: Minimum length fourteen inches.

From R Street Bridge to Highway 410 Bridge at Buckley: October 1 through October 31 season. Closed waters: Puget Power canal, including the screen bypass channel, above the screen at Dingle Basin. Nonbuoyant lure restriction and night closure. Trout: 14 inch minimum size.

From the Weyerhaeuser 6000 Road Bridge (Bridge Camp) to its source: Nonbuoyant lure restriction and night closure October 1 through November 30. 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: Open year-round. Bank fishing only downstream from the Highway 14 Bridge. August 1 through December 31: Nonbuoyant lure restriction. Trout: Minimum length fourteen inches. Salmon and steelhead: Open April 1 through June 30, daily limit two fish, one or both of which may be salmon or hatchery steelhead. Release all fish except salmon or hatchery steelhead. Salmon: Open July 1 through March 31. Daily limit 6 fish of which no more than 2 may be adult salmon. October 1 through December 31 release chinook upstream from posted markers upstream of Highway 14 Bridge.

From powerhouse to within four hundred feet of Northwestern Dam: November 16 to April 30 season except salmon and steelhead. Trout: Minimum length fourteen inches. Salmon: Open November 16 through March 31. Daily limit 6 fish of which no more than 2 may be adult salmon. November 16 through December 31 release chinook. Salmon and steelhead: Open April 1 through June 15, daily limit two fish, one or both of which may be salmon or hatchery steelhead. Release all fish except salmon or hatchery steelhead.

From gas pipeline crossing above Northwestern Lake to Gilmer Creek: Selective gear rules. Trout: Minimum length twelve inches.

Wide Hollow Creek (Yakima County): Trout: Daily limit five, no minimum length.

Widgeon Lake (Grant County): April 1 through September 30 season.

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. Salmon: Landlocked salmon rules apply.

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): Mouth to Fork Creek: June 1 through March 31 season, except sturgeon. Night closure, single point barbless hooks, and stationary gear restriction August 16 through November 30 mouth to Fork Creek. November 1 through March 31 fishing from any floating device prohibited from the bridge on Willapa Road to Fork Creek.

All game fish: Release all fish except that up to two hatchery steelhead may be retained. Salmon: Open only August 1 through January 31 from mouth to Highway 6 Bridge approximately 2 miles below mouth of Trap Creek and open October 16 through January 31 from Highway 6 Bridge to Fork Creek. Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than one may be a wild adult coho and not more than two may be adult chinook and not more than two may be chum.

Sturgeon: Open year-round from mouth to Highway 6 Bridge.

Upstream from Fork Creek: Selective gear rules. August 16 through October 31, nonbuoyant lure restriction and night closure. All species: Release all fish.

South Fork: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 16 through November 30. All species: Release all fish except up to two hatchery steelhead may be retained.

Williams Creek (Pacific County): June 1 through last day in February season. 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.

Wilson Creek (two branches within Ellensburg city limits) (Kittitas County): Open year-round. 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: July 1 through March 15 season, except salmon and steelhead. May 1 through June 30: Nonbuoyant lure restriction and night closure. August 1 through October 31: Nonbuoyant lure restriction. Salmon and steelhead: Open May 1 through June 30 daily limit 2 fish, one or both of which may be a salmon or hatchery steelhead. Release all fish except salmon and hatchery steelhead. Trout: Minimum length fourteen inches. Salmon: Open August 1 through October 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chinook from Burlington-Northern Railroad Bridge upstream.

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, including all tributaries: May 1 through June 30 season. Closed waters: From 400 feet below to 100 feet above the Coffey Dam and from a boundary marker approximately 800 yards downstream from Carson National Fish Hatchery upstream, including all tributaries. Night closure and nonbuoyant lure restriction. Salmon and steelhead: Daily limit 2 fish, one or both of which may be a salmon or hatchery steelhead. Release all fish except salmon and hatchery steelhead.

Winston Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

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 fourteen inches. Release wild cutthroat. Mouth to West Fork: June 1 through March 31 season. Single point barbless hooks required August 16 through November 30. Selective gear and all species: Release all fish except up to two hatchery steelhead may be retained per day. March 1 through March 31. Salmon: Open only October 1 through November 30 from mouth to West Fork. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

From the West Fork to four hundred feet below outlet: June 1 through March 31 season. Trout: Minimum length fourteen inches.

Wolf Creek, mouth to mouth of south fork (Okanogan County): Closed waters.

Wood Lake (Mason County): Last Saturday in April through October 31 season.

Woodland Creek (Thurston County): Trout: Minimum length fourteen inches.

Wooten Lake (Mason County): Last Saturday in April through October 31 season.

Wye Lake (Kitsap County): Last Saturday in April through October 31 season.

Wynoochee River (Grays Harbor County): Trout: Minimum length fourteen inches. Mouth to 7400 line bridge above mouth of Schafer Creek: June 1 through March 31 season. Single point barbless hooks required August 16 through November 30. Salmon: Open only October 1 through January 31. Daily limit 6 fish of which no more than 2 may be adult salmon, except daily limit may contain no more than 1 wild adult coho December 1 through January 31. Release adult chinook.

7400 line bridge upstream: ~~((Selective gear rules:))~~ Additional December 1 through March 31 season. Selective gear rules. Fishing from a floating device prohibited. All species: Release all fish except up to two hatchery steelhead may be retained.

Wynoochee Reservoir (Grays Harbor County): June 1 through October 31 season. Trout: Daily limit two, minimum length twelve inches. Salmon: Landlocked salmon rules apply.

Yakima River (Yakima County): Release all steelhead in mainstem and tributaries. Channel catfish: No daily limit.

From mouth to Prosser Dam: Chumming permitted. ~~((Channel catfish: No daily limit.))~~ Salmon: Open only September ~~((16))~~ 1 through October ~~((31))~~ 22. Daily limit 6 fish of which not more than 2 may be adult salmon. Nonbuoyant lure restriction and night closure.

From mouth to Highway 223 Bridge: Bass: No daily limit of bass under 12 inches in length. Release bass 12 to 17 inches in length. Unlawful to retain more than one bass per day greater than 17 inches in length.

From Highway 223 Bridge to 400 feet below Sunnyside Dam: Salmon: Open only September 1 through October 22. Daily limit 6 fish of which not more than 2 may be adult salmon. Nonbuoyant lure restriction and night closure.

From mouth to thirty-five hundred feet below Roza Dam: Year-round season. Closed waters: From Yakima Avenue-Terrace Heights Bridge upstream 400 feet. March 1 through November 30, closed from thirty-five hundred feet below Roza Dam to Roza Dam. Trout: Minimum length twelve inches and maximum length twenty inches. Release all trout April 1 through May 31. Thirty-five hundred feet below Roza Dam to four hundred feet below Roza Dam: December 1 through last day in February season. Whitefish gear rules apply.

From Roza Dam to four hundred feet below Easton Dam and from Lake Easton to the base of Keechelus Dam: Year-round 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). Selective gear rules except bait and one single point barbed hook three-sixteenths or smaller point to shank may be used ~~((for whitefish))~~ December 1 through last day in February. Trout: From Roza Dam to 400 feet below Easton Dam: Release all trout. Lake Easton to the base of Keechelus Dam: Release all trout except eastern brook trout. Eastern brook trout: No daily limit and no minimum size.

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.

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

WSR 04-07-012

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed March 4, 2004, 2:49 p.m.]

Date of Adoption: February 25, 2004.

Purpose: To change the rule from requiring mandatory impounds of vehicles driven by suspended drivers to allow impounds to be done at the officer's discretion.

Citation of Existing Rules Affected by this Order: Amending WAC 204-96-010 Vehicle impounds.

Statutory Authority for Adoption: RCW 46.55.190.

Adopted under notice filed as WSR 04-01-019 on December 5, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

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

February 26, 2004

Lowell Porter

Chief

AMENDATORY SECTION (Amending WSR 01-05-098, filed 2/20/01, effective 3/23/01)

WAC 204-96-010 Vehicle impounds. When a driver of a vehicle is arrested for a violation of:

RCW 46.61.502

Driving under the influence,

RCW 46.61.504

Physical control of vehicle under the influence,

RCW 46.20.342

Driving while license suspended or revoked,

~~((Operation of motor vehicle))~~ Driving under other

license/permit ~~((prohibited))~~ while license suspended or revoked,

the arresting officer ~~((shall))~~ may, in his/her own discretion, considering reasonable alternatives, cause the vehicle to be impounded. When an arrest is made for violation of RCW 46.20.342 and the vehicle is a commercial vehicle, the driver of the vehicle is not the owner of the vehicle, the owner was not in the vehicle at the time, and the owner has not received a prior release under RCW 46.55.113(3) or 46.55.120 (1)(a)(ii), prior to impounding the vehicle the officer shall attempt in a reasonable and timely manner to contact the

owner of the vehicle and may release the vehicle to the owner if the owner is reasonably available.

If the driver is arrested for a violation of RCW 46.20.342 (1)(c) (3rd degree suspended/revoked) and has no convictions for violations of RCW 46.20.342 in the past five years, the vehicle (~~(shall)~~) may be impounded, but no suspended driver hold shall be placed on the vehicle. If the driver is also the registered owner then the vehicle shall be held until all outstanding penalties, fines, and forfeitures owed by him/her are satisfied. The driver/registered owner must present proof from a court of law that he/she has no outstanding penalties, fines, or forfeitures.

If the driver is arrested for a violation of RCW 46.20.342 (1)(c) (3rd degree suspended/revoked) and has any prior convictions for violations of RCW 46.20.342 in the past five years, the vehicle (~~(shall)~~) may be held for thirty days.

If the driver of the vehicle is arrested for a violation of RCW 46.20.342 (1)(a) or (b) (1st or 2nd degree suspended/revoked) and has no convictions for violations of RCW 46.20.342 in the past five years, the vehicle (~~(shall)~~) may be held for thirty days.

If the driver of the vehicle is arrested for a violation of RCW 46.20.342 (1)(a) or (b) (1st or 2nd degree suspended/revoked) and has been convicted of a violation of RCW 46.20.342 (1)(a) or (b) in the past five years, the vehicle (~~(shall)~~) may be held for sixty days.

If the driver of the vehicle is arrested for a violation of RCW 46.20.342 (1)(a) or (b) (1st or 2nd degree suspended/revoked) and has been convicted of a violation of RCW 46.20.342 (1)(a) or (b) two or more times in the past five years, the vehicle (~~(shall)~~) may be held for ninety days.

The release of all vehicles impounded under this WAC shall be governed by RCW 46.55.120. Commercially rented vehicles may be impounded, however no suspended driver holds shall be placed upon (~~(the)~~) these vehicles. The rental company shall be notified by phone.

A vehicle may be released prior to the (~~(mandated)~~) hold period (~~(if the employer or spouse of the arrested driver establishes significant economic or personal hardship with the district commander of the district in which the vehicle was impounded. In making a hardship determination, the district commander shall consider public safety factors, including the driver's criminal history and driving record))~~ upon a showing of economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, including the operator's criminal history and driving record; or that the owner of the vehicle was not the driver, the owner did not know that the driver's license was suspended or revoked, and the owner has not received a prior release under RCW 46.55.120 (1)(a)(ii) or 46.55.113(3). Release shall be denied in all other circumstances. All (~~(hardship)~~) release requests shall be in writing. Any denial or approval of a (~~(hardship)~~) release shall be in writing and shall include factors considered by the (~~(district commander)~~) impounding agency in reaching the decision.

~~(A vehicle may be released prior to the mandated hold period if the registered owner of a vehicle loaned to another person is able to demonstrate to the district commander of the district in which the vehicle was impounded that he/she had no knowledge that the person to whom the vehicle was~~

~~loaned did not have valid driving privileges within the state of Washington, is willing to swear to this lack of knowledge under penalty of the perjury laws of the state of Washington and further agrees that this hardship determination, if allowed, is available only one time in the state of Washington. The registered owner of the loaned vehicle also agrees that he/she shall pay any and all towing fees, storage fees and administrative fees to the towing company before the vehicle is released. In addition, in the event a hardship is granted, the registered owner of the loaned vehicle agrees that he/she will comply with the conditions set forth on the form(s) provided by the Washington state patrol prior to loaning the vehicle to any individual in the future.)~~ A uniform Washington state tow/impound and inventory record form is available through the office of the state printer.

WSR 04-07-014

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed March 4, 2004, 4:32 p.m.]

Date of Adoption: March 2, 2004.

Purpose: The Mental Health Division is revising these rules to be consistent with rules being developed for residential treatment facilities by the Department of Health. Current rules, WAC 388-865-0501 through 388-865-0565 are being repealed, except for WAC 388-865-0545 and 388-865-0546. The subject matter of these rules has been revised and reorganized for clarity, and is being adopted as new rules in the WAC 388-865-0500 series.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-865-0501, 388-865-0502, 388-865-0504, 388-865-0505, 388-865-0510, 388-865-0515, 388-865-0525, 388-865-0530, 388-865-0535, 388-865-0540, 388-865-0550, 388-865-0555, 388-865-0557, 388-865-0560 and 388-865-0565; and amending WAC 388-865-0500.

Statutory Authority for Adoption: RCW 71.05.560 and 71.34.800.

Other Authority: Chapters 71.05 and 71.34 RCW.

Adopted under notice filed as WSR 03-18-103 on September 2, 2003.

Changes Other than Editing from Proposed to Adopted Version: The following changes, other than editing changes, have been made to the rules as proposed as a result of comments received. Additions are indicated by underlined text, deletions are indicated by ~~strikethrough text~~.

AMENDED SECTION

1. WAC 388-865-0500(1): "The mental health division certifies facilities to provide involuntary inpatient evaluation and treatment services for more than twenty-four hours within a general hospital, psychiatric hospital, inpatient evaluation and treatment facility, or child long-term inpatient treatment facility."

2. WAC 388-865-0500(3): "Compliance with the regulations in this chapter does not constitute release from the

requirements of applicable federal, state, tribal and local codes and ordinances."

3. **WAC 388-865-0500(3)**: "This chapter does not apply to...or facilities owned or operated by the department of veterans affairs or other agency of the United States government."

NEW SECTION

4. **WAC 388-865-0516**: "an annual certification fee of \$32 per bed, payable to the mental health division."

REPEALED SECTION

5. **WAC 388-865-0525** will be included in the list of WAC sections being repealed. The repeal of this WAC section was inadvertently omitted from the proposed rule.

NEW SECTION

6. **WAC 388-865-0526 (3)(b)**: "would facilitate continuity of care, consistent with the consumer's individual treatment needs."

NEW SECTION

7. **WAC 388-865-0536 (5)(a)**: "Health Insurance Patient Privacy Portability and Accountability Act (HIPAA)."

8. **WAC 388-865-0536 (5)(c)**: "individualized treatment."

9. **WAC 388-865-0536 (5)(d)**: "except that child long term inpatient program facilities are exempted from this requirement."

10. **WAC 388-865-0536 (5)(e)**: "appropriate and safe transportation."

11. **WAC 388-865-0536 (5)(l)**: "Procedures to ensure that consumers detained for up to fourteen or ninety additional days of treatment are evaluated by the professional staff of the facility...."

12. **WAC 388-865-0536(5)**: A new (m): "Procedures to assure the rights of consumers to make mental health advance directives, and facility protocols for responding to consumer and agent requests consistent with RCW 71.32.150."

NEW SECTION

13. **WAC 388-865-0541(2)**: "timely evaluations."

14. **WAC 388-865-0541 (3)(c)**: "At any time for a child in who has eloped from a child long-term inpatient treatment facility and is being returned to the facility."

RETAINED SECTION

15. **WAC 388-865-0545** will be retained. This section was listed as "repealed" in the proposed rule.

RETAINED SECTION

16. **WAC 388-865-0546** will be retained. This section was listed as "repealed" in the proposed rule.

NEW SECTION

17. **WAC 388-865-0547(2)**: "An individualized plan for treatment...."

NEW SECTION

18. **WAC 388-865-0561**: "The consumer rights assured by RCW 71.05.370 and RCW 71.34.160 must be prominently posted...."

NEW SECTION

19. **WAC 388-865-0566(4)**: "qualified language interpreter in the primary language understood by you, consistent with WAC 388-03."

NEW SECTION

20. **WAC 388-865-0570 (1)(b)**: "The consumer was asked if he or she wishes to decline treatment during the twenty-four hour period prior to any court proceeding wherein the consumer has the right to attend and is related to his or her continued treatment. The answer must be in writing and signed whenever possible."

21. **WAC 388-865-0570 (1)(b)**: Add the phrase "In the case of a child under the age of eighteen, the physician must be able to explain to the court the probable effects of the medication."

NEW SECTION

22. **WAC 388-865-0575**: New (1) "Adults must be separated from children who are not yet thirteen years of age."

23. **WAC 388-865-0575**: New (2) "Children who have had their thirteenth birthday, but are under the age of eighteen, may be served with adults only if the child's clinical record contains a professional judgment saying that placement in an adult facility will not be harmful to the child or adult."

24. **WAC 388-865-0575 (3) through (17)**: Renumbered accordingly.

25. **WAC 388-865-0575(3)**: "Procedures to notify child protective services if any time the facility has reasonable cause to believe...."

26. **WAC 388-865-0575(7)** will be deleted.

27. **WAC 388-865-0575(12)**: "Discharge and conditional release of a child in accordance with RCW 71.34.120, provided that the professional person in charge gives the court written notice of the release within three days of the release. If the child is on a 180-day commitment, the children's long term inpatient program administrator must also be notified."

28. **WAC 388-865-0575(17)**: "Mental health services information must only be released in accordance with RCW 71.34.225 and other applicable state and federal statutes."

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 15, Amended 1, Repealed 15.

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 15, Amended 1, Repealed 15.

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

March 2, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0500 Inpatient evaluation and treatment facilities. (1) The mental health division certifies facilities to provide involuntary inpatient evaluation and treatment services for more than twenty-four hours (~~Facilities must be certified in order to provide services to consumers who are authorized by the regional support network or mental health prepaid health plan to receive psychiatric inpatient evaluation and treatment services on an involuntary basis.~~

(1) ~~The following facilities must be licensed by the department of health:~~

(a) ~~General hospital;~~

(b) ~~Psychiatric hospital; or~~

(e) ~~Residential (nonhospital) inpatient facility such as adult residential rehabilitation centers and psychiatric institutions for children and youth.~~

(2) ~~The following state psychiatric hospitals for adults or children are not licensed by the state, but certified by the Health Care Financing Administration and accredited by the Joint Commission on Accreditation of Healthcare Organizations:~~

(a) ~~Eastern state hospital;~~

(b) ~~Western state hospital; and~~

(e) ~~Child study and treatment center.~~

(3) ~~No correctional institution or facility, juvenile court detention facility, or jail may be used as an inpatient evaluation and treatment facility within the meaning of this chapter) within a general hospital, psychiatric hospital, inpatient evaluation and treatment facility, or child long-term inpatient treatment facility.~~

(2) Compliance with the regulations in this chapter does not constitute release from the requirements of applicable federal, state, tribal and local codes and ordinances. Where regulations in this chapter exceed other local codes and ordinances, the regulations in this chapter will apply.

(3) This chapter does not apply to state psychiatric hospitals as defined in chapter 72.23 RCW or facilities owned or operated by the department of veterans affairs or other agencies of the United States government.

NEW SECTION

WAC 388-865-0511 Evaluation and treatment facility certification. To obtain and maintain certification to provide inpatient evaluation and treatment services under chapter 71.05 and 71.34 RCW, a facility must meet the following requirements:

(1) Be licensed by the department of health as:

(a) A hospital as defined in chapter 70.41 RCW;

(b) A psychiatric hospital as defined in chapter 246-322

WAC;

(c) A mental health inpatient evaluation and treatment facility consistent with chapter 246-337 WAC; or

(d) A mental health child long-term inpatient treatment facility consistent with chapter 246-337 WAC.

(2) Be approved by the regional support network, or the mental health division in the case of mental health child long-term inpatient treatment facilities; and

(3) Successfully complete a provisional and annual on-site review by the mental health division to determine facility compliance with the minimum standards of this section and chapters 71.05 and 71.34 RCW.

NEW SECTION

WAC 388-865-0516 Certification fees. Inpatient facilities certified to provide inpatient evaluation and treatment services are assessed an annual certification fee of thirty-two dollars per bed, payable to the mental health division.

NEW SECTION

WAC 388-865-0520 Certification based on deemed status. The mental health division may deem compliance with state minimum standards for facilities that are currently accredited by a national accreditation agency recognized by and having a current agreement with the mental health division.

(1) Deeming will be in accordance with the established agreement between the mental health division and the accrediting agency, to include the minimum standards of this section and chapters 71.05 and 71.34 RCW.

(2) The mental health division retains all responsibilities relating to applications of new providers, complaint investigations, suspensions and revocations.

NEW SECTION

WAC 388-865-0526 Single bed certification. At the discretion of the mental health division, an exception may be granted to allow treatment to an adult on a seventy-two hour detention or fourteen-day commitment in a facility that is not certified under WAC 388-865-0500; or for a maximum of thirty days to allow a community facility to provide treatment to an adult on a ninety- or one hundred eighty-day inpatient involuntary commitment order. For involuntarily detained or committed children, the exception may be granted to allow treatment in a facility not certified under WAC 388-865-0500 until the child's discharge from that setting to the community, or until they transfer to a bed in a children's long-term inpatient program (CLIP).

(1) The regional support network or its designee must submit a written request for a single bed certification to the mental health division prior to the commencement of the order. In the case of a child, the facility must submit the written request directly to the mental health division.

(2) The facility receiving the single bed certification must meet all requirements of this section unless specifically waived by the mental health division.

(3) The request for single bed certification must describe why the consumer meets at least one of the following criteria:

(a) The consumer requires services that are not available at a facility certified under this chapter or a state psychiatric hospital; or

(b) The consumer is expected to be ready for discharge from inpatient services within the next thirty days and being at a community facility would facilitate continuity of care, consistent with the consumer's individual treatment needs.

(4) The mental health division director or the director's designee makes the decision and gives written notification to the requesting regional support network in the form of a single bed certification. The single bed certification must not contradict a specific provision of federal law or state statute.

(5) The mental health division may make site visits at any time to verify that the terms of the single bed certification are being met. Failure to comply with any term of this exception may result in corrective action. If the mental health division determines that the violation places consumers in imminent jeopardy, immediate revocation of this exception can occur.

(6) Neither consumers nor facilities have fair hearing rights as defined under chapter 388-02 WAC regarding single bed certification decisions by mental health division staff.

NEW SECTION

WAC 388-865-0531 Exception to rule—Long-term certification. (1) For adults: At the discretion of the mental health division, a facility may be granted an exception to WAC 388-865-0229 in order to allow the facility to be certified to provide treatment to adults on a ninety- or one hundred eighty-day inpatient involuntary commitment orders.

(2) For children: At the discretion of the mental health division, a facility that is certified as a 'mental health inpatient evaluation and treatment facility' may be granted an exception to provide treatment to a child on a one hundred and eighty-day inpatient involuntary treatment order only until the child is discharged from his/her order to the community, or until a bed is available for that child in a child long-term inpatient treatment facility (CLIP). The child cannot be assigned by the CLIP placement team in accordance with RCW 71.34.100 to any facility other than a CLIP facility.

(3) The exception certification may be requested by the facility, the director of the mental health division or his/her designee, or the regional support network for the facility's geographic area.

(4) The facility receiving the long-term exception certification for ninety- or one hundred eighty-day patients must meet all requirements found in WAC 388-865-0500.

(5) The exception certification must be signed by the director of the mental health division. The exception certification may impose additional requirements, such as types of consumers allowed and not allowed at the facility, reporting requirements, requirements that the facility immediately report suspected or alleged incidents of abuse, or any other requirements that the director of the mental health division determines are necessary for the best interests of residents.

(6) The mental health division may make unannounced site visits at any time to verify that the terms of the exception certification are being met. Failure to comply with any term of the exception certification may result in corrective action. If the mental health division determines that the violation places residents in imminent jeopardy, immediate revocation of the certification can occur.

(7) Neither consumers nor facilities have fair hearing rights as defined under chapter 388-02 WAC regarding the decision to grant or not to grant exception certification.

NEW SECTION

WAC 388-865-0536 Standards for administration. The inpatient evaluation and treatment facility must develop a policy to implement the following administrative requirements:

(1) A description of the program, including age of consumers to be served, length of stay and services to be provided.

(2) An organizational structure including clear lines of authority for management and clinical supervision.

(3) Designation of a physician or other mental health professional as the professional person in charge of clinical services at that facility.

(4) A quality management plan to monitor, collect data and develop improvements to meet the requirements of this chapter.

(5) A policy management structure that establishes:

(a) Procedures for maintaining and protecting resident medical/clinical records consistent with chapter 70.02 WAC, "Medical Records Health Care Information Access and Disclosure Act" and Health Insurance Portability and Accountability Act (HIPAA);

(b) Procedures for maintaining adequate fiscal accounting records consistent with Generally Accepted Accounting Principles (GAAP);

(c) Procedures for management of human resources to ensure that residents receive individualized treatment or care by adequate numbers of staff who are qualified and competent to carry out their assigned responsibilities;

(d) Procedures for admitting consumers needing inpatient evaluation and treatment services seven days a week, twenty-four hours a day, except that child long-term inpatient treatment facilities are exempted from this requirement;

(e) Procedures to assure appropriate and safe transportation for persons who are not approved for admission to his or her residence or other appropriate place;

(f) Procedures to detain arrested persons who are not approved for admission for up to eight hours in order to enable law enforcement to return to the facility and take the person back into custody;

(g) Procedures to assure access to necessary medical treatment, emergency life-sustaining treatment, and medication;

(h) Procedures to assure the protection of consumer and family rights as described in this chapter and chapters 71.05 and 71.34 RCW;

(i) Procedures to inventory and safeguard the personal property of the consumer being detained, including a process to limit inspection of the inventory list by responsible relatives or other persons designated by the detained consumer;

(j) Procedures to assure that a mental health professional and licensed physician are available for consultation and communication with both the consumer and the direct patient care staff twenty-four hours a day, seven days a week;

(k) Procedures to provide warning to an identified person and law enforcement when an adult has made a threat against an identified victim;

(l) Procedures to ensure that consumers detained for up to fourteen or ninety additional days of treatment are evaluated by the professional staff of the facility in order to be pre-

pared to testify that the consumer's condition is caused by a mental disorder and either results in likelihood of serious harm or the consumer being gravely disabled;

(m) Procedures to assure the rights of consumers to make mental health advance directives, and facility protocols for responding to consumer and agent requests consistent with RCW 71.32.150.

NEW SECTION

WAC 388-865-0541 Admission and intake evaluation. (1) For consumers who have been involuntarily detained, the facility must obtain a copy of the petition for initial detention stating the evidence under which the consumer was detained.

(2) The facility must document that each resident has received timely evaluations to determine the nature of the disorder and the treatment necessary, including:

(a) A health assessment of the consumer's physical condition to determine if the consumer needs to be transferred to an appropriate hospital for treatment;

(b) Examination and medical evaluation within twenty-four hours by a licensed physician, advanced registered nurse practitioner, or physician assistant-certified;

(c) Psychosocial evaluation by a mental health professional;

(d) Development of an initial treatment plan;

(e) Consideration of less restrictive alternative treatment at the time of admission; and

(f) The admission diagnosis and what information the determination was based upon.

(3) A consumer who has been delivered to the facility by a peace officer for evaluation must be evaluated by a mental health professional within the following timeframes:

(a) Three hours of an adult consumer's arrival;

(b) Twelve hours of arrival for a child in an inpatient evaluation and treatment facility; or

(c) At any time for a child who has eloped from a child long-term inpatient treatment facility and is being returned to the facility.

(4) If the licensed physician and mental health professional determine that the needs of an adult consumer would be better served by placement in a chemical dependency treatment facility then the consumer must be referred to an approved treatment program defined under chapter 70.96A RCW.

NEW SECTION

WAC 388-865-0547 Plan of care/treatment. The medical record must contain documentation of:

(1) Diagnostic and therapeutic services prescribed by the attending clinical staff.

(2) An individualized plan for treatment developed collaboratively with the consumer. This may include participation of a multi-disciplinary team or mental health specialists as defined in WAC 388-865-0150, or collaboration with members of the consumer's support system as identified by the consumer.

(3) Copies of advance directives, powers of attorney or letters of guardianship provided by the consumer.

(4) A plan for discharge including a plan for follow-up where appropriate.

(5) Documentation of the course of treatment.

(6) That a mental health professional has contact with each involuntary consumer at least daily for the purpose of:

(a) Observation;

(b) Evaluation;

(c) Release from involuntary commitment to accept treatment on a voluntary basis;

(d) Discharge from the facility to accept voluntary treatment upon referral.

(7) For consumers who are being evaluated as dangerous mentally ill offenders under RCW 72.09.370(7), the professional person in charge of the evaluation and treatment facility must consider filing a petition for a ninety day less restrictive alternative in lieu of a petition for a fourteen-day commitment.

NEW SECTION

WAC 388-865-0551 Qualification requirements for staff. The provider must document that staff and clinical supervisors are qualified for the position they hold and have the education, experience, or skills to perform the job requirements, including:

(1) A current job description.

(2) A current Washington state department of health license or certificate or registration as may be required for his/her position.

(3) Washington state patrol background checks for employees in contact with consumers consistent with RCW 43.43.830.

(4) Clinical supervisors must meet the qualifications of mental health professionals or specialists as defined in WAC 388-865-0150.

(5) An annual performance evaluation.

(6) Development of an individualized annual training plan, to include at least:

(a) The skills he or she needs for his/her job description and the population served;

(b) Least restrictive alternative options available in the community and how to access them;

(c) Methods of resident care;

(d) Management of assaultive and self-destructive behaviors, including proper and safe use of seclusion and/or restraint procedures; and

(e) The requirements of chapter 71.05 and 71.34 RCW, this chapter, and protocols developed by the mental health division.

(7) If contract staff are providing direct services, the facility must ensure compliance with the training requirements outlined in (6) above.

NEW SECTION

WAC 388-865-0561 Posting of consumer rights. The consumer rights assured by RCW 71.05.370 and 71.34.160 must be prominently posted within the department or ward of the community or inpatient evaluation and treatment facility and provided in writing to the consumer, as follows: "You have the right to:

(1) Immediate release, unless involuntary commitment proceedings are initiated.

(2) Wear your own clothes and to keep and use personal possessions, except when deprivation is essential to protect your safety or that of another person.

(3) Keep and be allowed to spend a reasonable sum of your own money for canteen expenses and small purchases.

(4) Adequate care and individualized treatment.

(5) Have all information and records compiled, obtained, or maintained in the course of receiving services kept confidential.

(6) Have access to individual storage space for your private use.

(7) Have visitors at reasonable times.

(8) Have reasonable access to a telephone, both to make and receive confidential calls.

(9) Have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails.

(10) Not to consent to the administration of anti-psychotic medications beyond the hearing conducted pursuant to RCW 71.05.320(2) or the performance of electroconvulsant therapy or surgery, except emergency life-saving surgery, unless ordered by a court of competent jurisdiction pursuant to the following standards and procedures: RCW 71.05.200(1)(e); 71.05.215; and 71.05.370(7).

(11) To dispose of property and sign contracts unless you have been adjudicated as incompetent in a court proceeding directed to that particular issue.

(12) Not to have psychosurgery performed under any circumstances."

NEW SECTION

WAC 388-865-0566 Rights of consumers receiving involuntary services. The provider must ensure that consumers who are receiving inpatient services involuntarily are informed of the following rights orally and provided with a copy in the primary language spoken/used/understood by the person. "You have the right to:

(1) Remain silent and any statement you make may be used against you.

(2) Access to attorneys, courts and other legal redress, including the name and address of the attorney the mental health professional has designated for you.

(3) Immediately be informed of your right to speak with an attorney and a review of the legality of your detention including representation at the probable cause hearing.

(4) Have access to a qualified language interpreter in the primary language understood by you, consistent with chapter 388-03 WAC.

(5) Have a responsible member of your immediate family if possible, guardian or conservator, if any, and such person as designated by you be given written notice of your inpatient status, and your rights as an involuntary consumer.

(6) A medical and psychosocial evaluation within twenty-four hours of admission to determine whether continued detention in the facility is necessary.

(7) A judicial hearing before a superior court if you are not released within seventy-two hours (excluding Saturday,

Sunday, and holidays), to decide if continued detention within the facility is necessary.

(8) Not forfeit any legal right or suffer any legal disability as a consequence of any actions taken or orders made, other than as specifically provided.

(9) Not to be denied treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(10) Refuse psychiatric medication, except medications ordered by the court under WAC 388-865-0570 but not any other medication previously prescribed by an authorized prescriber.

(11) Refuse treatment, but not emergency lifesaving treatment unless otherwise specified in a written advance directive provided to the facility.

(12) Be given a copy of WAC 388-865-0585 outlining limitations on the right to possess a firearm."

NEW SECTION

WAC 388-865-0570 Rights related to antipsychotic medication. All consumers have a right to make an informed decision regarding the use of antipsychotic medication consistent with the provisions of RCW 71.05.370(7) and 71.05.215. The provider must develop and maintain a written protocol for the involuntary administration of antipsychotic medications, including the following requirements:

(1) The clinical record must document:

(a) The physician's attempt to obtain informed consent;

(b) The consumer was asked if he or she wishes to decline treatment during the twenty-four hour period prior to any court proceeding wherein the consumer has the right to attend and is related to his or her continued treatment. The answer must be in writing and signed when possible. In the case of a child under the age of eighteen, the physician must be able to explain to the court the probable effects of the medication.

(c) The reasons why any antipsychotic medication is administered over the consumer's objection or lack of consent.

(2) The physician may administer antipsychotic medications over a consumer's objections or lack of consent only when:

(a) An emergency exists, provided there is a review of this decision by a second physician within twenty-four hours. An emergency exists if:

(i) The consumer presents an imminent likelihood of serious harm to self or others;

(ii) Medically acceptable alternatives to administration of antipsychotic medications are not available or are unlikely to be successful; and

(iii) In the opinion of the physician, the consumer's condition constitutes an emergency requiring that treatment be instituted before obtaining an additional concurring opinion by a second physician.

(b) There is an additional concurring opinion by a second physician for treatment up to thirty days;

(c) For continued treatment beyond thirty days through the hearing on any one hundred eighty-day petition filed under RCW 71.05.370(7), provided the facility medical

director or director's medical designee reviews the decision to medicate a consumer. Thereafter, antipsychotic medication may be administered involuntarily only upon order of the court. The review must occur at least every sixty days.

(3) The examining physician must sign all one hundred eighty-day petitions for antipsychotic medications files under the authority of RCW 71.05.370(7);

(4) Consumers committed for one hundred eighty days who refuse or lack the capacity to consent to antipsychotic medications have the right to a court hearing under RCW 71.05.370(7) prior to the involuntary administration of antipsychotic medications;

(5) In an emergency, antipsychotic medications may be administered prior to the court hearing provided that an examining physician files a petition for an antipsychotic medication order the next judicial day;

(6) All involuntary medication orders must be consistent with the provisions of RCW 71.05.370(7)(a) and (b), whether ordered by a physician or the court.

NEW SECTION

WAC 388-865-0575 Special considerations for serving children. Inpatient evaluation and treatment facilities serving children must develop policies and procedures to address special considerations for serving children, including:

(1) Adults must be separated from children who are not yet thirteen years of age;

(2) Children who have had their thirteenth birthday, but are under the age of eighteen, may be served with adults only if the child's clinical record contains a professional judgment saying that placement in an adult facility will not be harmful to the child or adult.

(3) Examination and evaluation by a children's mental health specialist within twenty-four hours of admission.

(4) Provisions for evaluation of children brought to the facility for evaluation by their parents.

(5) Procedures to notify child protective services any time the facility has reasonable cause to believe that abuse, neglect, financial exploitation or abandonment of a child has occurred.

(6) For a child thirteen years or older who is brought to an inpatient evaluation and treatment facility or hospital for immediate mental health services, the professional person in charge of the facility must evaluate the child's mental condition, determine a mental disorder, need for inpatient treatment, and willingness to obtain voluntary treatment. The facility may detain or arrange for the detention of the child up to twelve hours for evaluation by a county designated mental health professional to commence detention proceedings.

(7) Admission of children thirteen years or older admitted without parental consent must have concurrence of the professional person in charge of the facility and written review and documentation no less than every one hundred eighty days.

(8) Notice must be provided to parents when a child is voluntarily admitted to inpatient treatment without parental consent within twenty four hours of admission in accordance with the requirements of RCW 71.34.044.

(9) Children who have been admitted on the basis of a county designated mental health professional petition for detention must be evaluated by the facility providing seventy two hour evaluation and treatment to determine the child's condition and either admit or release the child. If the child is not approved for admission, the facility must make recommendations and referral for further care and treatment as necessary.

(10) Examination and evaluation of a child approved for inpatient admission to include:

(a) The needs to be served by placement in a chemical dependency facility;

(b) Restricting the right to associate or communicate with parents; and

(c) Advising the child of rights in accordance with chapter 71.34 RCW.

(11) Petition for fourteen-day commitment in accordance with the requirements of RCW 71.34.070.

(12) Commitment hearing requirements and release from further inpatient treatment which may be subject to reasonable conditions if appropriate in accordance with RCW 71.34.080.

(13) Discharge and conditional release of a child in accordance with RCW 71.34.120, provided that the professional person in charge gives the court written notice of the release within three days of the release. If the child is on a one hundred eighty-day commitment, the children's long-term inpatient program administrator must also be notified.

(14) Rights of children undergoing treatment and posting of such rights must be in accordance with RCW 71.34.160, 71.34.162, and 71.34.290.

(15) Release of a child who is not accepted for admission or who is released by an inpatient evaluation and treatment facility in accordance with RCW 71.34.170.

(16) Information concerning treatment of children and all information obtained through treatment under this chapter may be disclosed only in accordance with RCW 71.34.200.

(17) Availability of court records and files in accordance with RCW 71.34.210.

(18) Mental health services information must only be released in accordance with RCW 71.34.225 and other applicable state and federal statutes.

NEW SECTION

WAC 388-865-0580 Child long-term inpatient treatment facilities. Child long-term inpatient treatment facilities must develop a written plan for assuring that services provided are appropriate to the developmental needs of children and youth, including:

(1) If there is not a child psychiatrist on the staff, there must be a child psychiatrist available for consultation.

(2) There must be a psychologist with documented evidence of skill and experience in working with children and youth available either on the clinical staff or by consultation, responsible for planning and reviewing psychological services and for developing a written set of guidelines for psychological services.

(3) There must be a registered nurse, with training and experience in working with psychiatrically impaired children

and youth, on staff as a full-time or part-time employee who must be responsible for all nursing functions.

(4) There must be a social worker with experience in working with children and youth on staff as a full-time or part-time employee who must be responsible for social work functions and the integration of these functions into the individualized treatment plan.

(5) There must be an educational/vocational assessment of each resident with appropriate educational/vocational programs developed and implemented or assured on the basis of that assessment.

(6) There must be an occupational therapist available who has experience in working with psychiatrically impaired children and youth responsible for occupational therapy functions and the integration of these functions into treatment.

(7) There must be a recreational therapist available who has had experience in working with psychiatrically impaired children and youth responsible for the recreational therapy functions and the integration of these functions into treatment.

(8) Disciplinary policies and practices must be stated in writing:

(a) Discipline must be fair, reasonable, consistent and related to the behavior of the resident. Discipline, when needed, must be consistent with the individualized treatment plan;

(b) Abusive, cruel, hazardous, frightening or humiliating disciplinary practices must not be used. Seclusion and restraints must not be used as punitive measures. Corporal punishment must not be used;

(c) Disciplinary measures must be documented in the medical record.

(9) Residents must be protected from assault, abuse and neglect. Suspected or alleged incidents of nonaccidental injury, sexual abuse, assault, cruelty or neglect to a child must be reported to a law enforcement agency or to the department of social and health services and comply with chapter 26.44 RCW.

(10) Orientation material must be made available to facility personnel, clinical staff and/or consultants informing practitioners of their reporting responsibilities and requirements. Appropriate local police and department phone numbers must be available to personnel and staff.

(11) When suspected or alleged abuse is reported, the medical record must reflect the fact that an oral or written report has been made to the child protective services of DSHS or to a law enforcement agency. This note must include the date and time that the report was made, the agency to which it was made and the signature of the person making the report. Contents of the report need not be included in the medical record.

NEW SECTION

WAC 388-865-0585 Petition for the right to possess a firearm. An adult is entitled to the restoration of the right to firearm possession when he or she no longer requires treatment or medication for a condition related to the involuntary commitment. This is described in RCW 9.41.047 (3)(a).

(1) an adult who wants his or her right to possess a firearm restored may petition the court that ordered involuntary treatment or the superior court of the county in which he or she lives for a restoration of the right to possess firearms. At a minimum, the petition must include:

(a) The fact, date, and place of involuntary treatment;

(b) The fact, date, and release from involuntary treatment;

(c) A certified copy of the most recent order of commitment with the findings and conclusions of law.

(2) The person must show the court that he/she no longer requires treatment or medication for the condition related to the commitment.

(3) If the court requests relevant information about the commitment or release to make a decision, the mental health professionals who participated in the evaluation and treatment must give the court that information.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-865-0501	Certification based on deemed status.
WAC 388-865-0502	Single bed certification.
WAC 388-865-0504	Exception to rule—Long-term certification.
WAC 388-865-0505	Evaluation and treatment facility certification—Minimum standards.
WAC 388-865-0510	Standards for administration.
WAC 388-865-0515	Admission and intake evaluation.
WAC 388-865-0525	Clinical record.
WAC 388-865-0530	Competency requirements for staff.
WAC 388-865-0535	The process for gaining certification and renewal of certification.
WAC 388-865-0540	Fees for evaluation and treatment facility certification.
WAC 388-865-0550	Rights of all consumers who receive community inpatient services.
WAC 388-865-0555	Rights of consumers receiving involuntary inpatient services.
WAC 388-865-0557	Rights related to antipsychotic medication.
WAC 388-865-0560	Rights of consumers who receive emergency and inpatient services voluntarily.

PERMANENT

WAC 388-865-0565

Petition for the right to possess a firearm.

WSR 04-07-020
PERMANENT RULES
LIQUOR CONTROL BOARD

[Filed March 8, 2004, 2:36 p.m.]

Date of Adoption: March 3, 2004.

Purpose: This rule making is at the request of a petition for rule making. The petitioners asked the Liquor Control Board to amend WAC 314-02-105 to eliminate the restriction that the eight-ounce per person sample limit for beer/wine specialty shops not be limited to four individual samples.

Citation of Existing Rules Affected by this Order: Amending WAC 314-02-105.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.371.

Adopted under notice filed as WSR 04-02-075 on January 7, 2004.

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 8, 2004

Merritt D. Long
Chair

AMENDATORY SECTION (Amending 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-105 What is a beer and/or wine specialty store license? (1) Per RCW 66.24.371, a beer and/or wine specialty store license allows a licensee to sell beer and/or wine for off-premises consumption.

(2) The annual fee for this license is one hundred dollars.

(3) To obtain and maintain a beer and/or wine specialty store license, the premises must be stocked with an inventory of beer and/or wine in excess of three thousand dollars wholesale value. This inventory must be:

(a) Stocked within the confines of the licensed premises; and

(b) Maintained on the premises at all times the premises is licensed, with the exception of beginning and closing inventory for seasonal operations or when the inventory is

being sold out immediately prior to discontinuing or selling the business.

(4) A beer and/or wine specialty store licensee may allow customers to sample beer and wine for the purpose of sales promotion, if the primary business is the sale of beer and/or wine at retail. A licensee's gross retail sales of beer and/or wine must exceed fifty percent of all gross sales for the entire business. Sampling may be conducted under the following conditions:

(a) No more than a total of eight ounces of alcohol may be provided to a customer during any one visit to the premises;

~~((a)) (b) Each sample must be two ounces or less; and~~
~~((b) No more than four samples may be provided to a customer during any one visit to the premises; and))~~

(c) No more than one sample of any single brand and type of beer or wine may be provided to a customer during any one visit to the premises.

(5) A beer and/or wine specialty store licensee may sell beer in kegs or other containers holding at least four gallons and less than five and one-half gallons of beer. See WAC 314-02-115 regarding keg registration requirements.

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 04-07-023
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed March 8, 2004, 4:10 p.m.]

Date of Adoption: March 5, 2004.

Purpose: In order to limit expenditures under the additional requirements for emergent needs (AREN) program, the department must reduce the maximum payment from \$1,500 to \$750 in a consecutive twelve-month period.

Citation of Existing Rules Affected by this Order: Amending WAC 388-436-0002.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.050.

Other Authority: RCW 74.08A.340.

Adopted under notice filed as WSR 04-02-049 on January 5, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: 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 5, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-22-064, filed 10/27/00, effective 12/1/00)

WAC 388-436-0002 **If my family has an emergency, can I get help from DSHS to get or keep our housing or utilities?** DSHS has a program called additional requirements for emergent needs (AREN). If your family has an emergency and you need ~~((a one-time cash payment))~~ assistance to get or keep safe housing or utilities, you may be eligible. The special AREN payment is in addition to the regular monthly cash grant your family may already get.

(1) To get AREN, you must:

(a) Be eligible for temporary assistance for needy families (TANF), state family assistance (SFA), or refugee cash assistance (RCA);

(b) Have an emergency housing or utility need; and

(c) Have a good reason that you do not have enough money to pay your housing or utility costs.

(2) To get AREN, you must be eligible for TANF, SFA, or RCA. This means you must:

(a) Get benefits through TANF, SFA, or RCA. For RCA you must also be pregnant or have an eligible child; or

(b) Apply for TANF, SFA, and RCA, and meet all eligibility criteria including:

(i) The maximum earned income limit under WAC 388-478-0035;

(ii) The requirement that your unearned income not exceed the grant payment standard;

(iii) The requirement that your countable income as defined under WAC 388-450-0162 must be below the payment standard in WAC 388-478-0020 when you have both earned income and unearned income;

(iv) The resource limits under chapter 388-470 WAC;

(v) The program summary rules for either TANF (WAC 388-400-0005); SFA (WAC 388-400-0010); or RCA (WAC 388-400-0030); and

(vi) The requirement that you must be pregnant or have an eligible child.

(3) If you do not get or do not want to get TANF, SFA or RCA, you cannot get AREN to help with ~~((one-time))~~ housing or utility costs. We will look to see if you are eligible for diversion cash assistance (DCA) under WAC 388-432-0005.

(4) To get AREN, you must have an emergency housing or utility need. You may get AREN to help pay to:

(a) Prevent eviction or foreclosure;

(b) Get housing if you are homeless or need to leave your home because of domestic violence;

(c) Hook up or prevent a shut off of utilities related to your health and safety. We consider the following utilities to be needed for health and safety:

(i) Electricity or fuel for heating, lighting, or cooking;

(ii) Water;

(iii) Sewer; and

(iv) Basic local telephone service if it is necessary for your basic health and safety. If you receive TANF or SFA, the Washington telephone assistance program (WTAP) may be used to help you pay for basic local telephone service.

(d) Repair damage or defect to your home when it causes a risk to your health or safety:

(i) If you own the home, we may approve AREN for the least expensive method of ending the risk to your health or safety;

(ii) If you do not own the home, you must ask the landlord in writing to fix the damage according to the Residential Landlord-Tenant Act at chapter 59.18 RCW. If the landlord refuses to fix the damage or defect, we may pay for the repair or pay to move you to a different place whichever cost is lower.

(e) If you receive TANF or SFA, WorkFirst support services under WAC 388-310-0800 may be used to help you relocate to new housing to get a job, keep a job, or participate in WorkFirst activities. Nonhousing expenses~~((;))~~ that are not covered under AREN~~((;))~~ may be paid under WorkFirst support services. This includes expenses such as car repair, diapers, or clothing.

(5) To get AREN, you must have a good reason for not having enough money to pay for your housing or utility costs. You must prove that you:

(a) Did not have money available that you normally use to pay your rent and utilities due to an emergency situation that reduced your income (such as a long-term illness or injury);

(b) Had to use your money to pay for necessary or emergency expenses. Examples of necessary or emergency expenses include:

(i) Basic health and safety needs for shelter, food and clothing;

(ii) Medical care;

(iii) Dental care needed to get a job or because of pain;

(iv) Emergency child care;

(v) Emergency expenses due to a natural disaster, accident, or injury; and

(vi) Other reasonable and necessary expenses.

(c) Are currently homeless; or

(d) Had your family's cash grant reduced or suspended when we budgeted your expected income for the month, but the income will not be available to pay for the need when the payment is due. You must make attempts to negotiate later payments with your landlord or utility company before you can get AREN.

(6) In addition to having a good reason for not having enough money to pay for your costs, you must also explain how you will afford to pay for the on-going need in the future. We may deny AREN if your expenses exceed your income (if you are living beyond your means). We may approve AREN to help you get into housing you can afford.

(7) If you meet the above requirements, we decide the amount we will pay based on the following criteria.

(a) AREN payments may be made up to a maximum of ~~((fifteen hundred dollars))~~ seven hundred fifty dollars in a consecutive twelve-month period.

(b) ~~((We can make the payment all at once or as separate payments over a thirty-day period. The thirty-day period~~

~~starts with the date of the first payment))~~ The number of AREN payments you can receive in a twelve-month period is not limited, as long as the total amount does not exceed seven hundred fifty dollars.

(c) The department may approve an AREN payment above the seven hundred fifty dollar maximum for health and safety reasons.

(d) The amount of AREN is in addition to the amount of your monthly TANF, SFA, or RCA cash grant.

~~((d))~~ (e) We will decide the lowest amount we must pay to end your housing or utility emergency. We will contact your landlord, utility company, or other vendor for information to make this decision. We may take any of the following steps when deciding the lowest amount to pay:

(i) We may ask you to arrange a payment plan with your landlord or utility company. This could include us making a partial payment, and you setting up a plan for you to repay the remaining amount you owe over a period of time.

(ii) We may have you use some of the money you have available in cash, checking, or savings to help pay for the expense. We will look at the money you have available as well as your bills when we decide how much we will pay.

(iii) We may consider income that is excluded or disregarded for cash assistance benefit calculations, such as SSI, as available to meet your emergency housing need.

(iv) We may consider money other individuals such as family or friends voluntarily give you. We will not count loans of money that you must repay to friends or family members.

(v) We may consider money from a nonneedy caretaker relative that lives in the home.

(vi) We may look at what other community resources you currently have to help you with your need.

~~((8) Starting August 1, 2000, your family can get AREN for your emergency housing or utility needs for one thirty-day period every twelve months:~~

~~(a) The thirty-day period starts on the date we issue your first AREN payment and lasts thirty consecutive days.~~

~~(b) The twelve-month period starts the month we issued your first AREN payment. The next time you could be eligible for AREN is the first day of the twelfth month after we issued the first AREN payment. For example, if we issued you AREN on January 15th, you could be eligible again on the first of January the next year.~~

~~(e))~~ (f) The seven hundred fifty dollar limit ((of one thirty-day period)) every twelve months applies to the following people even if they leave the assistance unit:

(i) Adults; and

(ii) Minor parents that get AREN when no adults are in the assistance unit.

~~((d) We do not look at AREN benefits you received before August 1, 2000 when we look to see if you received AREN in the last twelve months:~~

~~(9))~~ (8) We pay AREN:

(a) Directly to the landlord, mortgage company, utility, or other vendor whenever we can.

(b) If we cannot pay AREN directly to the landlord or other vendor, we will issue the AREN as a part of your TANF, SFA, or RCA cash grant. If we issue the AREN as a part of your grant, you must use it for your emergency need.

~~((10))~~ (9) We may assign you a protective payee for your monthly grant under WAC ((388-265-1250)) 388-460-0020.

WSR 04-07-024

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 8, 2004, 4:13 p.m.]

Date of Adoption: March 5, 2004.

Purpose: To amend the rule additional categories of supplemental security income (SSI) recipients who get a state supplemental payment (SSP) along with their respective payment rates. Supplemental security income (SSI) payment rates have been deleted from the WAC because SSI benefit amounts are not related to the state supplemental payment program.

When effective this permanent rule replaces an emergency rule filed as WSR 04-02-011 on December 29, 2004.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0055.

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

Adopted under notice filed as WSR 03-21-124 (original notice) on October 20, 2003, and supplemental notice WSR 04-03-096 on January 20, 2004.

Changes Other than Editing from Proposed to Adopted Version: An SSP payment rate change occurred after the original proposed filing, WSR 03-21-124. The draft changes were posted to the department's policy review page for stakeholder comment, and a supplemental CR-102 proposed rule-making notices reflecting the rate changes was filed as WSR 04-03-096.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

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

March 5, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

PERMANENT

AMENDATORY SECTION (Amending WSR 03-03-114, filed 1/21/03, effective 2/23/03)

WAC 388-478-0055 How much do I get from my ~~((Supplemental Security Income (SSI) and))~~ state supplemental payments (SSP)? (1) ~~((SSI is a federal cash assistance program for needy individuals and couples who meet federal disability guidelines as aged, blind or disabled.))~~ The SSP is a payment from the state for certain SSI eligible people (see WAC 388-474-0012).

~~((If you are eligible for SSI, you may receive a federal cash payment from the federal Social Security Administration, as well as a SSP cash payment from the state.))~~

If you ~~((were))~~ converted to the federal SSI program from state assistance ~~((to the federal SSI program in January 1974))~~ in January 1974, because you were aged, blind, or disabled, and have remained continuously eligible for SSI since January 1974, the department calls you a grandfathered client. Social Security calls you a mandatory income level

~~((living alone—In own household or alternate care, except nursing homes or medical institutions))~~ SSP eligible persons

Individual (aged 65 and older) -Calendar Year 2004

Individual ~~((with: One essential person))~~ (blind as determined by SSA) -Calendar Year 2004

Individual with an ineligible spouse -Calendar Year 2004

~~((Couple))~~ Grandfathered (MIL)

~~((Couple with one essential person))~~

~~((b) If you are in shared living:))~~

~~((shared living—In the home of another person))~~ Medical institution

Individual

~~((Individual with: One essential person))~~

~~((Individual with an ineligible spouse))~~

~~((Couple))~~

~~((Couple with one essential person))~~

~~((c) If you are residing in a medical institution: Area 1 and 2:))~~

~~((MEDICAL INSTITUTION))~~

~~((Individual))~~

(MIL) client. ~~((To be a grandfathered (MIL) client, you must have remained continuously eligible for SSI from January 1974.))~~

A change in living situation, cost-of-living adjustment (COLA) or federal payment level (FPL) can affect a grandfathered (MIL) client. A grandfathered (MIL) client gets a federal SSI payment and a SSP payment, which totals the higher of one of the following:

(a) The state assistance standard set in December 1973, unless you lived in a medical institution at the time of conversion, plus the federal cost-of-living adjustments (COLA) since then; or

(b) The current payment standard.

(2) The ~~((federal, state and combined payment level for an eligible individual and couple are:))~~

~~((a) If you are living alone:))~~ monthly SSP rates for eligible persons under WAC 388-474-0012 and individuals residing in an institution are:

	((Federal Payment Level))	((State Supplement Payment Level)) <u>Monthly SSP Rate</u>	((Combined Federal/ State Payment Level))
Individual (aged 65 and older) -Calendar Year 2004	(((\$552.00))	\$(0.00) <u>46.00</u>	(((\$552.00))
Individual ((with: One essential person)) <u>(blind as determined by SSA) -Calendar Year 2004</u>	(((\$29.00))	((0.00)) <u>\$46.00</u>	(((\$29.00))
Individual with an ineligible spouse -Calendar Year 2004	(((\$552.00))	\$(100.00) <u>46.00</u>	(((\$652.00))
((Couple)) <u>Grandfathered (MIL)</u>	(((\$829.00))	(((\$0.00)) <u>Varies by individual based on federal requirements. Payments range between \$0.54 and \$199.77.</u>	(((\$829.00))
((Couple with one essential person))	(((\$829.00))	(((\$0.00))	(((\$829.00))
((b) If you are in shared living:))			
((shared living—In the home of another person)) <u>Medical institution</u>	((Federal Payment Level))	((State Supplement Payment Level)) <u>Monthly SSP Rate</u>	((Combined Federal/ State Payment Level))
Individual	(((\$368.00))	\$(0.00) <u>11.62</u>	(((\$368.00))
((Individual with: One essential person))	(((\$665.00))	((0.00))	(((\$665.00))
((Individual with an ineligible spouse))	(((\$368.00))	(((\$100.00))	(((\$468.00))
((Couple))	(((\$552.67))	(((\$0.00))	(((\$552.67))
((Couple with one essential person))	(((\$665.00))	(((\$0.00))	(((\$665.00))
((c) If you are residing in a medical institution: Area 1 and 2:))			
((MEDICAL INSTITUTION))	((Federal Payment Level))	((State Supplement Payment Level))	((Combined Payment Level))
((Individual))	(((\$ 30.00))	(((\$ 11.62))	(((\$ 41.62))

PERMANENT

WSR 04-07-025
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 8, 2004, 4:15 p.m., effective May 1, 2004]

Date of Adoption: March 5, 2004.

Purpose: The proposed amendments will simplify the sanction and Child SafetyNet process by eliminating multiple levels of sanction and strengthen the Child SafetyNet process. The amended rules reduce the number of sanction levels to one and increase the period of cooperation before the sanction is removed. Amending WAC 388-310-1600 WorkFirst—Sanctions and 388-310-1650 WorkFirst—Child SafetyNet payments.

Citation of Existing Rules Affected by this Order: Amending WAC 388-310-1600 and 388-310-1650.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, and 74.08A.340.

Adopted under notice filed as WSR 04-03-095 on January 20, 2004.

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: May 1, 2004.

March 5, 2004

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-15-067, filed 7/11/02, effective 8/1/02)

WAC 388-310-1600 WorkFirst—Sanctions. (1) What WorkFirst requirements do I have to meet?

You must do the following when you are a mandatory WorkFirst participant:

(a) Give the department the information we need to develop your individual responsibility plan (IRP) (see WAC 388-310-0500);

(b) Show that you are participating fully to meet all of the requirements listed on your individual responsibility plan;

(c) Go to scheduled appointments listed in your individual responsibility plan;

(d) Follow the participation and attendance rules of the people who provide your assigned WorkFirst services or activities; and

(e) Accept available paid employment when it meets the criteria in WAC 388-310-1500.

(2) What happens if I don't meet WorkFirst requirements?

(a) If you do not meet WorkFirst requirements, we will send you a letter telling you what you did not do.

(b) You will have ten days to contact us so we can talk with you about the situation. You can contact us in writing, by phone, by going to the appointment described in the letter, or by asking for an individual appointment.

(c) If you do not contact us within ten days, we will make sure you have been screened for family violence and other barriers to participation. We will use existing information to decide whether:

(i) You were unable to do what was required; or

(ii) You were able, but refused, to do what was required.

(d) If you had a good reason not to do a required activity we will work with you and, if needed, change the requirements in your individual responsibility plan. If you have been unable to meet your WorkFirst requirements because of family violence, you and your case manager will develop an IRP to help you with your situation, including referrals to appropriate services.

(e) Before you are placed in sanction, we will have a case staffing to ensure you were offered the opportunity to participate and that you were able to do so. You will be notified when this will be so you can attend.

(3) What is considered a good reason for not being able to do what WorkFirst requires?

You have a good reason if it was not possible to do what WorkFirst requires due to a significant problem or event outside your control. Some examples of good reasons include:

(a) You had an emergent physical, mental or emotional condition, confirmed by a licensed health care professional that interfered with your ability to participate;

(b) You were threatened with or subjected to family violence;

(c) You could not locate child care for your children under thirteen years that was:

(i) Affordable (did not cost you more than your co-payment would under the working connections child care program in chapter 388-290 WAC);

(ii) Appropriate (licensed, certified or approved under federal, state or tribal law and regulations for the type of care you use and you were able to choose, within locally available options, who would provide it); and

(iii) Within a reasonable distance (within reach without traveling farther than is normally expected in your community).

(iv) You could not locate other care services for an incapacitated person who lives with you and your children.

(d) You had an immediate legal problem, such as an eviction notice; or

(e) You are a person who gets necessary supplemental accommodation (NSA) services under chapter 388-472 WAC and your limitation kept you from participating. If you have a good reason because you need NSA services, we will review your accommodation plan.

(4) What if we decide that you did not have a good reason for failing to meet WorkFirst requirements?

If we decide that you did not have a good reason for failing to meet WorkFirst requirements, we will send you a letter that tells you:

- (a) What you failed to do;
- (b) That you are in sanction status;
- (c) Penalties that will be applied to your grant;
- (d) When the penalties will be applied;
- (e) How to request a fair hearing if you disagree with this decision; and
- (f) How to end the penalties and get out of sanction status.

(5) What is sanction status?

When you are a mandatory WorkFirst participant, you must follow WorkFirst requirements to qualify for your full grant. If you or someone else on your grant doesn't comply and you can't prove that you had a good reason, you do not qualify for your full grant. This is called being in WorkFirst sanction status.

(6) Are there penalties when you or someone in my household goes into sanction status?

(a) When someone in your household is in sanction status, we impose penalties. The penalties last until you or the household member meet WorkFirst requirements.

(b) ~~((There are three penalty levels:~~

~~(i) Level one: We calculate your family's grant and then remove the noncompliant person(s) share of the grant;~~

~~(ii) Level two: Your reduced grant (removing the non-compliant person's share) will be sent to a protective payee every month until you get out of sanction status. (WAC 388-460-0001 describes the protective payee rules.)~~

~~(iii) Level three: Your grant is reduced by the person(s) share or forty percent, whichever is more and your reduced grant will be sent to a protective payee until you get out of sanction status.~~

~~(c) The penalties change depending on how long you have been in sanction status and how many times you have been in sanction status:~~

~~(i) The first time you go into sanction your penalties will start at level one. If you are still in sanction after three months, you will go to level two. If you are still in sanction after another three months, you will go to level three.~~

~~(ii) The second time you are in sanction, your penalties start at level two and changes to level three after three months.~~

~~(iii) After three or more times in sanction, you start at level three.~~

~~(d) If you are in sanction status on August 1, 2002, your penalties will start at level one, two, or three depending on how long you have been in sanction status. This will be considered your first sanction)) Your grant is reduced by the person(s) share or forty percent, whichever is more.~~

(c) Your reduced grant will be sent to a protective payee until you get out of sanction status. (WAC 388-460-0001 describes the protective payee rules.)

(7) How do I end the penalties and get out of sanction status?

To stop the penalties and get out of sanction status:

- (a) You must provide the information we requested to develop your individual responsibility plan; and/or

(b) Start and continue to do your required WorkFirst activities(~~(as follows:~~

~~(i) For two weeks in a row if you are in level one of sanction;~~

~~(ii) For four weeks in a row if you are in level two or three of sanction)) for four weeks in a row.~~

(c) When you leave sanction status, your grant will be restored (~~(beginning with the day you began doing your required activities)) to the level for which you are eligible beginning the first of the month following your four weeks of participation.~~

(8) What if I reapply for TANF or SFA and I was in sanction status when my case closed?

(a) If your case closes while you are in sanction status and is reopened in six months or less, you will start out in sanction (~~(where you were when the case was closed)).~~

(b) If your case has been closed for more than six months, you will not be in sanction status if your case is reopened.

AMENDATORY SECTION (Amending WSR 02-14-084, filed 6/28/02, effective 7/29/02)

WAC 388-310-1650 WorkFirst—Child SafetyNet Payments. (1) What is a Child SafetyNet Payment?

A Child SafetyNet Payment (CSNP) is a TANF/SFA time limit extension to maintain housing and basic utilities and other verified needs of the children in your household. (See WAC 388-484-0006.) Your family will get a Child SafetyNet Payment extension instead of a regular TANF/SFA time limit extension if:

(a) You or another adult in your household has been getting TANF/SFA for more than sixty months; and

(b) Someone in your household is in sanction status because they are not exempt or in a time limited hardship extension (see WAC 388-310-0300, 388-484-0006 and 388-310-0350) and have refused to do WorkFirst requirements without a good reason as provided in WAC 388-310-1600. We will not place you into CSNP status unless we first offered you the opportunity to talk about the proposed sanction as required by WAC 388-310-1600(2) and gave you notice that we did not think you had a good reason for failing to meet WorkFirst requirements as required by WAC 388-310-1600(4).

(2) How will I know if my family will be getting a Child SafetyNet Payment?

We will send you a letter that tells:

(a) What caused your household to go into sanction status;

(b) When your Child SafetyNet Payments will start;

(c) How to request a fair hearing if you disagree with the decision; and

(d) How to become qualified for regular TANF/SFA time limit extension benefits.

(3) Are there penalties when my household gets a Child SafetyNet Payment?

(a) When your household gets a Child SafetyNet Payment:

(i) We reduce your grant by forty percent or the noncompliant person's share, whichever is more; and

(ii) Send your family's CSNP to a protective payee.

(b) The protective payee can only pay your verified rent and utility costs with your CSNP and will spend anything left over to pay your children's expenses (like clothing, diapers, toiletries, school supplies or other school-related costs).

(c) The Child SafetyNet Payment is cash assistance and if you get more than you are eligible to get, then we can recover the amount we overpaid you under chapter 388-410 WAC.

(4) How do I end the penalties and get out of CSNP status?

To stop the penalties and get out of CSNP status, you must:

(a) Prove that you have been doing your WorkFirst requirements for ~~((one full month))~~ twelve weeks in a row; or

(b) Prove that you had a good reason not to do your required activities (see WAC 388-310-1600(3)); or

(c) Become exempt from WorkFirst requirements (see WAC 388-310-0350).

(5) What happens when I leave CSNP status?

Once you leave CSNP status(±

~~(a) All your penalties will end if you proved that you had a good reason not to do your WorkFirst requirements or you became exempt; or~~

~~(b) You will go into level three of sanction status described in WAC 388-310-1600(6). Your grant will be sent to a protective payee and reduced by forty percent of the non-compliant person's share, whichever is more.~~

~~(c) The level three sanction penalties will end after you do all your WorkFirst requirements for four weeks in a row)) your grant will be restored to the level for which you are eligible the first of the month following your twelve weeks of participation.~~

(6) What if I reapply for TANF or SFA and my family was in CSNP status (ⓐ) when my case closed?

If your case closes while you are in CSNP status, you will go back into CSNP status when your grant is reopened.

WSR 04-07-035
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 (Securities Division)
 [Filed March 9, 2004, 1:13 p.m.]

Date of Adoption: March 1, 2004.

Purpose: Amend WAC 460-42A-081 to create a secondary trading exemption for securities listed on the Toronto Stock Exchange (TSE). The exemption would be limited to nonissuer transactions and companies relying on the exemption must be reporting companies in Canada for 180 days prior to any transaction in reliance upon the exemption. The amendment also allows the director to exempt, by rule or order, other foreign exchanges for purposes of the exemption.

Citation of Existing Rules Affected by this Order: Amending WAC 460-42A-081.

Statutory Authority for Adoption: RCW 21.20.450, 21.20.310(8).

Adopted under notice filed as WSR 03-23-103 on November 18, 2003.

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.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: No rule may be made unless the director of the Department of Financial Institutions finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of chapter 21.20 RCW. The director hereby makes such a finding with respect to this proposal.

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

March 5, 2004

Helen P. Howell

Director

AMENDATORY SECTION (Amending WSR 96-11-016, filed 5/6/96, effective 6/6/96)

WAC 460-42A-081 Exchange and national market system exemption. (1) Any securities listed or designated, or approved for listing or designation upon notice of issuance, on (a) the New York Stock Exchange, (b) the American Stock Exchange, (c) the NASDAQ/NMS interdealer quotation system pursuant to the Memorandum of Understanding between the North American Securities Administrators Association (NASAA) and the National Association of Securities Dealers (NASD) adopted April 28, 1990, (d) the Chicago Board Options Exchange pursuant to the Memorandum of Understanding between NASAA and the Chicago Board Options Exchange dated May 30, 1991, (e) Tier I on the Pacific Stock Exchange pursuant to the Memorandum of Understanding between NASAA and the Pacific Stock Exchange dated October 12, 1994, or (f) Tier I on the Philadelphia Stock Exchange pursuant to the Memorandum of Understanding between NASAA and the Philadelphia Stock Exchange dated October 12, 1994, any other security of the same issuer which is of senior or substantially equal rank, any security called for by subscription rights or warrants so listed or approved, or any warrant or right to purchase or subscribe to any of the foregoing is exempt under RCW 21.20.310(8). ~~((The administrator may by order withdraw this exemption as to an exchange or interdealer quotation system or a particular security when necessary in the public interest for the protection of investors.))~~

(2) For the purposes of nonissuer transactions only, any security listed or approved for listing upon notice of issuance on (a) the NASDAQ/NMS interdealer quotation system, (b) the New York Stock Exchange, (c) the American Stock Exchange, (d) the Chicago Stock Exchange, (e) the Chicago Board Options Exchange, (f) the Pacific Stock Exchange, (g) the Philadelphia Stock Exchange, or any other stock exchange registered with the federal securities and exchange commission and approved by the director; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing, is exempted under RCW 21.20.310(8).

(3)(a) For the purposes of nonissuer transactions only, any security meeting the following requirements is exempted under RCW 21.20.310(8):

(i) The issuer of the security is a reporting issuer in a foreign country or jurisdiction designated in (b) of this subsection, or by rule or order of the director, and has been subject to continuous reporting requirements in such foreign country for not less than one hundred eighty days before the transaction; and

(ii) The security is listed on such foreign country's securities exchange which has been designated in (b) of this subsection, or by rule or order of the director, or is a security of the same issuer which is of senior or substantially equal rank to such listed security or is a warrant or right to purchase or subscribe to any of the foregoing.

(b) For purposes of (a) of this subsection, Canada together with its provinces and territories is a designated foreign jurisdiction and the Toronto Stock Exchange is a designated securities exchange.

(4) The director may by order withdraw the exemptions provided by subsection (1), (2), or (3) of this section as to an exchange or interdealer quotation system or a particular security when necessary in the public interest for the protection of investors.

WSR 04-07-048
PERMANENT RULES
SPOKANE COUNTY AIR
POLLUTION CONTROL AUTHORITY

[Filed March 10, 2004, 10:03 a.m.]

Date of Adoption: March 4, 2004.

Purpose: Amend the existing Regulation I and repeal the existing Regulation II. Revisions include deletion of sections that no longer apply (i.e., delete articles and sections that contain outdated compliance schedules, limitations, and requirements established in the original regulation's inception; Article VII), delete sections that are duplicative within the regulation or that are duplicative of state regulations (i.e., where it is not necessary for SCAPCA to have certain sections, since SCAPCA implements and enforces the equivalent state regulation sections). Incorporate EPA required changes to Regulation I, Articles I, II, IV, and V so that they can be incorporated into the SIP. Centralize, revise and add to the defini-

tions in Article I. Make corrections to spelling, punctuation, sentence structure, references to other section. Add some fees (Article X). Revise paragraph formats to be consistent throughout the regulation. Attempt to make the regulation more understandable and readable. POST CR-102 Nonsubstantive Revisions: Article II, Section 2.13 E - the effective date for references to federal laws and regulations has been changed to adoption date of the regulation revisions at the recommendation of EPA. Each article's revised date has been changed to reflect the adoption date of March 4, 2004.

Citation of Existing Rules Affected by this Order: Repealing SCAPCA Regulation II; and amending SCAPCA Regulation I.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 04-01-160 on March 4, 2004 [December 22, 2003].

Changes Other than Editing from Proposed to Adopted Version: POST CR-102 Nonsubstantive Revisions: Article II, Section 2.13 E - the effective date for references to federal laws and regulations has been changed to adoption date of the regulation revisions at the recommendation of EPA.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 6, Repealed 0; Federal Rules or Standards: New 1, Amended 6, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 28, 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 5, Amended 67, Repealed 22.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, Amended 67, Repealed 22.

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 5, 2004

Charles E. Studer

Environmental Engineer

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 04-08 issue of the Register.

WSR 04-07-052
PERMANENT RULES
PERSONNEL RESOURCES BOARD

[Filed March 11, 2004, 11:33 a.m., effective January 1, 2005]

Date of Adoption: March 11, 2004.

Purpose: To implement RCW 41.06.136 and 41.06.139 as adopted under SHB 1268. The law requires the board to adopt rules regarding the framework of the new classification plan for state employees and provide an appeal right of the classification plan.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 04-04-109 on February 4, 2004.

Changes Other than Editing from Proposed to Adopted Version: In WAC 357-10-020 language was added to clarify how appeals will be handled when received by the Washington Personnel Resources Board.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 0, Repealed 0.

Effective Date of Rule: January 1, 2005.

March 11, 2004

E. C. Matt
Secretary

NEW SECTION

WAC 357-10-005 Definitions. The following definitions apply to the rules in Chapter 357-10 WAC:

(1) Board is the Washington personnel resources board.

(2) Director is the director of department of personnel.

(3) Employee is a person working in the classified service who is subject to chapter 41.06 RCW and the civil service rules as codified in Title 357 WAC.

(4) Employer is a state agency, an institution of higher education, or a related higher education board.

(5) Position is a group of duties and responsibilities to be performed by an employee

NEW SECTION

WAC 357-10-010 Classification plan—Framework and general direction. (1) Beginning January 1, 2005, the director must implement a comprehensive classification plan that includes allocation and reallocation of positions. The plan must support state government's efforts to deliver effective and efficient services to the citizens of the state. To achieve this goal, the classification plan, and any modifications to it, shall be designed in accordance with the following goals for the state:

(a) The plan shall be modern, simple, and streamlined, with the number of job classifications and administrative processes kept to a reasonable minimum;

(b) It must be flexible and able to quickly respond to a dynamic workplace and workforce, changing technologies, varying economic and social conditions, and citizen needs;

(c) It must facilitate the reorganization and decentralization of government services;

(d) It must enhance employee mobility and career advancement opportunities; and,

(e) It must support the value state government places on workplace diversity.

(2) The plan shall be prepared in consultation with employers, employee organizations, and other interested parties. Following twenty calendar days' notice, the director shall hold open public hearings prior to adoption or revision of the plan.

(3) Subsequent revisions to the classification plan that are initiated by the director, employers, employees, and/or employee organizations must adhere to the goals listed in subsection (1), and any other provisions adopted by the director.

NEW SECTION

WAC 357-10-020 Classification plan—Implementation—Appeal. (1) Any employee who believes that the new comprehensive classification plan adopted by the director does not adhere to the goals listed in WAC 357-10-010 and can demonstrate how the plan doesn't meet the goals may appeal to the board by filing written notice within 30 calendar days of notification of the director's action.

(2) The board will review the appeal and:

(a) Notify the parties of the time for submitting written argument; or

(b) Notify the parties of a time and place for hearing oral argument.

(3) The party filing the appeal has the burden of proof.

(4) The board's decision is final and not subject to further appeal.

WSR 04-07-074

PERMANENT RULES

HORSE RACING COMMISSION

[Filed March 15, 2004, 9:35 a.m.]

Date of Adoption: March 12, 2004.

Purpose: To amend WAC 260-24-650 Clockers, to establish a clocker's license to permit clocking of timed workouts during the off-season at approved training centers.

Citation of Existing Rules Affected by this Order: Amending WAC 260-24-650 Clockers.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 04-04-045 on January 29, 2004.

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 Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

March 12, 2004

R. M. Leichner

Executive Secretary

AMENDATORY SECTION (Amending WSR 00-20-028, filed 9/27/00, effective 10/28/00)

WAC 260-24-650 Clocker(s). (1) The clocker(s) shall be present during training hours at each track on association grounds, which is open for training, to identify each horse working out and to accurately record the distances and times of each horse's workout.

(2) Each day, the clocker(s) shall prepare a list of workouts that describes the name of each horse which worked, along with the distance and time of each horse's workout.

(3) At the conclusion of training hours, the clocker shall deliver a copy of the list of workouts to the stewards and the racing secretary.

(4) The clocker(s) and his/her representative shall report the time and distance of the horse that best represents the workout which is in the best interest of the public.

(5) Whenever training occurs at other than a racing association within its scheduled race meet and training dates, only individuals licensed by the commission may clock workouts. Off-season clocking can only be performed at approved training centers, in the method prescribed by the commission, and in compliance with WAC 260-40-100. Prior to conducting off-season clocking, all clockers must be approved and licensed by the commission. Approval shall be based on the clockers' knowledge of and proficiency in performing clocking activities.

WSR 04-07-075

PERMANENT RULES

HORSE RACING COMMISSION

[Filed March 15, 2004, 9:37 a.m.]

Date of Adoption: March 12, 2004.

Purpose: To amend WAC 260-36-120 to provide specific criteria when an application for license or an existing license shall be denied, suspended or revoked.

Citation of Existing Rules Affected by this Order: Amending WAC 260-36-120 Denial, suspension and revocation—Grounds.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 04-04-046 on January 29, 2004.

Changes Other than Editing from Proposed to Adopted Version: (1) Qualified racing jurisdiction [in subsection] (2)(f) to mean a "recognized" racing jurisdiction; (2) added language to subsection (3) outlining the criteria for the commission to use if a denial or suspension under subsection (2) is appealed; and (3) added a new subsection (5), which defines, recognized racing jurisdiction.

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.

March 12, 2004

R. M. Leichner

Executive Secretary

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

WAC 260-36-120 Denial, suspension, and revocation—Grounds. (1) The commission or its designee may refuse to issue or may deny ((or revoke a license or permit to any person who shall have been refused)) a license ((or permit by any other state racing commission or racing authority: Provided, however, That the state racing commission or racing authority of such other state extends to the state racing commission of Washington reciprocal courtesy to maintain the disciplinary control; the commission may deny or revoke any license or permit where the holder thereof has violated the rules and regulations of the commission governing the conduct of persons connected with the race tracks)) to an applicant, or may suspend or revoke a license issued, or may order disciplinary measures, if the applicant or licensee:

(a) Has been convicted of a felony;

(b) Has been convicted of violating any law regarding gambling or a controlled substance;

(c) Has pending misdemeanor or gross misdemeanor criminal charges;

(d) Has failed to meet the minimum qualifications required for the license for which they are applying;

(e) Has failed to disclose or states falsely any information required in the application;

(f) Has been found in violation of statutes or rules governing racing in this state or other jurisdictions;

(g) Has disciplinary charges pending in this state or other racing jurisdiction;

(h) Has been or is currently excluded from association grounds by a recognized racing jurisdiction;

(i) Has had a license denied, by any racing jurisdiction;

(j) Is a person whose conduct or reputation may adversely reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of a race meeting;

(k) Demonstrates financial irresponsibility by accumulating unpaid obligations, defaulting in obligations or issuing drafts or checks that are dishonored or payment refused;

WSR 04-07-076

PERMANENT RULES

HORSE RACING COMMISSION

[Filed March 15, 2004, 9:40 a.m.]

Date of Adoption: March 12, 2004.

Purpose: To amend WAC 260-40-160 to clarify when the spouse of a disqualified person may own or manage a horse.

Citation of Existing Rules Affected by this Order: Amending WAC 260-40-160 Horses owned or managed by a disqualified person.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 04-04-047 on January 29, 2004.

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.

March 12, 2004

R. M. Leichner

Executive Secretary

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

WAC 260-40-160 Horse owned or managed by disqualified person. (1) A horse shall not be qualified to be entered or to start in any race, if owned in whole or in part, or if under the management, directly or indirectly, of a disqualified person.

(2) If any entry from any disqualified person or a disqualified horse is received, such entry shall be void and any money paid for such entry shall be returned if the disqualification is disclosed forty-five minutes before post time for the race. Otherwise, any such money shall be paid to the winner.

(3) ~~((No entry shall be accepted from husband or wife, while either is disqualified.))~~ A horse is ineligible to start in a race when it is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted.

(l) Has violated any of the alcohol or substance abuse provisions outlined in chapter 260-34 WAC;

(m) Has violated any of the provisions of chapter 67.16 RCW; or

(n) Has violated any provisions of Title 260 WAC.

~~(2) ((The commission may refuse to issue or renew a license, or may suspend or revoke a license issued pursuant to the rule, if it shall find that the applicant, or any person who is a partner, agent, employee or associate of the applicant, has been convicted of a crime in any jurisdiction, or is or has been associating or consorting with any person who has or persons who have been convicted of a crime or crimes in any jurisdiction or jurisdictions, or is consorting or associating with or has consorted or associated with bookmakers, touts, or persons of similar pursuits, or has himself engaged in similar pursuits, or is financially irresponsible, or has been guilty of or attempted any fraud or misrepresentation in connection with racing, breeding or otherwise, or has violated or attempted to violate any law with respect to racing in any jurisdiction or any rule, regulation or order of the commission, or shall have violated any rule of racing which shall have been approved or adopted by the commission, or has been guilty of or engaged in similar, related or like practices.))~~ The commission or its designee shall deny the application for license or suspend or revoke an existing license if the applicant or licensee:

(a) Has been convicted of any felony crimes against a person;

(b) Has been convicted of any felony property crime within the past ten years;

(c) Has five or more convictions for gross misdemeanors within the last three years;

(d) Is subject to current prosecution or pending charges for any felony crime;

(e) Has a felony conviction under appeal;

(f) Is currently suspended or revoked in Washington or by another recognized racing jurisdiction;

(g) Is certified under RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order; or

(h) Has any outstanding arrest warrants.

(3) An appeal of a license denial based on this policy shall be filed as outlined in WAC 260-88-010. In considering an appeal from a decision by the board of stewards denying a license pursuant to subsection (2) of this section, the commission may only reverse the denial on a showing by the appellant of mitigating information and that the best interests of horse racing would not be compromised by granting or reinstating a license.

(4) A license suspension or revocation shall be reported in writing to the applicant and the Association of Racing Commissioners International, Inc. whereby other member racing jurisdictions shall be advised.

(5) A recognized racing jurisdiction shall include members of the Association of Racing Commissioners International (RCI) and the North American Pari-Mutuel Regulators Association (NAPRA), and any other racing authority with which the commission has a written reciprocity agreement.

WSR 04-07-077
PERMANENT RULES
HORSE RACING COMMISSION

[Filed March 15, 2004, 9:43 a.m.]

Date of Adoption: March 12, 2004.

Purpose: To amend sections in chapter 260-48 WAC addressing pools dependent on betting interest and trifecta, twin trifecta and superfecta pools.

Citation of Existing Rules Affected by this Order: Amending WAC 260-48-620 Pools dependent upon betting interest, 260-48-890 Trifecta pools, 260-48-900 Twin trifecta pools, and 260-48-910 Superfecta pools.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 04-04-048 on January 29, 2004.

Changes Other than Editing from Proposed to Adopted Version: (1) Add language in WAC 260-48-620 the commission's designee to alter the requirements of subsections (1)-(8); and (2) added language to WAC 260-48-890 Trifecta pools, 260-48-900 Twin trifecta pools, and 260-48-910 Superfecta pools that allow for more than one coupled entry in these races with the written approval of the executive secretary.

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 4, 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 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.

March 12, 2004

R. M. Leichner

Executive Secretary

AMENDATORY SECTION (Amending WSR 00-06-070, filed 3/1/00, effective 4/1/00)

WAC 260-48-620 Pools dependent upon betting interests. Unless the commission or its designee otherwise provides, at the time the pools are opened for wagering, the association:

(1) Shall offer win(~~(, place, and show)~~) wagering on all races with ~~((five))~~ three or more betting interests.

(2) ~~((May be allowed to prohibit show wagering on any race with four or fewer betting interests.~~

~~(3) May be allowed to prohibit place wagering on any race with three or fewer betting interests.)~~ Shall offer place wagering on all races with four or more betting interests.

(3) Shall offer show wagering on all races with five or more betting interests.

(4) May ~~((be allowed to prohibit))~~ offer quinella wagering on ~~((any))~~ all races with three or ~~((fewer))~~ more betting interests.

(5) May ~~((be allowed to prohibit))~~ offer exacta wagering on ~~((any))~~ all races with ~~((three))~~ two or ~~((fewer))~~ more betting interests.

(6) ~~((Shall prohibit))~~ May offer trifecta wagering on ~~((any))~~ all races with ~~((five))~~ three or ~~((fewer))~~ more betting interests ~~((scheduled to start when the trifecta pool opens for wagering in Washington)).~~

(7) ~~((Shall prohibit))~~ May offer twin trifecta wagering on ~~((any))~~ all races with seven or ~~((fewer))~~ more betting interests ~~((scheduled to start when the twin trifecta pool opens for wagering in Washington)).~~

(8) ~~((Shall prohibit))~~ May offer superfecta wagering on ~~((any))~~ all races with ~~((seven))~~ four or ~~((fewer))~~ more betting interests ~~((scheduled to start when the superfecta pool opens for wagering in Washington)).~~

AMENDATORY SECTION (Amending WSR 98-01-148, filed 12/19/97, effective 1/19/98)

WAC 260-48-890 Trifecta pools. (1) The trifecta requires selection of the first three finishers, in their exact order, for a single race.

(2) The net trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) The entire pool shall be refunded on trifecta wagers for that race.

(3) If less than three betting interests finish and the race is declared official, payoffs will be made based upon the order of finish of those betting interests completing the race. The balance of any selection beyond the number of betting interests completing the race shall be ignored.

(4) If there is a dead heat for first involving:

(a) Horses representing three or more betting interests, all of the wagering combinations selecting three betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(b) Horses representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place betting interest shall share in a profit split.

(5) If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any of the betting interests involved in the dead heat for second shall share in a profit split.

(6) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct

sequence, along with any of the betting interests involved in the dead heat for third shall share in a profit split.

(7) ~~((There shall be only one instance of two horses having common ties in any trifecta race, stakes races are excepted with permission of the stewards:))~~ Trifecta wagering is prohibited on any race in which there is more than one coupled entry, except with written permission of the executive secretary.

(8) Trifecta wagering is prohibited on any race in which there is a mutuel field.

AMENDATORY SECTION (Amending WSR 96-10-014, filed 4/19/96, effective 6/11/96)

WAC 260-48-900 Twin trifecta pools. (1) The twin trifecta requires selection of the first three finishers, in their exact order, in each of two designated races. Each winning ticket for the first twin trifecta race must be exchanged for a free ticket on the second twin trifecta race in order to remain eligible for the second-half twin trifecta pool. Winning first-half wagers will receive both an exchange and a monetary payoff. Both of the designated twin trifecta races shall be included in only one twin trifecta pool.

(2) Twin trifecta wagering may be conducted by Class A and B licensees at the discretion of the commission upon written application by an association.

(3) After wagering closes for the first-half of the twin trifecta and commissions have been deducted from the pool, the net pool shall then be divided into two separate pools: The first-half twin trifecta pool and the second-half twin trifecta pool. The percentage allocated to each pool must be approved by the commission.

(4) In the first twin trifecta race only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin trifecta race:

(a) As a single price pool to those whose combination finished in the correct sequence as the first three betting interest; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) The entire twin trifecta pool for that day shall be refunded on twin trifecta wagers for that race and the second-half shall be ~~((cancelled))~~ canceled.

(5) If no first-half twin trifecta ticket selects the first three finishers of that race in exact order, winning ticket holders shall not receive any exchange tickets for the second-half twin trifecta pool. In such case, the second-half twin trifecta pool shall be retained and added to any existing twin trifecta carry-over pool.

(6) Winning tickets from the first-half of the twin trifecta shall be exchanged for tickets selecting the first three finishers of the second-half of the twin trifecta. The second-half twin trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin trifecta race:

(a) As a single price pool, including any existing carry-over monies, to those whose combination finished in correct sequence as the first three betting interest; but if there are no such tickets, then

(b) The entire second-half twin trifecta pool for that race shall be added to any existing carry-over monies and retained for the corresponding second-half twin trifecta pool of the next consecutive race card.

(7) Subject to subsection 19(e) of the twin trifecta rules, if a winning first-half twin trifecta ticket is not presented for cashing and exchange prior to the second-half twin trifecta race, the ticket holder may still collect the monetary value associated with the first-half twin trifecta pool but forfeits all rights to any distribution of the second-half twin trifecta pool.

(8) ~~((Coupled entries and mutuel fields shall be prohibited in twin trifecta races:))~~

~~((There shall be only one instance of two horses having common ties through a trainer in any twin trifecta race:))~~ Twin trifecta wagering is prohibited on any race in which there is a mutuel field, except with written permission of the executive secretary.

(9) Twin trifecta wagering is prohibited on any race in which there is more than one coupled entry.

(10) Should a betting interest in the first-half of the twin trifecta be scratched, those twin trifecta wagers including the scratched betting interest shall be refunded.

(11) Should a betting interest in the second-half of the twin trifecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest.

(12) If there is a dead heat or multiple dead heats in either the first- or second-half of the twin trifecta, all twin trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of dead heat occurring in:

(a) The first-half of the twin trifecta, the payoff shall be calculated as a profit split

(b) The second-half of the twin trifecta, the payoff shall be calculated as a single price pool.

(13) If either of the twin trifecta races are ~~((cancelled))~~ canceled prior to the first twin trifecta race, or the first twin trifecta race is declared "no race," the entire twin trifecta pool for that day shall be refunded on twin trifecta wagers for that race and the second-half shall be ~~((cancelled:))~~ canceled

(14) If the second-half twin trifecta race is ~~((cancelled))~~ canceled or declared "no race," all exchange tickets and outstanding first-half winning twin trifecta tickets shall be entitled to the net twin trifecta pool for that race as a single price pool, but not the twin trifecta carry-over. If there are no such tickets, the net twin trifecta pool shall be distributed as described in subsections (4) of the twin trifecta rules.

(15) If, due to a late scratch, the number of betting interests in the second-half of the twin trifecta is reduced to fewer than 6, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half twin pool for that race as a single price pool, but not the twin trifecta carry-over.

(16) If it be determined by the stewards that a horse has been prevented from racing because of the failure of the stall door of the starting gate to open (nonstarter) in the second-half of the twin trifecta only, there will be no refund or consolation payoff. The official order of finish as posted shall be used to determine payoffs. This will not affect other pools for this race.

(17) A written request for permission to distribute the twin trifecta carry-over on a specific race card may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date of race card for the distribution.

(18) Contrary to subsection (5) of the twin trifecta rules, during a race card designated to distribute the twin trifecta carry-over, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the twin trifecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations as described in subsection (4) of the twin trifecta rules.

(19) Should the twin trifecta carry-over be designated for distribution on a specified date, the following precedence will be followed in determining winning tickets for the second-half of the twin trifecta after completion of the first-half of the twin trifecta:

(a) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) As a single price pool to holders of valid exchange tickets.

(e) As a single price pool to holders of outstanding first-half winning tickets.

(20) The twin trifecta carry-over shall be designated for distribution on a specified date and race card only under the following circumstances:

(a) Upon written approval from the commission as provided in subsection (17) of the twin trifecta rules.

(b) On the closing race card of the meet or split meet.

(21) If, for any reason, the twin trifecta carry-over must be held over to the corresponding twin trifecta pool of the association's subsequent meet, the carry-over shall be deposited in an interest-bearing account approved by the commission. The twin trifecta carry-over plus accrued interest shall then be added to the second-half twin trifecta pool of the association's following meet.

(22) If racing is (~~cancelled~~) canceled prior to the first-half of the twin trifecta on the closing race card of the meet or split meet, the carry-over will be held over in accordance with subsection (20) of the twin trifecta rules.

(23) If racing is (~~cancelled~~) canceled after the running of the first-half but before the running of the second-half on the closing race card of the meet or split meet, the carry-over

pool will be paid as a single price to holders of exchange tickets or outstanding winning tickets from the first-half.

(24) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited. This shall not prohibit necessary communications between totalisator and parimutuel department employees for processing of pool data.

(25) The acceptance of a twin trifecta ticket by taking an issued ticket away from the window of the terminal from which it was issued shall constitute an acknowledgment by the bettor that the ticket is correct. Exchange tickets may not be canceled and/or reissued except as provided by these rules. The association, totalisator company, and state may not be liable to any person for a twin trifecta ticket which is not:

(a) A winning ticket in accordance with the provisions of this rule; or

(b) Delivered for any reason, including but not limited to mechanical malfunction, electrical failure, machine locking, phone line failure, or other cause.

(26) Twin trifecta tickets shall be sold and exchanged only by the association through parimutuel machines.

(27) The twin trifecta carry-over may be capped at a designated level approved or set by the commission so that if, at the close of any race card, the amount in the twin trifecta carry-over equals or exceeds the designated cap, the twin trifecta carry-over will be frozen until it is won or distributed under other provisions of this rule. After the twin trifecta carry-over is frozen, 100 percent of the net twin trifecta pool for each individual race shall be distributed to winners of the first-half of the twin trifecta pool.

AMENDATORY SECTION (Amending WSR 99-06-026, filed 2/23/99, effective 3/26/99)

WAC 260-48-910 Superfecta pools. (1) The superfecta requires selection of the first four finishers, in their exact order, for a single race.

(2) The net superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(d) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(e) The entire pool shall be refunded on superfecta wagers for that race.

(3) If less than four betting interests finish and the race is declared official, payoffs will be made based upon the order of finish of those betting interests completing the race. The balance of any selection beyond the number of betting interests completing the race shall be ignored.

(4) If there is a dead heat for first involving:

(a) Horses representing four or more betting interests, all of the wagering combinations selecting four betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(b) Horses representing three betting interests, all of the wagering combinations selecting the three dead-heated betting interests, irrespective of order, along with the fourth-place betting interest shall share in a profit split.

(c) Horses representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place and fourth-place betting interests shall share in a profit split.

(5) If there is a dead heat for second involving:

(a) Horses representing three or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three betting interests involved in the dead heat for second shall share in a profit split.

(b) Horses representing two betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated betting interests, irrespective of order, and the fourth-place betting interest shall share in a profit split.

(6) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any two of the betting interests involved in the dead heat for third shall share in a profit split.

(7) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth shall share in a profit split.

(8) ~~((There shall be only one instance of two horses having common ties through a trainer in any superfecta race, stakes races are excepted with permission of the stewards.))~~ Superfecta wagering is prohibited on any race in which there is more than one coupled entry, except with written permission of the executive secretary.

(9) Superfecta wagering is prohibited on any race in which there is a mutuel field.

WSR 04-07-094

PERMANENT RULES

STATE BOARD FOR

COMMUNITY AND TECHNICAL COLLEGES

[Filed March 16, 2004, 3:23 p.m.]

Date of Adoption: March 11, 2004.

Purpose: To align certification requirements for professional-technical faculty with their published skill standards.

Citation of Existing Rules Affected by this Order: Amending Title 131 WAC, Faculty and staff personnel.

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

Adopted under notice filed as WSR 04-04-033 on January 28, 2004.

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 0, Repealed 0.

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

March 15, 2004

DelRae Oderman

Executive Assistant

Agency Rules Coordinator

AMENDATORY SECTION (Amending Order 134, Resolution No. 91-27, filed 10/4/91, effective 11/4/91)

WAC 131-16-070 Adoption and publication of district personnel selection practices and standards ((required)). Each college district board of trustees shall adopt and publish a statement of personnel selection practices and standards governing all nonclassified service personnel which are designed to ensure high standards of excellence in all phases of district operations, satisfy the standards of regional and national accrediting organization, and provide for a professional staff representing a wide range of educational and professional experience. Such personnel practices and standards shall be consistent with WAC 131-16-080.

AMENDATORY SECTION (Amending WSR 93-14-008, filed 6/24/93, effective 7/25/93)

WAC 131-16-091 Additional qualifications in areas of specialization. In addition to the general standards required by WAC 131-16-080 ((and chapter 490-28A WAC in the case of vocational education personnel)), the district board of trustees shall establish that candidates for appointment meet or exceed the following standards in their areas of specialization:

(1) Teaching personnel.

(a) Professional teaching personnel performing services for which advanced degrees are ((normally)) commonly available shall hold the equivalent of a master's degree in the field of their educational service from an accredited college or university or a bachelor's degree and ((extensive)) professional ((experience)) expertise in the field of their educational service((-
(2))); or

(b) Professional teaching personnel ((in vocational fields or other specialized areas for which advanced degrees are not normally available shall have sufficiently broad and comprehensive training and work experience that particularly qualifies them to provide instruction in their area of specialization.

(3) ~~All newly hired vocational education teaching personnel must have recent work experience beyond the learning~~

period as a fully qualified worker in the occupation that will be taught. The minimum work experience shall be equal to the recognized learning period required to gain competence in the occupation, but shall be in no case less than two calendar years of full-time work or its equivalent beyond the learning experience. The number of hours worked shall be equivalent to the hours worked by full-time workers in the occupation to be taught.

(a) Minimum work experience for apprenticeable occupations will be equal to the learning period then currently registered with the state department of labor and industries.

(b) Minimum work experience in occupations requiring state or local licensing, certification, or registry will be two calendar years subsequent to receipt of license, unless the occupation is also an apprenticeable trade. Current licenses, registrations, and/or certifications shall be maintained as a requirement for teaching courses in the respective occupation.

(c) Minimum work experience for all other trades and occupations will be two calendar years of full-time employment or the equivalent, subsequent to the required learning period, which shall be the number of hours worked by full-time workers during a two-year period in the occupation.

(d) Recent work experience shall be defined as employment full-time for six months or the equivalent, within the two years immediately preceding initial vocational certification, which shall be one-fourth of the hours required by (c) of this subsection.

(e) One year full-time employment shall mean that which is the standard for the occupation.

(4) All other vocational education teaching personnel including instructors of vocationally related courses, teachers' aides, lab assistants, and tutors, who do not meet the work experience and educational requirements specified above may be employed either on a full-time or part-time basis: Provided, That such individuals shall possess appropriate technical skills and knowledge in the specific program area assigned: And provided further, That such individuals shall work under the direct supervision of, or in direct coordination with, an appropriately certified professional. Each college district shall maintain job descriptions for each position in this category.

(5) Vocational counselors shall meet the minimum work experience requirement by verifying work experience in one or more occupations other than professional education, which is cumulative to at least two years of full-time employment. Vocational counselors shall be certified only if they have had preparation in vocational counseling, testing, and occupational information.

(6) General administrative personnel shall have advanced training or experience relevant to their assigned duties. The chief administrator shall hold an earned doctorate from an accredited university or have equivalent administrative expertise as demonstrated by successful performance of broad administrative responsibilities.

(7) The vocational administrator and all other subordinate vocational education administrative personnel must have been employed as a full-time vocational education instructor, occupational information specialist, or vocational counselor for at least three academic years or have equivalent

experience in industry or other public agencies and they must have had at least two calendar years of accumulated experience in the capacity of a supervisor in education, business, industry, a public agency, or an equivalent volunteer community service. In addition, such individuals must have demonstrated to the employing agency a commitment to and understanding of vocational education. Industry and public agency experience will be evaluated at no more than a one-to-one basis. The vocational administrator's personnel file must have verification that these standards have been met.

(8) A current first-aid certificate, including CPR, is required for those vocational instructors and counselors prior to the second quarter of employment in vocational programs where the instructional environment brings students into physical proximity with machinery, electrical circuits, biologicals, radioactive substances, chemicals, flammables, intense heat, gases under pressure, excavations, scaffolding, ladders, and other hazards.

(9) Responsibility for ensuring that appropriate staff have first-aid training will rest with the assigned vocational administrator as defined in subsection (7) of this section.

(10) The specific type of first-aid program, including CPR, required of vocational instructors and counselors shall be achieved by passing a course of first-aid instruction and participation in practical application of the following subject matter:

Bleeding control and bandaging.

Practical method of artificial respiration, including mouth-to-mouth and mouth-to-nose resuscitation.

Closed chest heart massage.

Poisons:

Shock, unconsciousness, stroke.

Burns, scalds:

Sunstroke, heat exhaustion.

Frostbite, freezing, hypothermia.

Strains, sprains, hernias.

Fractures, dislocations:

Proper transportation of the injured.

Bites, stings:

Subjects covering specific health hazards likely to be encountered by coworkers of first-aid students enrolled in the course.

(11) Specifically excluded from conformance to the first-aid requirement are:

(a) Those instructors who teach related subjects to vocational students, i.e., Mathematics, English, or communications skills, etc., when these subjects are taught in classrooms rather than shops or laboratories.

(b) Physicians, registered nurses, licensed practical nurses, and others when their occupational competencies and training include first-aid knowledge and skills equal to or superior to that represented by the first-aid certification being required under these regulations)) in professional technical fields for which bachelor's or master's degrees are not commonly available shall be particularly qualified to provide instruction in their area of specialization as demonstrated by possession of the following:

(i) Sufficient broad and comprehensive training;

(ii) Industry recognized certification when available; and

(iii) Two years relevant work experience and/or relevant, current teaching experience that particularly qualifies them to provide instruction in their area of specialization.

(c) In extraordinary cases, the requirements in (a) and (b) of this subsection may be waived by the college president. For personnel under waiver, a professional development plan must be developed to meet criteria under (a) or (b) of this subsection. This plan must be completed during the initial certification process.

(d) Part-time professional-technical teaching personnel must meet minimum qualifications as defined by (a), (b), or (c) of this subsection and have verification on file. This record must be on file for each part-time instructor during each quarter of teaching employment.

(2) Other instructional personnel.

All other professional-technical instructional personnel, including teachers' aides, lab assistants, and tutors, who do not meet the work experience and educational requirements specified above, may be employed either on a full-time or part-time basis. Such individuals shall possess appropriate technical skills and knowledge in the specific program area assigned; and such individuals shall work under the direct supervision of, or in direct coordination with, an appropriately qualified professional. Each college district shall maintain job descriptions for each position in this category.

(3) Chief professional-technical administrator.

The chief professional-technical administrator shall have:

(a) Earned an advanced degree, masters or doctorate, in a professional-technical area or have equivalent administrative expertise as demonstrated by successful performance of broad administrative responsibilities; and

(b) Been employed as a full-time professional-technical instructor or have the equivalent experience in business or industry or other public agencies; and

(c) Supervisory/administrative experience.

The chief professional-technical administrator must understand and have the ability to assess professional-technical faculty's ability to provide student instruction, supervise learning environments and implement curriculum, outcomes, and assessments. The chief professional-technical administrator must keep a copy of his/her current certificate in his/her personnel file.

(4) Other professional-technical administrators.

Other administrators who oversee professional-technical programs, must demonstrate to the employing agency a commitment to and understanding of professional-technical education, and their ability to use the professional-technical faculty skills standards to guide and support the professional development of the professional-technical instructors they supervise.

AMENDATORY SECTION (Amending WSR 93-14-008, filed 6/24/93, effective 7/25/93)

WAC 131-16-092 Maintaining and improving ~~((occupational and teaching))~~ certification competencies for ~~((vocational))~~ professional-technical administrators~~(s)~~ and instructors ~~((and counselors))~~. It shall be the responsibility of the president of each institution or district to

assure compliance with the following standards, which must be met or exceeded by all districts:

(1) The institution or district will certify, through the ~~((assigned vocational))~~ chief professional-technical administrator or designee, each full-time professional-technical instructor and ~~((vocational counselor))~~ administrator and maintain documentation of such certification. The certificate and the documentation on file shall specify the function and/or the specific occupational area for which the individual is certified.

(2) Each full-time contracted ~~((vocationally certified))~~ professional-technical instructor ~~((or counselor))~~ shall have ~~((an individual improvement plan which covers the time interval of the current certification developed in consultation with and approved by the vocational administrator or designee. The vocational administrator shall maintain a file of all such plans, which shall be reviewed annually.~~

~~(3) Part-time vocational teaching and counseling personnel must be certifiable and have a verification of work experience related to instructional assignment record on file in the individual's personnel folder. This record must be on file for each part-time instructor/counselor during each quarter of teaching employment. Part-time instructors must have teaching competencies reviewed every five years. "Teaching competencies" refers to (a) currency in the occupation and (b) teaching skills. Part-time vocational counselors must have records in their file indicating compliance with WAC 131-16-091(5).~~

~~(4) Full-time professional personnel may not be employed on the basis of a temporary certificate for a period of more than one year.~~

~~(5) Certification under the above standards is a condition of continued employment for all vocational education personnel.~~

~~(6) Safety and occupational health practice standards are met by satisfying OSHA and WISHA requirements.)~~ a professional development plan, approved by the supervising professional-technical administrator or designee. The professional development plan shall be developed in collaboration with the instructor in accordance with local bargaining agreements. The chief professional-technical administrator or designee shall maintain a file of all such plans. Such plans shall be reviewed periodically, as determined by the institution.

(3) Full-time professional-technical instructors must complete the requirements of the initial certification within three years to attain standard certification. Standard certificates must be renewed every five years.

(4) Part-time professional-technical instructors teaching a two-thirds full-time load for more than the equivalent of three quarters must complete the requirements of the initial certification within three years, to attain standard certification. Standard certificates must be renewed every five years.

(5) All other part-time professional-technical instructors must be assessed as to their ability to provide student instruction, supervise learning environments and implement curriculum, outcomes, and assessments.

(6) The chief professional-technical administrator shall be certified by the president, who will maintain the chief professional administrator's professional development plan.

(7) Certification under the standards specified in WAC 131-16-070 through 131-16-094 is a condition of continued employment for all professional-technical education personnel.

(8) Safety and occupational health practices standards are met by meeting the requirements as set down by OSHA and WISHA. (As referenced in WAC 296-800-100 to 296-800-370.)

AMENDATORY SECTION (Amending WSR 93-14-008, filed 6/24/93, effective 7/25/93)

WAC 131-16-093 Types of ((vocational)) **professional-technical** education certificates. In issuing certificates for ((vocational education personnel)) **full-time and part-time professional-technical instructors**, as identified in WAC 131-16-092 (3) and (4), the college district shall utilize the following nomenclature and shall meet the standards set forth below as a minimum:

(1) ((Temporary certificate.

(a) Full-time vocational instructors shall be issued a temporary certificate provided that such individuals shall be required to complete an orientation to begin no later than the first day of employment. An orientation outline must be on file at each campus. A temporary certificate is not renewable for full-time instructors and counselors.

(b) Full-time vocational counselors shall be issued a temporary certificate provided that such individuals have met the requirements set forth in WAC 131-16-091(5).

(2) One-year certificate.

(a) Instructional personnel who have completed the minimum requirements for a temporary certificate and who, in addition, provide documentation of teaching competency as demonstrated by having satisfactorily completed a minimum of three credits in courses concentrated upon the elements of teaching, or the equivalent, shall be issued a one-year certificate. A one-year certificate may be renewed once.

(b) (Vocational) Counselors may be issued a one-year certificate upon completion of the minimum requirements for a temporary certificate and who, in addition, have completed a minimum of three credits or thirty clock hours in course(s) in accordance with the individual's professional improvement plan. A one-year certificate may be renewed no more than once.

(3) Three-year certificate. May be used as a temporary with part-time instructors. (Optional with the local district for full-time instructors.)

(4) Five-year certificate (initial).

(a) Instructional personnel, occupational information specialists, and vocational counselors who have met the requirements of WAC 131-16-070 through 131-16-092 and who have earned a master's degree or doctorate in their professional career field or in the field of education from a recognized college or university accredited by a group recognized by the council on postsecondary accreditation (COPA), and who have completed the minimum requirements for a temporary certificate, may be issued a five-year certificate.

(b) Instructional personnel and vocational counselors who have not earned a master's degree or doctorate in their professional career field or in the field of education from an

accredited college or university shall be issued a five-year certificate upon completion of at least two years of teaching service, who have, in addition to the one-year certificate requirements, documentation of competency as demonstrated by having satisfactorily completed a minimum of three credits or thirty clock hours in courses dealing with the techniques of occupational analysis, or equivalent, a minimum of three credits in courses concentrated upon the principles of vocational course organization or equivalent, and who have completed a minimum of three additional professional improvement units in accordance with the individual's professional improvement plan.

(c) Vocational counseling personnel who do not have a master's degree shall be issued a five-year certificate upon:
(i) Completion of at least two years of counseling service, (ii) in addition to the one-year certificate requirements, documentation of competency as demonstrated by having satisfactorily completed a minimum of three credits or thirty clock hours in courses dealing with advanced or graduate level counseling theories and/or techniques, or equivalent, and (iii) completion of a minimum of six additional professional improvement units in accordance with the individual's professional improvement plan.

(5) Five-year certificate (renewal). A five-year renewable certificate shall be issued to professional personnel who have completed a minimum of fifteen professional improvement units during the previous five-year period in accordance with the individual's improvement plan, documenting currency in teaching skills. Professional improvement plans shall, if deemed appropriate, include work experience as defined in WAC 131-16-094(1), and no more than ten professional units in any one category as defined in WAC 131-16-094 shall apply.

(6) The assigned vocational administrator shall be responsible for the designation of approved course equivalents-)) **Teaching personnel.**

Initial certification.

(a) Upon hire, teaching personnel will be issued initial certification by the chief professional-technical administrator. Initial certification lasts three years. The initial certification process includes documentation of a professional development plan which identifies priorities for professional growth as specified in WAC 131-16-094. An initial certificate is not renewable for professional-technical instructors.

Standard certification.

(b) Standard certification will be issued by the chief professional-technical administrator upon completion of the requirements for initial certification. Standard certification must be renewed on a five-year cycle. To maintain standard certification, professional-technical instructors must develop and complete a professional development plan as specified in WAC 131-16-094.

(c) The hiring institution shall hold an orientation for all new full-time professional-technical instructors. The orientation outline must be on file at each campus.

First aid and CPR.

(d) A current first-aid certificate, including CPR and bloodborne pathogens, must be earned by professional-technical instructors prior to the second quarter of employment in professional-technical programs where the instructional envi-

ronment brings students into physical proximity with machinery, electrical circuits, biologicals, radioactive substances, chemicals, flammables, intense heat, gases under pressure, excavations, scaffolding, ladders, and/or other hazards. Responsibility for ensuring that appropriate staff has first-aid training will rest with the assigned chief professional-technical administrator. The specific type of first-aid program, including CPR, required of professional-technical instructors shall be achieved by passing a course of first-aid/CPR/bloodborne pathogen instruction and participation in practical application of subject matter determined and required by the department of labor and industries. Specifically excluded from conformance to the first-aid requirement are:

(i) Those instructors who teach related subjects to professional-technical students, i.e., mathematics, English, or communications skills, etc., when such subjects are taught in classrooms rather than shops or laboratories.

(ii) Physicians, registered nurses, licensed practical nurses, and others when their occupational competencies and training include first-aid knowledge and skills equal to or superior to that represented by the first-aid certification being required under these regulations.

(2) Chief professional-technical administrators.

Upon hire, the chief professional-technical administrators will be issued initial certification. To maintain certification, the chief professional-technical administrator must develop and complete a professional development plan that includes as a minimum his/her ability to use the professional-technical faculty skill standards to guide and support the professional development of the professional-technical instructors they supervise.

AMENDATORY SECTION (Amending Order 134, Resolution No. 91-27, filed 10/4/91, effective 11/4/91)

~~WAC 131-16-094 ((Definition of professional improvement units.)) Certification process for professional-technical instructors. ((The following standards shall be used in the determination of professional improvement unit values for vocational certification by the college districts.~~

~~(1) Each forty hours of planned, preapproved, work experience outside of regular college teaching or counseling assignments shall be equal to one professional improvement unit.~~

~~(2) Ten clock hours or one credit on the quarter system or two thirds credit on the semester system earned in accredited programs at colleges or universities shall be equal to one professional improvement unit provided it is in compliance with the professional improvement plan.~~

~~(3) Each accumulated twenty hours of preplanned participation in activities, such as conferences, seminars, workshops, or symposiums shall be equal to 1.0 professional improvement unit.~~

~~(4) Each forty hours of independent preplanned or preapproved research and other individual development activities in excess of normal contracted obligations shall be equal to one professional improvement unit.~~

~~(5) The assigned vocational administrator shall be responsible for the approval of professional improvement plans, equivalencies, and units as stated in WAC 131-16-092, 131-16-093, and 131-16-094.)) The certification process for professional-technical instructors includes assessing the attainment of the standards contained in the professional-technical skill standards and the completion of a professional development plan. The professional development plan identifies priorities for professional growth. The priorities should address, at a minimum, the professional-technical faculty's ability to provide student instruction, supervise learning environments and implement curriculum, outcomes, and assessments. The professional development plan shall be developed in collaboration with the instructor and will include, based on local bargaining agreements, at least five professional development activities, linked to the professional-technical faculty skill standards.~~

~~The professional development plan includes:~~

~~(1) Faculty (self) and administrator identification of professional development activities for professional growth.~~

~~(2) Measurable outcomes and objective standards for measurement of skill standard achievement.~~

~~(3) A timeline for successful achievement of outcomes.~~

~~Examples of professional development activities include, but are not limited to, workshops, courses of instruction, conferences, industry experiences and projects. The assigned professional-technical administrator supervisor shall be responsible for the approval of the professional development plan. The chief professional-technical administrator shall be responsible for the approval of professional development activities.~~

AMENDATORY SECTION (Amending Order 134, Resolution No. 91-27, filed 10/4/91, effective 11/4/91)

WAC 131-16-095 Defining reciprocity ((defined)).

The following standards describe the recognition of professional-technical or vocational teaching certification issued by a community or technical college or the superintendent of public instruction.

~~(1) Instructors ((or counselors)) issued a ((vocational)) professional-technical education certificate that meets the standards specified in WAC ((131-16-091 through 131-16-095 by any community or technical college shall be recognized by all community or technical colleges)) 131-16-080 through 131-16-094 by any community or technical college under the jurisdiction of the state board ((for community and technical colleges)) shall be recognized as certified by all colleges in the community and technical (CTC) system.~~

~~(2) It is also recognized that a vocational teaching ((or counselor)) certificate issued by the office of the superintendent of public instruction will be recognized by the community and technical colleges as fulfilling the minimum requirements for the specific subjects contained in the certification.~~

~~((3) All instructors or counselors hired by a community or technical college will be required to have on file a professional improvement plan as specified in WAC 131-16-092 through 131-16-094.~~

~~(4) All current technical college instructors or counselors may have their certification renewed under the requirements~~

~~in effect for vocational technical institutes prior to September 1, 1991. After September 1, 1996, all technical college personnel must meet the standards set forth in chapter 131-16 WAC.)~~

WSR 04-07-102
PERMANENT RULES
GAMBLING COMMISSION

[Order 428—Filed March 17, 2004, 12:52 p.m.]

Date of Adoption: March 12, 2004.

Purpose: Relief from adjusted cash flow requirements for bingo operators, the amendment changes the measurement period from once a quarter, to once a year. A 25% reduction to required adjusted cash flow would be available to licensees once every four years, if they maintain a positive cash flow.

Citation of Existing Rules Affected by this Order: Amending WAC 230-20-059.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 03-24-048 on November 26, 2003.

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.

March 16, 2004

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 419, filed 5/15/03, effective 6/30/03)

WAC 230-20-059 Minimum cash flow requirements for bingo games—Contributions to stated purpose—Sanctions. Bingo shall be conducted only as a social pastime or for fund-raising to support the stated purpose(s) of a charitable or nonprofit organization. Organizations licensed to conduct bingo games shall comply with the following procedures and limitations:

Contributions.

(1) To ensure that organizations licensed to conduct bingo games meet the intent of RCW 9.46.010 and provide funds adequate to promote charitable and nonprofit pro-

grams, such organizations shall not allow their bingo operation to award prizes or pay expenses to conduct bingo games that are excessive and all capital expenditures for the bingo operation that exceed six thousand dollars shall be specifically approved by the governing board.

An organization licensed to conduct bingo games shall ensure that the adjusted cash flow from the bingo operation available for its charitable and nonprofit programs is at least the following amount during each calendar ((quarter)) year:

(a) For gross receipts above ((~~\$375,000~~)) \$1,500,000 up to ((~~\$625,000~~)) \$2,500,000 - 3% of gross receipts over ((~~\$375,000~~)) \$1,500,000;

(b) For gross receipts above ((~~\$625,000~~)) \$2,500,000 up to ((~~\$875,000~~)) \$3,500,000 - ((~~\$7,500~~)) \$30,000 plus 4% of gross receipts over ((~~\$625,000~~)) \$2,500,000;

(c) For gross receipts above ((~~\$875,000~~)) \$3,500,000 up to ((~~\$1,125,000~~)) \$4,500,000 - ((~~\$17,500~~)) \$70,000 plus 5% of gross receipts over ((~~\$875,000~~)) \$3,500,000; and

(d) For gross receipts above ((~~\$1,125,000—\$30,000~~)) \$4,500,000 - \$120,000 plus 6% of gross receipts over ((~~\$1,125,000~~)) \$4,500,000.

~~((Failure to meet the requirements of this subsection for any single calendar quarter shall not result in sanctions against the licensee.))~~ (e) If the licensee does not operate for a full year, the requirements shall be prorated based on full quarters operated.

Definitions.

(2) The following definitions shall apply to this section:

(a) "Gross receipts" shall mean the combined gross gambling receipts from bingo, pull-tab and punch board activities.

(b) "Adjusted cash flow from the bingo operation" shall mean the combined gross income of the bingo operation less all prizes and expenses, whether paid or accrued. For the purposes of computing expenses, depreciation or amortization, shall not be considered an expense of the bingo operation.

(c) "Bingo operation" shall mean bingo games and all associated activities conducted in conjunction with bingo games at the same location including punch boards, pull-tabs, snack bar, retail sales activities, rental of the bingo premises and drawings authorized under WAC 230-20-242.

Sanctions for failing to maintain a positive adjusted cash flow.

~~(3) ((If a bingo licensee does not maintain a positive adjusted cash flow from the bingo operation during any two consecutive calendar quarters measured independently, it shall be deemed to be operating primarily for gambling purposes. In this event, the director shall summarily suspend the organization's bingo license.))~~ To ensure a licensee maintains a positive cash flow and is not operating primarily for gambling purposes, adjusted cash flow shall be measured quarterly. If a licensee does not maintain a positive cash flow from the bingo operation during any two consecutive calendar quarters, measured independently, the director shall summarily suspend the organization's bingo license.

Sanctions for failing to meet adjusted cash flow requirements - relief.

~~(4)(a) ((If a bingo licensee fails to meet the adjusted cash flow requirements of subsection (1) of this section when averaged over a period of any two consecutive calendar quarters, the licensee shall:~~

~~(i) Develop a plan to gain compliance;~~

~~(ii) Take immediate steps to reduce expenses and prizes paid and to increase income from all activities conducted in conjunction with the bingo game; and~~

~~(iii) Report the plan and action taken to commission staff no later than sixty days after the end of the period. Such report shall be in writing and signed by the president or chief operating officer.~~

~~(b) If a bingo licensee fails to meet the adjusted cash flow requirements of subsection (1) of this section when averaged over a period of any four consecutive calendar quarters, administrative action shall be taken to revoke the organization's bingo license.)) If a bingo licensee fails to meet the adjusted cash flow requirements of subsection (1) of this section for any calendar year, administrative action shall be taken to revoke the organization's bingo license: Provided, That if a licensee fails to meet the minimum adjusted cash flow requirements for any calendar year and has maintained a positive cash flow as required by subsection (3) of this section. The director shall automatically grant relief allowing a twenty-five percent reduction to the annual dollar amount of required adjusted cash flow in subsection (1) of this section, for the year in which the licensee is out of compliance:~~

~~(b) No organization granted relief under (a) of this subsection, shall be eligible to receive relief for any of the four calendar years following the calendar year for which the relief was granted; and~~

~~(c) Relief may be granted under (a) of this subsection for the calendar year beginning January 1, 2003.~~

WSR 04-07-104

PERMANENT RULES

DEPARTMENT OF

GENERAL ADMINISTRATION

[Filed March 17, 2004, 2:40 p.m., effective July 1, 2005]

Date of Adoption: March 17, 2004.

Purpose: The Department of General Administration is establishing, by rule, procedures regarding competitive contracting pursuant to RCW 41.06.142.

Statutory Authority for Adoption: RCW 41.06.142.

Adopted under notice filed as WSR 03-24-090 on December 3, 2003.

Changes Other than Editing from Proposed to Adopted Version:

Reason for Rule Adoption:

Background: Under RCW 41.06.142, agencies may competitively contract for services that state employees have customarily and historically provided. The law directs the Department of General Administration (GA) to adopt rules to ensure that the submittal and evaluation of bids are fair and objective, and that there exists a competitive market for the service. GA's objective in writing these rules is to provide

clear, simple, fair, and consistent guidance in complying with the law.

Consideration and Response Summary: Consistent with the requirements of RCW 34.05.325 (1) through (5), GA received public comments from January 8 through February 10, 2004. Comments were received via: Oral and written testimony at five public hearings, the state's competitive contracting website, and written submissions sent via e-mail, fax, and mail. We are responding to all comments received as provided in RCW 34.05.325 (6)(a)(iii) and (b).

Based on the comments received, GA has made a number of nonsubstantive changes to the proposed rules filed with the Office of the Code Reviser on December 3, 2003. These changes are reviewed below in accordance with RCW 34.05.325 (6)(a)(ii).

The adopted rules comply with the legislative intent and authority granted GA in RCW 41.06.142. A thorough review of the final adopted rule, consistent with requirements under the Administrative Procedure Act, RCW 34.05.340 (2)(a) through (c), did not reveal any substantial differences from the proposed rules filed in the Washington State Register (WSR) under WSR 03-24-090. In addition, GA's effort and thoughtful incorporation of input from a diverse group of stakeholders are reflected in the adopted rules. We would like to thank our many stakeholders who contributed to this process and without whose help this undertaking would not have been possible.

Differences Between Proposed and Adopted Rule Text:

Change #1; Displaced employees:

Basis for Change: Comments regarding proposed WAC 236-51-010(10) "Displaced employee" indicate a mixed understanding of our intended meaning of the word "eliminated." The definition in the proposed rules generated the following comments:

- What percentage of an employee's work must be competitively contracted before they are considered "displaced"?
- In the case of a reassignment or redeployment, what constitutes displacement?

We have clarified the definition of "displaced employee" consistent with our expressed intent in the proposed rules.

WAC 236-51-010 Definitions (11) "Displaced employee" means a classified employee whose position or work would be eliminated, resulting in the employee being laid off or assigned to a different job classification, as a result of an award via the competitive contracting process.

Note: Numbering change results from the inclusion of a new definition for "day" (see Change #9).

Change #2; Response to a potentially displaced employee alternative:

Basis for Change: The proposed rules provided for agency control of the timeframes between the alternatives phase and bid solicitation. As structured, it did not prevent an agency from rejecting employee alternatives and soliciting bids the next day. The proposed rules provided for agency control of preparation time, state resources for EBU formation, and the overall time between alternatives rejection and solicitation issuance.

RCW 41.06.142 (4)(a) does not allow an agency to solicit bids until after it has considered all alternatives to competitive contracting submitted by potentially displaced employees in a timely fashion. GA's intent was to provide the agencies with flexibility in implementing this provision. GA also intended that, if an EBU did not have enough time to form and notify the agency of its inclusion as a bidder, that this would be grounds for a complaint or appeal under WAC 236-51-510 and 236-51-710. Comments indicated that neither was clearly communicated.

WAC 236-51-120 Agency response to a potentially displaced employee alternative. (1) An agency shall respond in writing to all potentially displaced employee alternatives.

(2) If no potentially displaced employee alternatives are accepted, the agency shall notify in writing all potentially displaced employees of its intent to proceed with soliciting bids per the agency's original notification referred to in WAC 236-51-110:

(a) Its intent to proceed with soliciting bids on the date indicated in the agency's original notification referred to in WAC 236-51-110(3) or in 20 calendar days, whichever is greater; and

(b) The amount and type of state resources allocated by the agency to assist potentially displaced employees in developing the notice referred to in WAC 236-51-200.

(3) Failure to comply with (2)(a) of this section is an allowable ground for complaint under WAC 236-51-510(1).

Change #3; Resource plans:

Basis for Change: GA's proposed rules required EBU's to provide a resource plan to the agency if they plan to use state resources to prepare their bid. However, the proposed rules were silent as to what resources would be available for preparing the resource plan and the notification referred to in WAC 236-51-200 of the proposed rules. Comments recommended providing direction to agencies in guidance, or that there be a clarification to the rules on this matter. Other comments indicated a misunderstanding that the rules implied that potentially displaced employees must seek the agency's approval for the use of private resources to prepare an alternative to competitive contracting.

The changes below clarify the language by removing the terms "independent" and "outside," and replacing them with language referring to use of "state resources" other than those offered in the notice. It should also be noted that WAC 236-51-110(5), 236-51-115, 236-51-200(c), 236-51-205, and 236-51-225 work together to define a state agency controlled process to allow potentially displaced employees and EBU's to have access to state agency resources for work that currently supports, or will support, the contracting agency's official duties. This is consistent with chapter 42.52 RCW, Ethics in Public Service.

WAC 236-51-115 ~~Employees wanting to work outside or independent of agency provided resources.~~ If potentially displaced employees decide to work independently or outside of an agency resourced effort to develop and submit alternatives within the sixty day window, as described in WAC 236-51-110(5), the potentially displaced employees shall submit, in writing, a resource plan to the agency for approval prior to using state resources other than what was

~~offered by the agency in the notice referred to in WAC 236-51-110.~~ **Employees wanting to use state resources other than those offered by an agency.** If potentially displaced employees want to use state resources other than those offered by the agency to develop alternatives pursuant to WAC 236-51-110(5), they shall submit a written resource plan to the agency for consideration. No state resources other than those offered by the agency pursuant to WAC 236-51-110(5) shall be used in developing alternatives without prior written agency approval.

WAC 236-51-120 Agency response to a potentially displaced employee alternative. (1) An agency shall respond in writing to all potentially displaced employee alternatives.

(2) If no potentially displaced employee alternatives are accepted, the agency shall notify in writing all potentially displaced employees of its intent to proceed with soliciting bids per the agency's original notification referred to in WAC 236-51-110:

(a) Its intent to proceed with soliciting bids on the date indicated in the agency's original notification referred to in WAC 236-51-110(3) or in 20 calendar days, whichever is greater; and

(b) The amount and type of state resources allocated by the agency to assist potentially displaced employees in developing the notice referred to in WAC 236-51-200.

(3) Failure to comply with (2)(a) of this section constitutes allowable grounds for complaint under WAC 236-51-510(1).

Note: WAC 236-51-120 is the same as Change #2 above.

WAC 236-51-010 Definitions. (23) "Resource plan" means a detailed written plan created by potentially displaced employees or the employee business unit and submitted to the agency for approval for the use of state resources, including but not limited to: state funds, facilities, tools, property, employees and their time requested needed for:

(a) ~~Employees to work independently or outside an agency resourced effort to prepare an alternative within the sixty day window, as described in RCW 41.06.142 (4)(a)~~ Potentially displaced employees to prepare an alternative within the sixty calendar day window, as described in RCW 41.06.142 (4)(a), using state resources other than those offered by an agency; or

(b) The employee business unit to prepare its bid.

Note: Numbering change results from the inclusion of a new definition for "Day" (see Change #9).

Change #4; Performance of services not in contract:

Basis for Change: In considering comments on proposed WAC 236-51-225, GA found that the existing language could be interpreted as allowing an awarded EBU to perform services for an entity other than the contracting agency without prior agency approval. The proposed rule language only referred to an EBU's participation in solicitations for services without agency approval. GA's intent was for an EBU to secure approval from the contracting agency in all cases.

WAC 236-51-225 Limits on performance of services not contained in a contract. An employee business unit awarded a contract by an agency shall not perform or bid on

solicitations for performance of services not contained in its contract unless their agency approves in writing.

Change #5; GA formats, guidelines, procedures, and instructions:

Basis for Change: The proposed rules stated that agencies, EBU's and other bidders may be required to utilize GA specified formats, guidelines, procedures, or instructions concerning solicitations, determination of fully allocated costs or submittal and evaluation of bids. Comments expressed concern that this is too vague. Analysis of these comments revealed that the use of the word "required" implied a requirement in the competitive contracting process that was not intended.

GA will be the focal point of the competitive contracting process, establishing "best practices" through standardization and examination of lessons learned as it does today for current state procurement and material management practices. By establishing formats, guidelines, and procedures, GA will encourage the overall quality and consistency of the competitive contracting process across all of state government consistent with the intent of the statute.

WAC 236-51-300 General administration may establish required formats. The department of general administration may establish ~~required~~ formats, guidelines, procedures, or instructions concerning solicitation, determining fully allocated costs, or submittal and evaluation of bids for use by agencies, employee business units, and other bidders.

Change #6; Cancellation of solicitation:

Basis for Change: The proposed language of WAC 236-51-615(4), regarding cancellation of a solicitation inadvertently restricted an agency's ability to cancel a solicitation and reject all bids. Under the proposed language, an agency may only apply WAC 236-51-615(4) for cancellation of a solicitation if it has determined the solicitation and evaluation process is not fair, equitable, and objective. GA's intent was to allow agencies to cancel a solicitation if any of the three conditions were met. Using "and" inadvertently restricted the ability of the agency to cancel a solicitation under appropriate circumstances. The word "and" is changed to "or" to clarify the original intent.

WAC 236-51-615 Cancellation of solicitation.

(4) The solicitation and evaluation process was not fair, equitable, ~~and~~ or objective; or

Change #7; Cost evaluation criteria:

Basis for Change: Comments regarding proposed rule section WAC 236-51-306 (4)(c), presented situations where revenue could be affected under a number of scenarios. The proposed language in WAC 236-51-306 (4)(c) envisioned only one possibility; an increase in the tax base or in collections resulting from a nonemployee business unit performing a service. Conceivably, revenue may be impacted in many ways. GA's original intent was to enable agencies to normalize bids to account for any cost or revenue impacts when evaluating proposals and determining if an award results in savings or efficiency improvements. By removing this limitation, all revenue impacts will be considered.

WAC 236-51-306 Cost evaluation criteria.

(4) An agency shall adjust the bids of the most responsive employee and nonemployee business unit in accordance with the following factors:

(c) Revenue impact to the state ~~resulting from increased tax base or collections that result from a nonemployee business unit performing the service~~ from changes to the tax base or collections that would result from an award of a contract to perform the service. Examples include, but are not limited to, state sales and use, business and occupation, inventory, fuel, and real estate tax; provided that a revenue impact does not mean, nor imply, that any added fees or charges for state services may be part of a bid.

Change #8; Bid evaluation:

Basis for Change: As part of its comments on the proposed rules, the Executive Ethics Board (EEB) has recommended a clarification to the proposed rule sections on solicitation development and bid evaluation which will ensure consistent interpretation and compliance.

WAC 236-51-302 Solicitation development. Employees whose work or positions may be displaced and potential bidders may ~~participate~~ provide technical assistance in the preparation of the solicitation document and performance ~~work~~ statement of work provided that their ~~participation assistance~~ does not create an unfair advantage over other bidders. Potentially displaced employees and potential bidders shall not determine the award methodology and scoring to be used in the evaluation of bids.

WAC 236-51-410 Bid evaluation. (1) RCW 41.06.142 (4)(d)(i) prohibits employees who prepared the employee business unit's bid or who perform any of the services to be contracted from participating in the bid evaluation process.

(2) Members of an EBU or others who provided technical assistance to the EBU in the development of their bid shall be excluded from being evaluators.

(3) Evaluators cannot have a personal or financial interest in the outcome of the award.

(4) Evaluators shall sign declaratory statements certifying that they have no conflicts of interest and assuring confidentiality.

(5) Evaluators shall use only the evaluation criteria stated in the solicitation in evaluating bids.

Change #9; Calendar and business days:

Basis for Change: The terms days, business days, and calendar days are used throughout the rules.

The changes are consistent with our intended meaning and remove doubt regarding how dates are to be calculated. Change in first sentence in section 110 now refers to the subject matter of the notice.

WAC 236-51-010 Definitions. (10) "Day," whether calendar or business day, means 8 a.m. to 5 p.m. Pacific Standard Time or Pacific Daylight Time, whichever is in effect. Business day excludes weekends and state holidays. Calendar day is every day including weekends and state holidays. If the end of a period calculated using calendar days falls on a weekend or state holiday, it will be extended to 5 p.m. of the next business day.

WAC 236-51-010 Definitions. (15) "Employee notice" means the notice the agency is required to provide in RCW

41.06.142 (4)(a), at least ninety calendar days prior to the date the contracting agency requests bids from private entities...

Note: Numbering change results from the inclusion of a new definition for "day."

WAC 236-51-110 Agencies shall notify employee(s) of intent to solicit bids. ~~The agency shall provide notice in writing to all potentially displaced employees as required by RCW 41.06.142 (4)(a)~~ As required by RCW 41.06.142 (4)(a), the agency shall provide written notice to all potentially displaced employees of the agency's intent to solicit bids.

(4) A statement that employees whose position or work will be displaced have sixty calendar days from the date of notification...

Change #10; Notice of intent to award:

Basis for Change: Comments indicate that, as written, the proposed rules may inadvertently allow negotiations to occur after the issuance of a notice of intent to award. To clarify potential disparity between WAC 236-51-010 and 236-51-605, a change is made to clarify that the notice of intent to award is issued after completion of negotiations but prior to the date of award. Additionally, the definition of "notice of intent to award" uses the word "preannouncement," which is unclear. It is replaced with "announcement."

WAC 236-51-600 Notice of intent to award. (1) An agency shall issue a notice of intent to award after concluding negotiations authorized under WAC 236-51-605, if any, and prior to the date of award. This notice shall also include a statement that any complaints must be filed prior to the expected date of award.

(2) Agencies shall notify all bidders of the intent to award consistent with WAC 236-51-320.

WAC 236-51-010 Definitions. (19) "Notice of intent to award" means a written ~~preannouncement~~ announcement of the apparent awardee(s) and the expected date of award.

Note: Numbering change results from the inclusion of a new definition for "day" (see Change #9).

Change #11; State standards:

Basis for Change: Comments indicated confusion regarding whether required state standards must be included in the solicitation. GA's intent was that agencies must identify state standards in the solicitation if the use of those standards was mandatory. The language has been changed to clarify this intent and alleviate confusion.

WAC 236-51-210 Agencies may shall identify state standards. ~~The agency may require in the solicitation the use of state standards, infrastructure, or practices including, but not limited to: Financial, accounting, audit, payroll, human resources, procurement, or record retention methods. If an agency intends to require the use of state standards, it shall identify them in the solicitation document. State standards may include, but are not limited to: Financial, information, accounting, audit, payroll, human resources, procurement, record retention, or other systems, methods, infrastructure, or practices. Agencies shall use technology standards established by the Washington State Department of Information Services, Information Services Board.~~

Change #12; RCW and WAC citations:

Basis for Change: A number of comments were received about the proposed rules containing references and citations of RCWs and WACs that were difficult to follow or understand.

Using RCW 34.05.365 Incorporation by reference as a guide, we analyzed RCW and WAC citations in the proposed rule and identified three instances where it would benefit the reader to have the information contained in the rule text. The remaining RCW and WAC references fall into the following two categories:

- Citation of chapter 41.06 RCW, State civil service law, the enabling legislation. We conclude citation to the enabling statute is appropriate as the rule is interpreting the law;
- Citation of chapter 34.05 RCW, Administrative Procedure Act and chapter 10-08 WAC, Model rules of procedure. The citations in these instances relate to the appeal process as references pertaining to the Office of Administrative Hearings. Additionally, citation of these provisions as rule is consistent with other rule-making authorities (e.g. the Human Rights Commission as contained in WAC 162-06-030(7) Nature of proceeding).

WAC 236-51-405 Bid information disclosure. Upon submission, all bids become the property of the agency and, except for purposes of evaluation, shall not be released or otherwise distributed until after the agency completes the evaluation and issues its notice of intent to award. Evaluation team members shall maintain confidentiality of information to ensure the integrity of the process. ~~The agency shall handle confidential or proprietary information in accordance with WAC 236-48-123.~~ After award and distribution of award information or posting of such information electronically for public review, the bids, quotes, and proposals of all bidders shall be open to public inspection at the offices of the purchasing activity during normal office hours. Copies of documents subject to public disclosure will be made available upon request in accordance with purchasing activity policy. The purchasing activity assumes no responsibility for the confidentiality of bids, quotes or proposals after award. Any document(s) or information which the bidder believes is exempt from public disclosure per RCW 42.17.310 shall be clearly identified by bidder and placed in a separate envelope marked with bid number, bidder's name, and the words "proprietary data" along with a statement of the basis for such claim of exemption. The state's sole responsibility shall be limited to maintaining the above data in a secure area and to notify bidder of any request(s) for disclosure within a period of five years from date of award. Failure to so label such materials or failure to provide a timely response after notice of request for public disclosure has been given shall be deemed a waiver by the bidder of any claim that such materials are, in fact, so exempt.

WAC 236-51-010 Definitions. (24) "Responsible bidder" means a bidder who has the capability in all respects to perform in full the contract requirements and meet the elements of responsibility ~~defined in RCW 43.19.191(9).~~ In determining the "lowest responsible bidder," in addition to cost, the following elements shall be given consideration:

(a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(c) Whether the bidder can perform the contract within the time specified;

(d) The quality of performance of previous contracts or services;

(e) The previous and existing compliance by the bidder with laws relating to the contract or services; and

(f) Such other information as may be secured having a bearing on the decision to award the contract.

Note: Numbering change results from the inclusion of a new definition for "day" (see Change #9).

WAC 236-51-005 Scope of chapter. This chapter applies to all services customarily and historically provided by state employees, except:

(1) As described in RCW 41.06.142(3) and 41.06.070;

(2) In the case of emergency purchases as provided for in RCW 43-19-200 which may be made in response to unforeseen circumstances beyond the control of the agency which present a real, immediate, and extreme threat to the proper performance of essential functions or which may reasonably be expected to result in excessive loss or damage to property, bodily injury, or loss of life. When an emergency purchase is made, the agency head shall submit written notification of the purchase, within three days of the purchase, to the director of general administration. This notification shall contain a description of the purchase, description of the emergency and the circumstances leading up to the emergency, and an explanation of why the circumstances required an emergency purchase; or

(3) If state employees will not be displaced.

Change #13; Information services board oversight:

Basis for Change: The proposed rules were not clear as to whether Information Services Board (ISB) oversight would apply in cases where employees would be displaced and the provisions on chapter 236-51 WAC would apply.

ISB had recommended that GA's proposed rules be amended to include a statement alerting agencies that GA's competitive contracting rules are in addition to, and do not replace ISB procedures and standards for acquisitions involving information technology services.

GA's proposed rules did intend to provide for the inclusion of state standards (i.e. ISB technology standards) in competitive contracting solicitations. However, chapters 41.06 RCW and 236-51 WAC do not share jurisdiction with any other law or rule when it comes to the purchase of services customarily and historically provided by state employees.

WAC 236-51-305 Solicitation content. Solicitations shall include:

(1) Complete bidder instructions;

(2) Submittal requirements;

(3) Performance work statement;

(4) Cost and noncost evaluation criteria;

(5) Name and address of the person designated to receive complaints and appeals;

(6) Agency's plan for publication and notice of award/intent to award; and

(7) Contract requirements, which shall include, but are not limited to:

(a) State standards as provided in WAC 236-51-210;

(b) Compliance and adherence to a quality assurance plan;

(c) Measurable standards for the performance of the contract;

(d) Methods used to measure contract performance, costs, service delivery quality, and other contract standards;

(e) Terms and conditions;

(f) Provisions requiring an entity other than an employee business unit to consider employment of state employees who may be displaced by the contract;

(g) Cancellation provisions for improper or failed performance;

(h) Complaint process; and

(i) Appeal process.

WAC 236-51-210 Agencies may shall identify state standards. ~~The agency may require in the solicitation the use of state standards, infrastructure, or practices including, but not limited to: Financial, accounting, audit, payroll, human resources, procurement, or record retention methods. If an agency intends to require the use state standards, it shall identify them in the solicitation document. State standards may include, but are not limited to: Financial, information, accounting, audit, payroll, human resources, procurement, record retention, or other systems, methods, infrastructure, or practices. Agencies shall use technology standards established by the Washington State Department of Information Services, Information Services Board.~~

Note: WAC 236-51-210 is the same as Change #11 above.

Change #14; Clarification of language in WAC 236-51-200 and 236-51-120:

Basis for Change: Modifications were made to both sections to improve readability and be more specific. During GA's review, it was determined that the use of the words "requirement" in WAC 236-51-200 (1)(c) and "needed" in WAC 236-51-010(22) (definition of "Resource Plan") could lead to misinterpretation of GA's original intent. GA's intent was that resource plans submitted to an agency by an EBU represent requests for use of state resources. The words "request" and "requested" clarify this intent.

WAC 236-51-200 An employee business unit shall notify the agency of its formation. (1) ~~Potentially displaced~~ employees that decide to compete by forming an employee business unit shall notify the agency in writing before the agency's intended day to solicit bids pursuant to WAC 236-51-110 and provide the following information:

~~(1) (a) A list of those potentially displaced employees forming the employee business unit;~~

~~(2) (b) The employee business unit leader(s); and~~

~~(3) (c) A resource plan outlining the employee business unit's requirement request for use of state resources needed to prepare the employee business unit's bid.~~

(2) The agency shall not consider a bid from an employee business unit if:

~~(a) The employee business unit notifies the agency of its formation after the agency has issued the solicitation; or~~

PERMANENT

~~(b) The employee business unit did not provide the agency with the information required under subsection (1) of this section: the employee business unit fails to notify the agency of its formation as provided in subsection (1) of this section.~~

WAC 236-51-010 Definitions. (23) "Resource plan" means a detailed written plan created by potentially displaced employees or the employee business unit and submitted to the agency for approval ~~for~~ of the use of state resources, including but not limited to: State funds, facilities, tools, property, employees and their time requested needed for:

~~(a) Employees to work independently or outside an agency resourced effort to prepare an alternative within the sixty day window, as described in RCW 41.06.142 (4)(a)~~ Potentially displaced employees to prepare an alternative within the sixty calendar day window, as described in RCW 41.06.142 (4)(a), using state resources other than those offered by an agency; or

(b) The employee business unit to prepare its bid.

Note: WAC 236-51-120 is the same as Change #3 above.

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 42, 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 42, Amended 0, Repealed 0.

Effective Date of Rule: July 1, 2005.

March 17, 2003

R. D. Fukai

Director

Chapter 236-51 WAC

COMPETITIVE CONTRACTING

GENERAL PURPOSE AND DEFINITIONS

NEW SECTION

WAC 236-51-001 Purpose. Under RCW 41.06.142, agencies may competitively contract for services that state employees have customarily and historically provided. The law directs the department of general administration to adopt rules to ensure that the submittal and evaluation of bids are fair and objective, and that there exists a competitive market for the service. The department of general administration's objective in writing these rules is to provide clear, simple, fair, and consistent guidance in complying with the law.

NEW SECTION

WAC 236-51-005 Scope of chapter. This chapter applies to all services customarily and historically provided by state employees, except:

(1) As described in RCW 41.06.142(3) and 41.06.070;

(2) In the case of emergency purchases, which may be made in response to unforeseen circumstances beyond the control of the agency which present a real, immediate, and extreme threat to the proper performance of essential functions or which may reasonably be expected to result in excessive loss or damage to property, bodily injury, or loss of life. When an emergency purchase is made, the agency head shall submit written notification of the purchase, within three days of the purchase, to the director of general administration. This notification shall contain a description of the purchase, description of the emergency and the circumstances leading up to the emergency, and an explanation of why the circumstances required an emergency purchase; or

(3) If state employees will not be displaced.

NEW SECTION

WAC 236-51-006 If state employees will not be displaced. If state employees will not be displaced, agencies shall comply with RCW 41.06.142 (1)(a), (d) and (e), and applicable laws and rules governing the purchase of such services.

NEW SECTION

WAC 236-51-010 Definitions. The following words, terms, and phrases, used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

(1) "Agency" means an office, department, board, commission, institution of higher education, or other separate unit or division, however designated, of the state government and all personnel thereof; it includes any unit of state government established by law, the executive officer or members of which are either elected or appointed, upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature.

(2) "Appeal" means both a request for an adjudicative proceeding or the actual adjudicative proceeding presided over by an administrative law judge from the office of administrative hearings in accordance with chapter 34.05 RCW.

(3) "Award" means to grant a contract to a successful bidder or bidders, which occurs on the date as specified in the award notice.

(4) "Bid" means a written offer to perform services by contract in response to a solicitation.

(5) "Bidder" means a party who submits a bid or proposal for consideration by an agency issuing a solicitation.

(6) "Competitive contracting" means the process by which classified employees compete with businesses, individuals, nonprofit organizations, or other entities for the performance of services those employees have customarily and historically performed.

(7) "Complainant" means bidder or potential bidder who files a complaint about the bidding process to the agency head or designee on allowable grounds.

PERMANENT

(8) "Conflict of interest" means having a personal or financial interest that is in conflict with the proper discharge of state duties, including the transaction of state business with an entity or individual in which a state employee has an interest.

(9) "Date of award" means the date on which the agency and the successful bidder sign the contract.

(10) "Day," whether calendar or business day, means 8:00 a.m. to 5:00 p.m. Pacific Standard Time or Pacific Daylight Time, whichever is in effect. Business day excludes weekends and state holidays. Calendar day is every day including weekends and state holidays. If the end of a period calculated using calendar days falls on a weekend or state holiday, it will be extended to 5:00 p.m. of the next business day.

(11) "Displaced employee" means a classified employee whose position or work would be eliminated, resulting in the employee being laid off or assigned to a different job classification, as a result of an award via the competitive contracting process.

(12) "Efficiency improvement" means the enhanced value and/or quality that an agency achieves as a result of a change to a service or the ways a service is provided. This enhancement may come at a higher cost but its relative value offsets it. Such improvements may include, but are not limited to:

- (a) Reduced preparation or process time;
- (b) Greater accessibility or availability of service; or
- (c) Improved data quality and timeliness.

(13) "Employee business unit" means a group of employees who perform services for which an agency proposes to competitively contract and who:

(a) Notify the agency of their intent to submit a bid for the performance of those services through competitive contracting; or

(b) Receive award of a contract from the agency as a result of being the successful bidder.

(14) "Employee business unit leader" means a member of the employee business unit chosen and granted authority by the other employee business unit members to represent the interests of the employee business unit in the bid process.

(15) "Employee notice" means the notice the agency is required to provide in RCW 41.06.142 (4)(a), "At least ninety calendar days prior to the date the contracting agency requests bids from private entities for a contract for services provided by classified employees, the contracting agency shall notify the classified employees whose positions or work would be displaced by the contract."

(16) "Fully allocated costs" means those costs associated with a service, including the cost of employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the service but does not include the state or agency's indirect overhead costs unless those costs can be attributed directly to the function in question and would not exist if that function were not performed by the state.

(17) "In writing" means written communication from one party to another including, but not limited to, electronic means.

(18) "Indirect costs" means state or agency costs linked to services which may not be assigned directly. Indirect costs

include various administrative and support activities provided to a service by other units from within the agency or by other state government entities. These indirect costs are generally assigned to a service through cost allocation methods.

(19) "Notice of intent to award" means a written announcement of the apparent awardee(s) and the expected date of award.

(20) "Performance work statement" means a statement of the technical, functional and performance characteristics or requirements of the work to be performed. The statement identifies essential functions to be performed, determines performance factors, including the location of the work, the units of work, the quantity of work units, and the quality and timeliness of the work units.

(21) "Potential bidder" means a business, individual, nonprofit organization, employee business unit, or other entity capable of providing the services being considered for competitive contracting.

(22) "Quality assurance plan" means a plan by which an agency will monitor a contract awardee's performance to ensure that the standards of the performance work statement are met within the costs, quality of service, delivery, and other standards of the contract.

(23) "Resource plan" means a detailed written plan created by potentially displaced employees or the employee business unit and submitted to the agency for approval of the use of state resources including, but not limited to: State funds, facilities, tools, property, employees and their time requested for:

(a) Potentially displaced employees to prepare an alternative within the sixty calendar day window, as described in RCW 41.06.142 (4)(a), using state resources other than those offered by an agency; or

(b) The employee business unit to prepare its bid.

(24) "Responsible bidder" means a bidder who has the capability in all respects to perform in full the contract requirements and meet the elements of responsibility. In determining the "lowest responsible bidder," in addition to cost, the following elements shall be given consideration:

(a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(c) Whether the bidder can perform the contract within the time specified;

(d) The quality of performance of previous contracts or services;

(e) The previous and existing compliance by the bidder with laws relating to the contract or services; and

(f) Such other information as may be secured having a bearing on the decision to award the contract.

(25) "Sealed bid" means a bid that is submitted in a manner to prevent its contents from being revealed or known before the deadline for submission of all bids.

(26) "Solicitation" means the process of notifying potential bidders that the agency desires to receive competitive bids or proposals for furnishing services. This includes references to the actual document used in that process, such as the bid or request for proposal and any amendments to such documents.

(27) "State employee" or "employee" mean an employee in the classified service subject to the provisions of chapter 41.06 RCW.

PRELIMINARY STEPS TO COMPETITIVE CONTRACTING

NEW SECTION

WAC 236-51-100 Determining the existence of a competitive market. (1) Under the law, an agency that considers contracting for services historically and customarily performed by state employees shall determine whether a competitive market exists for the service.

(2) For the purposes of this chapter, a competitive market exists when there are two or more separate businesses, individuals, nonprofit organizations, or other entities capable of providing the services being considered for competitive contracting.

(3) Agencies shall not consider an employee business unit as an entity capable of providing the service when determining the existence of a competitive market for that service.

NEW SECTION

WAC 236-51-110 Agencies shall notify employee(s) of intent to solicit bids. As required by RCW 41.06.142 (4)(a), the agency shall provide written notice to all potentially displaced employees of the agency's intent to solicit bids. The notice shall include at a minimum:

(1) A statement that the agency will pursue competitive contracting of specified services;

(2) The agency's determination that a competitive market exists;

(3) The date that the agency intends to solicit bids;

(4) A statement that employees whose position or work will be displaced have sixty calendar days from the date of notification to offer alternatives to competitive contracting as described in RCW 41.06.142 (4)(a) and an agency contact for submitting alternatives;

(5) The amount and type of state resources allocated by the agency to assist employees in developing alternatives within the time frame described in subsection (4) of this section; and

(6) A statement that employees whose positions or work will be displaced may compete in competitive contracting as one or more employee business units.

NEW SECTION

WAC 236-51-115 Employees wanting to use state resources other than those offered by an agency. If potentially displaced employees want to use state resources other than those offered by the agency to develop alternatives pursuant to WAC 236-51-110(5), they shall submit a written resource plan to the agency for consideration. No state resources other than those offered by the agency pursuant to WAC 236-51-110(5) shall be used in developing alternatives without prior written agency approval.

NEW SECTION

WAC 236-51-120 Agency response to a potentially displaced employee alternative. (1) An agency shall respond in writing to all potentially displaced employee alternatives.

(2) If no potentially displaced employee alternatives are accepted, the agency shall notify in writing all potentially displaced employees of:

(a) Its intent to proceed with soliciting bids on the date indicated in the agency's original notification referred to in WAC 236-51-110(3) or in twenty calendar days, whichever is greater; and

(b) The amount and type of state resources allocated by the agency to assist potentially displaced employees in developing the notice referred to in WAC 236-51-200.

(3) Failure to comply with subsection (2)(a) of this section is an allowable ground for complaint under WAC 236-51-510(1).

EMPLOYEE BUSINESS UNITS IN THE BID PROCESS

NEW SECTION

WAC 236-51-200 An employee business unit shall notify the agency of its formation. (1) Potentially displaced employees that decide to compete by forming an employee business unit shall notify the agency in writing before the agency's intended day to solicit bids pursuant to WAC 236-51-110 and provide the following information:

(a) A list of those potentially displaced employees forming the employee business unit;

(b) The employee business unit leader(s); and

(c) A resource plan outlining the employee business unit's request for use of state resources needed to prepare the employee business unit's bid.

(2) The agency shall not consider a bid from an employee business unit if the employee business unit fails to notify the agency of its formation as provided in subsection (1) of this section.

NEW SECTION

WAC 236-51-205 Agency's response to an employee business unit resource plan. (1) An agency shall respond, in writing, to an employee business unit resource plan prior to soliciting bids. The response will either approve of the resource plan in its entirety, or modify it based on available state resources and the needs of the agency to meet its mission.

(2) An employee business unit shall not use state resources to prepare its bid prior to receiving the agency's response as provided in subsection (1) of this section.

NEW SECTION

WAC 236-51-210 Agencies shall identify state standards. If an agency intends to require the use of state standards it shall identify them in the solicitation document. State standards may include, but are not limited to: Financial,

accounting, audit, payroll, human resources, procurement, record retention, or other systems, methods, infrastructure, or practices. Agencies shall use technology standards established by the Washington state department of information services, information services board.

NEW SECTION

WAC 236-51-215 An employee business unit's bid shall include all costs related to delivering the service. Pursuant to RCW 41.06.142 (4)(e), an employee business unit's bid shall include the fully allocated cost of the service. These fully allocated costs include, but are not limited to:

(1) Direct costs; which are costs that the service consumes or expends and thus are chargeable to the service. These direct costs include, but are not limited to:

- (a) Salaries, wages, overtime, and benefits of employees directly performing the service;
- (b) Purchased services, supplies and materials;
- (c) Space, rents, and leases;
- (d) Equipment and depreciation;
- (e) One-time, transition, or start-up costs; and
- (f) Travel.

(2) Indirect costs that would be reduced or eliminated if the service currently being provided by employees were instead provided by an outside contractor.

(3) Inflation assumptions.

NEW SECTION

WAC 236-51-220 An employee business unit shall designate a point of contact for the competitive contracting process. The employee business unit leader or their designee from within the employee business unit shall represent the employee business unit membership in the competitive contracting process. Representation includes, but is not limited to:

- (1) Authority to contractually obligate the employee business unit;
- (2) Receiving and submitting notices (including the notice to the agency of employee business unit formation);
- (3) Participating in any presolicitation conference;
- (4) Signing solicitation documents and submittals;
- (5) Seeking clarifications and amendments of solicitations;
- (6) Acknowledging award and conducting negotiations;
- (7) Filing complaints;
- (8) Filing appeals; and
- (9) Committing to a performance agreement or quality assurance plan.

NEW SECTION

WAC 236-51-225 Limits on performance of services not contained in a contract. An employee business unit awarded a contract by an agency shall not perform or bid on solicitations for services not contained in its contract unless their agency approves in writing.

SOLICITING BIDS

NEW SECTION

WAC 236-51-300 General administration may establish formats. The department of general administration may establish formats, guidelines, procedures, or instructions concerning solicitation, determining fully allocated costs, or submittal and evaluation of bids for use by agencies, employee business units, and other bidders.

NEW SECTION

WAC 236-51-302 Solicitation development. Employees whose work or positions may be displaced and potential bidders may provide technical assistance in the preparation of the solicitation document and performance work statement provided that their assistance does not create an unfair advantage over other bidders. Potentially displaced employees and potential bidders shall not determine the award methodology and scoring to be used in the evaluation of bids.

NEW SECTION

WAC 236-51-305 Solicitation content. Solicitations shall include:

- (1) Complete bidder instructions;
- (2) Submittal requirements;
- (3) Performance work statement;
- (4) Cost and noncost evaluation criteria;
- (5) Name and address of the person designated to receive complaints and appeals;
- (6) Agency's plan for publication and notice of award/intent to award; and
- (7) Contract requirements, which shall include, but are not limited to:
 - (a) State standards as provided in WAC 236-51-210;
 - (b) Compliance and adherence to a quality assurance plan;
 - (c) Measurable standards for the performance of the contract;
 - (d) Methods used to measure contract performance, costs, service delivery quality, and other contract standards;
 - (e) Terms and conditions;
 - (f) Provisions requiring an entity other than an employee business unit to consider employment of state employees who may be displaced by the contract;
 - (g) Cancellation provisions for improper or failed performance;
 - (h) Complaint process; and
 - (i) Appeal process.

NEW SECTION

WAC 236-51-306 Cost evaluation criteria. (1) An agency shall compare its current service cost against the total cost of contracting with the most responsive employee business unit and nonemployee business unit as part of its evaluation process.

(2) The total cost of contracting shall not include solicitation related costs such as, but not limited to:

- (a) An evaluator's time;
 - (b) Bid-related expenses; or
 - (c) The cost of complaints or appeal.
- (3) The most responsive employee and nonemployee business unit's bid shall include, but is not limited to:

(a) Bid price. The nonemployee business unit's bid price will include any applicable state tax paid by the agency on the purchase of services;

(b) Required one-time, transition, or start-up costs for implementing the proposal and recognized during the contract in the year those costs would be incurred; and

(c) Inflation assumptions.

(4) An agency shall adjust the bids of the most responsive employee and nonemployee business unit in accordance with the following factors:

(a) The agency's conversion or transition costs relative to each bid;

(b) Contract administration costs incurred by the agency to administer either contract. Contract administration costs may differ depending on the performance monitoring requirements of the agency;

(c) Revenue impact to the state from changes to the tax base or collections that would result from an award of a contract to perform the service. Examples include, but are not limited to, state sales and use, business and occupation, inventory, fuel, and real estate tax; provided that a revenue impact does not mean, nor imply, that any added fees or charges for state services may be part of a bid.

(5) Agencies shall consider costs associated with the state's assumed risks in the evaluation of bid costs. If the agency cannot reasonably estimate the state's assumed risk costs, the agency shall structure the solicitation to eliminate these costs from the evaluation process. These costs include, but are not limited to:

(a) Insurance. Agencies shall calculate casualty, liability and property insurance premiums in cost estimates and enter these costs as appropriate for assets and risk coverage.

(b) Performance bonds. When a solicitation requires nonemployee business unit bidders to provide a performance bond, the agency shall exclude the cost from the nonemployee business unit's bid price. The solicitation bid structure should facilitate the elimination of this cost from the nonemployee business unit's bid.

NEW SECTION

WAC 236-51-310 Amendment of solicitation. An agency may amend or change a solicitation provided the change is issued prior to the specified bid opening date and time. Any material information that an agency provides to one potential bidder shall be provided to all potential bidders consistent with WAC 236-51-320. Oral interpretations of the solicitation shall not be binding.

NEW SECTION

WAC 236-51-320 Public notice—Solicitations, amendments, and notices. (1) Agencies shall post or otherwise publicize competitive contracting solicitations, amendments, notice of intent to award, notice of award, or notice of

cancellation using methods and/or systems established by the department of general administration.

(2) In addition to using methods and systems provided above, agencies may post or otherwise publicize competitive contracting solicitations, amendments, notice of intent to award, notice of award, or notice of cancellation via other methods and/or systems of their choosing.

THE BIDDING PROCESS

NEW SECTION

WAC 236-51-400 Receiving bids. (1) Bidders shall submit sealed bids in writing. Electronic submittal systems and processes may be utilized provided the submittal meets the definition of a sealed bid and the other requirements of this section.

(2) The agency shall ensure that bids remain sealed until the opening date and time specified in the solicitation.

(3) The agency shall open all sealed bids at the same time.

(4) Bidders shall submit bids to the agency no later than the opening date and time, and at the place specified, in the solicitation. An agency shall reject any bid received at a place different than, or on a date and time later than, what was specified in the solicitation.

(5) The agency may modify bid submission dates. When modifying the time allowed for submitting a bid, the agency shall issue an amendment as required by WAC 236-51-310 and provide notice consistent with WAC 236-51-320.

NEW SECTION

WAC 236-51-405 Bid information disclosure. Upon submission, all bids become the property of the agency and, except for purposes of evaluation, shall not be released or otherwise distributed until after the agency completes the evaluation and issues its notice of intent to award. Evaluation team members shall maintain confidentiality of information to ensure the integrity of the process. After award and distribution of award information or posting of such information electronically for public review, the bids, quotes, and proposals of all bidders shall be open to public inspection at the offices of the purchasing activity during normal office hours. Copies of documents subject to public disclosure will be made available upon request in accordance with purchasing activity policy. The purchasing activity assumes no responsibility for the confidentiality of bids, quotes or proposals after award. Any document(s) or information which the bidder believes is exempt from public disclosure per RCW 42.17.310 shall be clearly identified by bidder and placed in a separate envelope marked with bid number, bidder's name, and the words "proprietary data" along with a statement of the basis for such claim of exemption. The state's sole responsibility shall be limited to maintaining the above data in a secure area and to notify bidder of any requests for disclosure within a period of five years from date of award. Failure to so label such materials or failure to provide a timely response after notice of request for public disclosure has been given shall be deemed a waiver by the bidder of any claim that such materials are, in fact, so exempt.

NEW SECTION

WAC 236-51-410 Bid evaluation. (1) RCW 41.06.142 (4)(d)(i) prohibits employees who prepared the employee business unit's bid or who perform any of the services to be contracted from participating in the bid evaluation process.

(2) Members of an EBU or others who provided technical assistance to the EBU in the development of their bid shall be excluded from being evaluators.

(3) Evaluators cannot have a personal or financial interest in the outcome of the award.

(4) Evaluators shall sign declaratory statements certifying that they have no conflicts of interest and assuring confidentiality.

(5) Evaluators shall use only the evaluation criteria stated in the solicitation in evaluating bids.

THE COMPLAINT PROCESSNEW SECTION

WAC 236-51-500 Who may file. Bidders or potential bidders may file complaints regarding the bidding process.

NEW SECTION

WAC 236-51-502 Time and place for filing complaints. Complaints shall be filed with the contracting agency head or designee identified in the solicitation prior to the expected date of award.

NEW SECTION

WAC 236-51-505 Form of complaints. Complaints shall be submitted in writing and shall include the following:

(1) Complainant's name, address, and telephone number;
(2) Identification of the specific grounds for filing the complaint; and

(3) The relevant facts, arguments, exhibits, and supporting evidence known to the complainant and related to each identified ground.

NEW SECTION

WAC 236-51-510 Grounds for filing a complaint. Complaints must be based on the bidding process, which includes, but is not limited to, one or more of the following factors:

- (1) The manner in which the solicitation was conducted;
- (2) Undue constraint of competition by requirements of the solicitation;
- (3) Inadequate and/or improper criteria in the solicitation document;
- (4) Bias or discrimination; or
- (5) Conflict of interest.

NEW SECTION

WAC 236-51-515 Agency's response to complaints. The agency shall respond to all complaints in writing prior to the award of the contract. If necessary, an agency shall extend the date of award to respond to all complaints.

THE AWARD PROCESSNEW SECTION

WAC 236-51-600 Notice of intent to award. (1) An agency shall issue a notice of intent to award after concluding negotiations authorized under WAC 236-51-605, if any, and prior to the date of award. This notice shall also include a statement that any complaints must be filed prior to the expected date of award.

(2) Agencies shall notify all bidders of the intent to award consistent with WAC 236-51-320.

NEW SECTION

WAC 236-51-605 Negotiations. The agency may enter into negotiations exclusively with the apparent successful bidder for the purpose of, but not limited to:

- (1) Determining if the bid may be improved;
- (2) Clarifying elements of the bid that are not sufficiently precise or direct; or
- (3) Securing better terms and conditions for the agency.

NEW SECTION

WAC 236-51-610 Award. (1) On the date of award, the agency shall send an award notice to all bidders in accordance with WAC 236-51-320.

(2) The award notice shall include the right to appeal, the appeal deadline, and the address for submitting an appeal. See WAC 236-51-700.

NEW SECTION

WAC 236-51-615 Cancellation of solicitation. An agency may cancel a solicitation or reject all bids after the bid opening, but before the award, if the agency determines that:

(1) The award will not achieve anticipated cost savings or efficiency improvements as required by RCW 41.06.142 (1)(e);

(2) The solicitation did not include all factors for the agency to determine cost savings or efficiency improvements;

(3) No responsive bid has been received from a responsible bidder;

(4) The solicitation and evaluation process was not fair, equitable, or objective; or

(5) There have been changes in business or market conditions that significantly impact the agency's original intent to competitively contract the service.

NEW SECTION

WAC 236-51-620 Notice of cancellation. If an agency cancels a competitive contracting solicitation, the agency shall post a notice of cancellation in writing pursuant to WAC 236-51-320. The notice shall include the specific reason for cancellation.

APPEALING AN AWARD**NEW SECTION****WAC 236-51-700 Time and place for filing appeal.**

An appeal shall be filed after contract award with the contracting agency head or designee as identified in the solicitation. The appeal shall be filed within twenty calendar days after the date of the award. An administrative law judge does not have jurisdiction to consider an appeal filed after this deadline.

NEW SECTION

WAC 236-51-710 Who may file an appeal. An appeal may only be filed by the following parties with regard to the respective specified grounds:

- (1) Unsuccessful bidders with regard to elements of the bid submittal and evaluation process;
- (2) Complainants with regard to an agency response to their complaint; or
- (3) Displaced or potentially displaced employees with regard to an agency's:
 - (a) Adherence to the statutory notice requirements of RCW 41.06.142 (4)(a); or
 - (b) Determination of the existence of a competitive market as provided in RCW 41.06.142 (4)(d).

NEW SECTION

WAC 236-51-715 Form of an appeal. Appeals shall be submitted in writing to the head of the agency that awarded the contract or to that person's designee. An appeal shall include, but not be limited to, the following information:

- (1) Appellant's name, contact person, and/or representative with respective address, and telephone numbers;
- (2) Identification and brief description of the grounds relied on for filing an appeal and a brief description of the issues to be resolved.

NEW SECTION

WAC 236-51-720 Stay of award. An agency may stay award decisions or actions pending resolution of an appeal.

NEW SECTION

WAC 236-51-725 Transmission of an appeal. (1) An appeal shall be transmitted by the agency to the office of administrative hearings within five business days after receipt.

- (2) The agency shall provide the office of administrative hearings with the following information:
 - (a) The name of the agency contact in the matter and any contact information;
 - (b) The name of the appellant and any contact information, including address and telephone number;
 - (c) The name and any contact information for other bidders;
 - (d) The name and address of the agency contact for billing purposes; and

(e) The name and address of the agency contact where the file should be sent after the office of administrative hearings closes the appeal.

(3) The agency shall transmit all appeals to the headquarters of the office of administrative hearings in Olympia, Washington.

NEW SECTION

WAC 236-51-730 Procedures for hearing. (1) The office of administrative hearings shall issue the notice of hearing to the appellant, the agency, and other bidders.

(2) Bidders may intervene as a party to the appeal if they file a petition for intervention with the office of administrative hearings and all parties within ten business days after the issuance of the notice of hearing. The administrative law judge may limit intervention under RCW 34.05.443.

(3) The administrative law judge may schedule a pre-hearing conference.

(4) Hearings shall be scheduled for the earliest possible date available for the administrative law judge that does not result in prejudice to the parties.

(5) The hearing shall be recorded electronically at the discretion of the administrative law judge unless specified otherwise in law or rule.

(6) No transcript is required unless specified otherwise in law or rule.

(7) In any appeal under this chapter, the administrative law judge shall apply the model rules of procedure set forth in chapter 10-08 WAC, irrespective of the provisions of WAC 10-08-001(4) or other agency procedural rules.

NEW SECTION

WAC 236-51-735 Costs of hearing. All costs incurred by the office of administrative hearings in conducting the hearing shall be borne by the agency, and the office of administrative hearings shall bill the agency for the hearing costs incurred. Each party is responsible for its own costs of representation.

NEW SECTION

WAC 236-51-740 Burden of proof. The burden of proof is on the appellant to prove by a preponderance of the evidence that the contract was not properly awarded.

NEW SECTION

WAC 236-51-745 Decision of the administrative law judge. (1) If the administrative law judge finds against the appellant, the agency's decision to award stands.

(2) If the administrative law judge finds for the appellant, the administrative law judge shall:

(a) Remand back to the agency for reconsideration or action if the appeal was from an unsuccessful bidder with regard to the bid submittal and evaluation process;

(b) Remand back to the agency for reconsideration or action if the appeal was from a complainant with regard to their complaint; or

(c) Remand back to the agency to start the bidding process over if the appeal was from a displaced or potentially displaced employee with regard to:

(i) The statutory notice requirements of RCW 41.06.142 (4)(a); or

(ii) The determination of the existence of a competitive market as provided in RCW 41.06.142 (4)(d).

(3) The decision of the administrative law judge in any appeal under this chapter shall be considered a final order.

WSR 04-07-128

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed March 22, 2004, 10:13 a.m.]

Date of Adoption: March 22, 2004.

Purpose: Amendments were made to sections within the Washington Fryer Commission's marketing order, chapter 16-512 WAC. During the past three legislative sessions, significant amendments were made to the commission's enabling statute, chapter 15.66 RCW. These statutory changes prompted the proposed amendments to chapter 16-512 WAC. The changes achieve consistency with the statute, as well as, improve the readability and clarity of the marketing order.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-512-002 and 16-512-030; and amending WAC 16-512-005, 16-512-010, 16-512-020, 16-512-040, and 16-512-050.

Statutory Authority for Adoption: RCW 15.66.030, 15.66.053, 15.66.055.

Adopted under notice filed as WSR 03-19-098 on September 15, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 5, Repealed 2.

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 22, 2004

Valoria H. Loveland

Director

AMENDATORY SECTION (Amending Marketing Order for Washington Fryers, Broilers and Roasters, effective 4/15/57)

WAC 16-512-005 Marketing order—Policy ((and purpose)) statement. ((The marketing of agricultural products within this state is affected with a public interest. It is declared to be the policy and purpose of the "act" and of this "fryer, broiler and roaster marketing order" to promote the general welfare of the state by enabling fryer, broiler and roaster producers to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading and standardizing of the fryers, broilers and roasters they produce, and in promoting and increasing the sale of such fryers, broilers and roasters.)) (1) The marketing of fryers, broilers, and roasters within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its fryers, broilers, and roasters be properly promoted by:

(a) Enabling producers of fryers, broilers, and roasters to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the fryers, broilers, and roasters they produce; and

(b) Working towards stabilizing the agricultural industry by increasing consumption of fryers, broilers, and roasters within the state, the nation, and internationally.

(2) That it is in the overriding public interest that support for the fryer, broiler, and roaster industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that fryers, broilers, and roasters be promoted individually, and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's fryers, broilers, and roasters;

(b) Increase the sale and use of Washington state's fryers, broilers, and roasters in local, domestic, and foreign markets;

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's fryers, broilers, and roasters;

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's fryers, broilers, and roasters and products; and

(e) Support and engage in programs or activities that benefit the production, handling, processing, marketing, and uses of fryers, broilers, and roasters produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.66 RCW through the adoption of this marketing order.

(4) The Washington state fryer commission exists primarily for the benefit of the people of the state of Washington and its economy, and with oversight by the director, the commission is authorized to speak on behalf of Washington state government with regard to fryers, broilers, and roasters under the provisions of this marketing order.

NEW SECTION

WAC 16-512-006 Marketing order purposes. This marketing order is to promote the general welfare of the state and for the purpose of maintaining existing markets or creat-

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ing new or larger local, domestic, and foreign markets; or increasing production efficiency, ensuring a fair regulatory environment; or increasing per capita consumption of fryers in Washington state. The Washington state fryer commission is designated by the director to conduct the following programs in accordance with chapter 15.66 RCW:

(1) Marketing and sales promotion plans.

(a) Subject to the provisions of the act, the commission is hereby authorized to prepare plans, administer and conduct programs, and expend moneys for marketing and sales promotion for promoting the sale of fryers, including, but not necessarily limited to the following:

(i) Increasing the sale and consumption of Washington-produced fryers through the use of the press, radio, television, and all other marketing media;

(ii) Dealer service work, trade promotion, publicity, market development, and expansion activities;

(iii) Prevention, modification, or elimination of trade barriers which restrict the free flow of fryers produced in this state;

(iv) Presentation of facts to and negotiations with state, federal, or foreign governmental agencies on matters which affect the marketing of fryers produced in this state, including cooperation with any agency or group in efforts to increase per capita consumption of fryers, and such other activities and programs which are consistent with the objectives of this marketing order and the act.

(b) In carrying out any marketing and sales promotion plans or programs, the commission may engage or hire such advertising media as may be necessary to accomplish the purposes of the act and this order, arrange for marketing space, display material and other marketing material, conduct dealer service work, or may use any other methods consistent with the act and this marketing order which the commission considers appropriate in promoting or creating new and larger domestic or foreign markets for fryers, or in maintaining existing markets. The commission may also engage in cooperative efforts in the domestic or foreign marketing of fryer food products.

(c) Programs and plans adopted by the commission under this marketing order shall be directed towards promoting the sale of fryers without reference to any particular private brand or trade name and sales promotion and marketing programs so conducted shall not disparage the value, quality, sale, or use of any other agricultural commodity or make use of any unwarranted or false claims on behalf of fryers.

(2) Research.

(a) The commission, subject to the provisions of the act, is hereby authorized to carry on or cause to be carried on any necessary and proper marketing, production, transportation, processing, or handling research or survey studies relating to fryers and to expend moneys for such purposes.

(b) The commission is authorized to engage in research and survey studies that may include, but shall not necessarily be limited to, the following:

(i) Production problems.

(ii) Developing objective quality factors for fryers.

(iii) Disease control.

(iv) Developing and improving methods of processing fryers for the purpose of increasing and expanding their use for food purposes.

(v) Improving packaging and handling techniques which promote more efficient operation in the marketing and distribution of fryers.

(vi) Investigating transportation rates and service costs.

(c) The commission may, in addition to the activities enumerated above, carry on any other proper and necessary research and/or survey programs and activities consistent with, and subject to, the limitations of the act. Research and/or survey studies may include the collection of data and information relating to fryers; the analysis of the data and information; the dissemination of the data, information and analysis; and other investigation that falls within the scope of the marketing, producing, transportation, processing or handling of fryers.

(3) Labeling.

(a) The commission may adopt rules, subject to the provisions of chapter 34.05 RCW, to provide for the improving of standards and grades for fryers by defining, establishing and providing labeling requirements, as provided in the act, and not inconsistent with the laws of this state, with respect to the same, and to expend moneys for such purposes.

(b) The commission shall be authorized to cooperate with state and federal agencies or departments responsible for revising and modernizing grades and standards and labeling of fryers.

(c) All chickens commonly referred to as fryers, broilers, or fryer-roasters and including any and all breeds or varieties of chicken under the age of six months, sold or offered for sale in the state of Washington, must be labeled as to the state of origin at the point of retail sale. The state of origin is defined as the state wherein the bird has been raised to market weight. Specific requirements for labeling shall be made by the fryer commission pursuant to rules promulgated in accordance with the provisions of chapter 34.05 RCW.

(4) Unfair trade practices. The commission may investigate and take necessary action to prevent unfair trade practices and to correct, where possible, trade practices which hinder marketing of Washington-produced fryers. Information acquired in an investigation shall be confidential and shall be released only to the extent necessary to effectuate the purposes of the act.

(5) Standards, grades, labels and trade practices. The provisions covering standards, grades, labels and trade practices shall apply with respect to fryers produced in Washington state.

(6) The commission is authorized, subject to the provisions of the act, to provide information and communicate on matters pertaining to the production, processing, transportation, marketing, or uses of fryers produced in Washington state to any elected official or officer or employee of any agency.

(7) Information and education. The commission may conduct programs for the purpose of providing information and education including:

(a) Marketing information and services for producers of fryers;

(b) Information and services enabling producers to meet their resource conservation objectives;

(c) Fryer-related education and training.

(8) The director shall approve any plans, programs, and projects concerning:

(a) The establishment, issuance, effectuation, and administration of programs authorized under this section for advertising and promotion of fryers; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that marketing and utilization of fryers may be encouraged, expanded, improved, or made more efficient.

AMENDATORY SECTION (Amending Marketing Order, Article I, effective 4/15/57)

WAC 16-512-010 Definitions. ~~((As used in this marketing order, the following terms shall have the following meanings:))~~ Definitions for terms used in this chapter are also found in chapter 15.66 RCW, Washington State Agricultural Commodity Commissions Act. For purposes of the fryers, broilers, and roasters marketing order, the following additional definitions shall apply:

(1) "Director" means the director of agriculture of the state of Washington or ~~((his duly appointed representative))~~ any qualified person or persons designated by the director of agriculture to act for him or her concerning some matter under this chapter;

(2) "Act" means the Washington ~~((Agricultural Enabling))~~ State Agricultural Commodity Commissions Act, ((being)) chapter 15.66 RCW;

(3) "Person" includes any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals or any unit or agency of local or state government;

(4) "Producer" means any person who is engaged in the business of producing or causing to be produced for market in commercial quantities fryers as herein defined. "To produce" means to act as a producer;

(5) "Commercial quantities" shall mean and include one or more pound;

(6) "Pound" or "affected unit" are synonymous and mean and include each pound unit or any combination of packages making a one-pound unit of fryers;

(7) "Fryers" means and includes any and all breeds or varieties of chickens under the age of six months marketed for human consumption as fryers, broilers or fryer-roasters;

(8) "Fryer commission" or "commission" are synonymous and mean the commission established pursuant to the provisions of WAC 16-512-020;

(9) "Marketing season" or "fiscal year" are synonymous and mean the twelve month period beginning January 1 of any year and ending upon the last day of December, both dates inclusive;

(10) "Handler" means any person who ~~((handles, sells, processes, stores, ships, or distributes fryers whether for himself or which he has purchased or acquired from a producer, or which he is shipping for or on behalf of a producer, or who acts as a sales or purchasing agent, broker or factor of fryers, and shall include any lending agencies for commodity credit~~

~~corporation loan to producers))~~ acts, either as principal, agent, or otherwise, in the processing, selling, marketing, or distributing of fryers that are not produced by the handler. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler;

(11) "Affected producer" means any producer who is subject to this marketing order;

(12) "Sale" means a transaction wherein the property in or to fryers is transferred from the producer to a purchaser for consideration. "Sale" shall also include an agreement to acquire such property for a consideration;

~~((12))~~ (13) "Affected area" or "area of production" are synonymous and mean and include all of the state of Washington;

~~((13))~~ (14) "District" means the geographical divisions of the affected area of fryer production established pursuant to the provisions of WAC 16-512-020 of this order;

(15) "Affected handler" means any handler of fryers.

AMENDATORY SECTION (Amending Order 1405, filed 7/7/75)

WAC 16-512-020 Fryer commission—Structure, powers, duties, and procedure. (1) **Establishment and membership.** A fryer commission is hereby established to administer this marketing order which shall be composed of six members who shall be affected producers ~~((elected))~~ appointed at large by the director as provided in subsection (2) of this section and two members who shall be appointed by the ~~((elected producer))~~ commission members. In addition, the director shall be ~~((an ex officio member))~~ a voting member of the commission.

(2) **Representative membership.** For the purpose of nomination and ~~((election))~~ appointment of producer members of the commission, the affected area of the state of Washington shall be one representative district. ~~((Each elected producer position shall be elected at large and shall be numbered one through six. Positions appointed by the elected producer members shall be numbered seven and eight.))~~ Producer positions appointed at large by the director shall be numbered one through six. Positions appointed by the commission members shall be numbered seven and eight. The director's position shall be position nine.

(3) **Membership qualifications.** Commission members shall be citizens and residents of this state, over the age of ~~((twenty-five))~~ eighteen years. Producer members of the commission shall be producers of fryers in this state. The qualifications of producer members of the commission as herein set forth must continue during their term of office. Members appointed by the ~~((elected producers))~~ commission shall be either fryer producers ~~((;))~~ or others active in matters relating to fryers ~~((, or persons not so related)).~~

(4) **Term of office.**

(a) The term of office of the commission members shall be three years from the date of their ~~((election))~~ appointment and until their successors are ~~((elected))~~ appointed and qualified ~~((: Provided, however, That)).~~

(b) The initial members of the commission shall serve from the effective date of this marketing order in terms termi-

nating as follows: Positions 3 and 6 shall terminate December 31, 1957; positions 1 and 5 shall terminate December 31, 1958; and positions 2 and 4 shall terminate December 31, 1959. One appointed member's term, being position 7, shall terminate December 31, 1958, and the second appointed member's term, being position 8, shall terminate December 31, 1959.

~~((a))~~ (i) The appointed members of the initial commission shall be elected by a majority of the elected commissioners at the first meeting of said commission.

~~((b))~~ (ii) With respect to the establishment of positions at large, commission members in office shall serve out their terms.

(c) To accomplish the transition to a commodity commission structure where the director appoints a majority of the commission members, the names of the currently elected or appointed commission members in positions one through six shall be forwarded to the director for appointment within thirty days of the effective date of this amended marketing order.

(5) Nomination and ~~(election)~~ appointment of commission members. Nomination and appointment of director-appointed commission members shall be as set forth in chapter 15.66 RCW and specified by the director. Dates will be set as follows:

(a) Not earlier than September 17 and not later than October 2 of each year, the director shall give notice by mail to all affected producers of ~~((such vacancy or vacancies))~~ an open commission position(s) and call for nominations. Nominating petitions shall be signed by five persons qualified to vote ~~((for such candidates))~~. ~~((Such))~~ The notice shall state the final date for filing ~~((said))~~ nomination petitions which shall be not earlier than October 8 and not later than October 13 of each year.

(b) The director shall ~~((submit ballots))~~ conduct an advisory vote by mail to all affected producers not earlier than October 18 and not later than November 2 of each year. Ballots shall be returned not later than December 2 of each year. ~~((Such mailed ballot))~~ The advisory vote shall be conducted in a manner so that it shall be a secret ballot in accordance with rules ~~((and regulations to be promulgated))~~ adopted by the director. An affected producer is entitled to one vote.

~~((With respect to the initial fryer commission, the director shall call for nominations in the notice of his decision following the hearing designated in the act. The ballot specified herein shall be forwarded to the producer at the time the director's proposed marketing order is mailed to the producers for their referendum assent.))~~ When only one nominee is nominated by the affected producers for a director-appointed position, RCW 15.66.120 shall apply.

(d) Except with respect to the initial fryer commission, the members of the commission not elected by the producers or appointed by the director shall be ~~((elected))~~ appointed by a majority of the commission within ninety days prior to the expiration of the term.

(6) Vacancies.

~~((a) To fill any vacancy occasioned by the failure to qualify of any person elected by the producers as a member of the commission, or in the event of the death, removal, resignation or disqualification of any member, the director shall~~

~~call for nominations and conduct such election in the manner provided in subsection (5) of this section.~~

~~(b) To fill nonelective vacancies caused by reasons other than the expiration of the term, the new members shall be elected by the commission at its first meeting after the occurrence of the vacancy.))~~

(a) In the event of a vacancy in a commission-appointed position, the remaining members shall select a qualified person to fill the term. The appointment shall be made at the commission's first or second meeting after the position becomes vacant.

(b) In the event of a vacancy in a director-appointed position, the position shall be filled as specified in chapter 15.66 RCW.

(7) Powers and duties of commission. The commission shall have the following powers and duties:

(a) To administer, enforce, direct and control the provisions of this marketing order and of the act relating thereto;

(b) To elect a chairman and such other officers as the commission may deem advisable;

(c) To adopt, rescind, and amend rules and regulations reasonably necessary for the administration and operation of the commission and the enforcement of its duties under this marketing order;

(d) To employ and discharge at its discretion such administrators and additional personnel, attorneys, advertising and research agencies and other persons and firms that it may deem appropriate and pay compensation to the same;

(e) To acquire personal property and lease office space and other necessary real property and transfer and convey the same;

(f) To institute and maintain in its own name any and all legal actions, including actions by injunction, mandatory injunction or civil recovery, or proceedings, before administrative tribunals or other governmental authorities necessary to carry out the provisions of the act and of this marketing order;

(g) To keep accurate records of all its receipts and disbursements, which records shall be open to inspection and audit by the department and other legal agencies of the state and make annual reports therefrom to the state auditor.

(h) To borrow money and incur indebtedness;

(i) To make necessary disbursements for routine operating expenses;

(j) To collect the assessments of producers as provided in this marketing order and to expend the same in accordance with and to effectuate the purposes of the act and this order;

(k) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of this marketing order during each fiscal year. The commission, at least sixty days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget;

(l) To accept and receive gifts, grants, and contributions from private persons or private and public agencies and expend the same to effectuate the purposes of the act and this order;

(m) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes set forth in this marketing order;

(n) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local, to carry out the purposes set forth in this marketing order. Personal service contracts must comply with chapter 39.29 RCW;

(o) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of fryers, broilers, and roasters;

(p) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general;

(q) To engage in appropriate fund-raising activities for the purpose of supporting activities of the commission authorized by this marketing order;

(r) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, manufacture, regulation, transportation, distribution, sale, or use of fryers, broilers, and roasters including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission;

(s) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each producer's production for a minimum three-year period pursuant to RCW 15.66.140;

(t) To maintain a list of the names and addresses of persons who handle fryers within the affected area and data on the amount and value of the fryers handled for a minimum three-year period by each person pursuant to RCW 15.66.140;

(u) To maintain a list of names and addresses of all affected persons who produce fryers and the amount, by unit, of fryers produced during the past three years pursuant to RCW 15.66.143;

(v) To maintain a list of all persons who handle fryers and the amount of fryers handled by each person during the past three years pursuant to RCW 15.66.143;

(w) To establish a foundation using commission funds as grant money for the purposes established in this marketing order;

(x) To request records and audit the records of producers or handlers of the affected commodity during normal business hours to determine whether the appropriate assessment has been paid;

(y) To acquire or own intellectual property rights, licenses, or patents and to collect royalties resulting from commission-funded research related to the affected commodity; and

(z) To exercise such other powers and perform such other duties as are necessary and proper to effectuate the purposes of the act and of this marketing order.

(8) Procedure for commission.

(a) The commission may by resolution establish a headquarters which shall continue as such unless and until so changed by the commission, at which headquarters shall be kept the books, records, and minutes of the commission meetings.

(b) The commission shall hold regular meetings at least quarterly, with the time and date thereof to be fixed by the resolution of the commission. Notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least twenty days prior to the rescheduled meeting date.

(c) The commission may hold ~~((such))~~ special meetings as it may deem advisable and shall establish by resolution the time, place, and manner of calling such special meetings with reasonable notice to the members: Provided, ~~((however,))~~ That the notice to a member of any special meeting may be waived by a waiver ~~((thereof signed by not less than a quorum of the membership))~~ from that member of the commission. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

(d) Any action taken by the commission shall require the majority vote of the members present, provided a quorum is present.

(e) A quorum of the commission shall consist of at least five members.

(f) No member of the commission shall receive any salary or other compensation from the commission, except that each member shall be paid a specified sum to be determined by resolution of the commission ~~((not to exceed \$20.00 per day))~~ which shall not exceed the compensation rate set by RCW 43.03.230 for each day spent in the actual attendance at or traveling to and from meetings of the commission or on special assignments for the commission, together with subsistence and travel expenses ((at the rate allowed by law to state employees)) in accordance with RCW 43.03.050 and 43.03.060. The commission may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members of the commission in carrying out the provisions of this marketing order pursuant to RCW 15.66.130.

(9) Limitation of liability of commission members and employees. Obligations incurred by the commission and any other liabilities or claims against the commission shall be enforced only against the assets of the commission in the same manner as if it were a corporation and no liability for the debts or actions of the commission shall exist against either the state of Washington or any subdivision or instrumentality thereof or against any other commission established pursuant to the act or the assets thereof or against any member officer, employee, or agent of the commission in his individual capacity. The members of the commission, including employees thereof, shall not be held responsible individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts either of commission or omission, as principal, agent, person or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of the commission. The liability of the members of the commission shall be several and not joint and no member shall be liable for the default of any other member.

AMENDATORY SECTION (Amending Order 1714, filed 9/24/80, effective 11/1/80)

WAC 16-512-040 Assessments and assessment funds.

(1) **Assessments levied.** On and after the effective date of this amendment, there is hereby levied and there shall be collected by the commission as provided in the act, upon all fryers, roasters and broilers under the age of 6 months, an assessment of .35 of one cent per lb. live weight. Such assessment shall be paid by the producer thereof upon each and every pound of fryers, roasters, or broilers sold, delivered for sale or processed by him or her: Provided (~~however~~), That no assessment shall be collected on the following:

(a) Sales on a producer's premises by a producer direct to a consumer of thirty pounds or less of fryers from a producer's own production;

(b) Fryers of a producer's own production used by him for personal consumption; or

(c) Fryers donated or shipped for relief or charitable purposes.

No assessment levied or made collectable by the act under this order shall exceed three percent of the total market value of all such fryers sold, processed or delivered for sale or processing by all producers of fryers for the fiscal year to which the assessment applies.

(2) **Collection of assessment.**

(a) All assessments made and levied pursuant to the provisions of the act under this marketing order shall apply to the respective producer who shall be primarily liable therefor. To collect (~~such~~) assessments, the commission may require:

(i) Stamps to be known as "Washington fryer commission stamps" to be purchased from the commission and fixed or attached to the containers, invoices, shipping documents, inspection certificates, releases or receiving receipts or tickets. Any (~~such~~) stamps shall be (~~cancelled~~) cancelled immediately upon being attached or fixed and the date of (~~such~~) the cancellation shall be placed thereon;

(ii) Payment of producer assessments before the fryers are shipped off the farm or payment of assessments at different or later times and in (~~such~~) that event, any person subject to the assessments shall give (~~such~~) adequate assurance or security for its payment as the commission shall require.

(iii) Every producer subject to the assessment under this order to deposit with the commission in advance an amount based on the estimated number of affected units upon which (~~such~~) the person will be subject to (~~such~~) assessments in any one year during which this marketing order is in force, but in no event shall (~~such~~) a deposit exceed twenty-five percent of the estimated total annual assessment payable by (~~such~~) the person. At the close of (~~such~~) the marketing season the sums so deposited shall be adjusted to the total of (~~such~~) assessments payable by (~~such~~) the person.

(iv) Handlers receiving fryers from the producer, including warehousemen and processors, to collect producer assessments from producers whose production they handle and all moneys so collected shall be paid to the commission on or before the twentieth day of the succeeding month for the previous month's collections. Each handler shall at (~~such~~) times (~~as~~) required by rule (~~and regulation required~~), file with the commission a return under oath on forms to be furnished by the commission, stating the quantity

of fryers handled, processed, delivered and/or shipped during the period prescribed by the commission.

(b) The commission is authorized to (~~make reasonable~~) adopt rules (~~and regulations~~) in accordance and conformity with the act and with this section to effectuate the collection of assessments. On or before the beginning of each marketing season, the commission shall give reasonable notice to all producers, handlers and other affected persons of the method or methods of collection to be used for that marketing season.

(c) No affected units of fryers shall be transported, carried, shipped, sold, stored or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued or stamp (~~cancelled~~) cancelled, but no liability hereunder shall attach to common carriers in the regular course of their business. When any fryers for which exemption as provided in subsection (1) of this section is claimed are shipped either by railroad or truck, there shall be plainly noted on the bill of lading, shipping document, container or invoice, the reasons for (~~such~~) the exemptions.

(d) Any producer or handler who fails to comply with the provisions of this section as herein provided shall be guilty of a violation of this order.

(3) **Funds.**

(a) Moneys collected by the fryer commission pursuant to the act and this marketing order as assessments shall be used by the commission only for the purposes of paying for the costs or expenses arising in connection with carrying out the purposes and provisions of the act and this marketing order.

(b) At the end of each fiscal year the commission shall credit each producer with any amount paid by such producer in excess of three percent of the total market value of all fryers sold, processed, delivered for sale or processing during that period. Refund may be made only upon satisfactory proof given by the producer (~~in accordance with reasonable rules and regulations prescribed by the director~~), which may include bills of lading, bills of sale, or receipts.

AMENDATORY SECTION (Amending Marketing Order, Article V, effective 4/15/57)

WAC 16-512-050 Information reports. All persons subject to the provisions of this marketing order shall make and render (~~such~~) reports and furnish such information to the director or the commission as may be necessary or required under the act or this order to effectuate the purposes thereof. Any financial and commercial information and records obtained by (~~any person pursuant to the provisions of this article shall be confidential and~~) the director or commission are exempted from public disclosure under the provisions of RCW 15.66.105 and 42.17.31907 but shall not be (~~by him~~) disclosed to any person save to a person with like right to obtain the same or any attorney employed by the director or the commission to give legal advice thereon or by court order.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-512-002 Director's findings and decision approving a marketing order.
- WAC 16-512-030 Marketing order purposes.

WSR 04-07-138**PERMANENT RULES
DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed March 22, 2004, 4:13 p.m., effective May 1, 2004]

Date of Adoption: March 15, 2004.

Purpose: Amending WAC 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food, to be consistent with a change in federal interpretation on prepaid rent when determining the excess shelter deduction for WASHCAP and Basic Food.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0190.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Adopted under notice filed as WSR 04-04-075 on February 2, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: May 1, 2004.

March 15, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-21-030, filed 10/7/03, effective 12/1/03)

WAC 388-450-0190 How does the department figure my shelter cost income deduction for basic food? The department calculates your shelter cost income deduction as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties or any amount you pay ahead of time as an allowable cost. We count the following expenses as an allowable shelter cost in the month the expense is due:

- (a) ((Ongoing)) Monthly rent, lease, and mortgage payments;
- (b) Property taxes;
- (c) Homeowner's association or condo fees;
- (d) Homeowner's insurance for the building only;
- (e) Utility allowance your AU is eligible for under WAC 388-450-0195;
- (f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;
- (g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:
 - (i) AU intends to return to the home;
 - (ii) AU has current occupants who are not claiming the shelter costs for basic food purposes; and
 - (iii) AU's home is not being leased or rented during your AU's absence.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (1) through (5) from your AU's gross income. The result is your AU's net income.

(3) Finally, we subtract one-half of your AU's net income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

- (a) Up to a maximum of three hundred seventy-eight dollars if no one in your AU is elderly or disabled and you were found eligible for benefits or were recertified for benefits either on or after March 1, 2001; or
- (b) The entire amount if someone in your AU is elderly or disabled, even if the amount is over three hundred seventy-eight dollars.

WSR 04-07-139**PERMANENT RULES
DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed March 22, 2004, 4:15 p.m., effective May 1, 2004]

Date of Adoption: March 15, 2004.

Purpose: Amend WAC 388-414-0001 Some food assistance units do not have to meet all eligibility requirements, to update program language, clarify who is categorically eligible for Basic Food, and explain how categorical eligibility impacts clients.

Citation of Existing Rules Affected by this Order: Amending WAC 388-414-0001.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

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Adopted under notice filed as WSR 04-04-076 on February 2, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: May 1, 2004.

March 15, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-07-054, filed 3/16/01, effective 3/29/01)

WAC 388-414-0001 ((Some food assistance units do not)) Do I have to meet all eligibility requirements((r)) for Basic Food? (1) What is "categorical eligibility" (CE)?

(a) ~~((Some food assistance units do not have to meet all of the eligibility requirements for food assistance. The department calls this CE. If your food assistance unit is CE, you do not have to meet the following food assistance requirements because you have met them for another program:~~

- ~~(i) Resources;~~
- ~~(ii) Gross and net income standards;~~
- ~~(iii) Residency; and~~
- ~~(iv) Sponsored alien information.~~

~~(b) If you are a CE food assistance unit, you will still have your income budgeted to determine the amount of food stamps your assistance unit is eligible for.~~

(2) Who is CE for food assistance?

Your household is CE when:

(a) All members of your food assistance unit are getting general assistance (GA) and/or Supplemental Security Income (SSI) cash benefits on their own behalf;

(b) A member of your food assistance unit is getting or is authorized to get payments from the following programs and you all benefit from the assistance:

- (i) Temporary assistance for needy families (TANF) cash assistance;
- (ii) State family assistance (SFA); or
- (iii) Diversion cash assistance (DCA). You are CE for the month you receive DCA and the three following months as long as you have one adult relative caretaker with a dependent child in the food assistance unit.

(c) You are receiving TANF/SFA cash assistance and no longer get assistance because your earnings are over the earned income limit in WAC 388-478-0035. You are CE for

~~twenty-four months after your TANF/SFA cash assistance ends as long as you have one adult relative caretaker with a dependent child in the food assistance unit.~~

~~**(3) Who are not considered CE even though the above criteria is met?**~~

~~(a) A member of your food assistance unit is not CE who:~~

- ~~(i) Is not eligible because of his/her alien or student status;~~
- ~~(ii) Fails to follow work requirements;~~
- ~~(iii) Fails to provide or apply for a Social Security Number;~~
- ~~(iv) Is a SSI recipient in a cash-out state (state where SSI payments are increased to include the value of the food stamp allotment);~~
- ~~(v) Is not eligible for SSI on his/her own behalf since he/she is getting SSI as an essential person or as an ineligible spouse; or~~

~~(vi) Is living in an institution.~~

~~(b) If a person is not CE, he/she is not included as member in your CE food assistance unit.~~

~~(c) Your entire food assistance unit is not CE when your assistance unit:~~

- ~~(i) Is not eligible because of striker provisions;~~
- ~~(ii) Knowingly transferred resources for the purpose of qualifying for benefits;~~
- ~~(iii) Refuses to cooperate in providing information that is needed to determine your eligibility;~~
- ~~(iv) Has a head of the household that failed to meet work requirements; or~~
- ~~(v) Has a member that is not qualified because of an intentional program violation))~~

Categorical eligibility (CE) means that you have already met requirements for a program. If you are CE, you do not have to meet every program requirement to be eligible for Basic Food. If your assistance unit (AU) is CE, you automatically meet the following requirements for Basic Food:

- (i) Countable resource limit under WAC 388-470-0005;
- (ii) Maximum gross monthly income under WAC 388-478-0060; and
- (iii) Maximum net monthly income under WAC 388-478-0060.

(b) Being CE does not mean that your AU is guaranteed to get Basic Food benefits. If your AU is CE:

- (i) You must still meet the other Basic Food program requirements under WAC 388-400-0040; and
- (ii) If you meet the other program requirements, we must budget your AU's income to determine the amount of benefits your AU will receive.

(2) Who is categorically eligible for Basic Food?

Your Basic Food AU is CE when:

(a) Every member of your AU gets either general assistance (GA), Alcohol and Drug Abuse Treatment Support Act (ADATSA), or Supplemental Security Income (SSI) cash benefits on their own behalf;

(b) Any member of your AU gets or is authorized to get payments from the following programs because we have determined that the entire AU benefits from someone receiving the assistance:

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(i) Temporary assistance for needy families (TANF) cash assistance;

(ii) State family assistance (SFA); or

(iii) Diversion cash assistance (DCA). You are CE for the month you receive DCA and the three following months as long as you have one adult relative caretaker with a dependent child in the Basic Food AU.

(3) Who is not CE even if my AU meets the above criteria?

(a) Even if your AU is CE, members of your AU are not eligible for Basic Food if they:

(i) Are not eligible because of their alien or student status;

(ii) Were disqualified from Basic Food under WAC 388-444-0055 for failing work requirements;

(iii) Are not eligible for failing to provide or apply for a Social Security number;

(iv) Receive SSI in a cash-out state (state where SSI payments are increased to include the value of the client's food stamp allotment); or

(v) Live in an institution not eligible for Basic Food under WAC 388-408-0040.

(b) If a person in your AU is not eligible for Basic Food, we do not include them as an eligible member of your CE AU.

(c) Your AU is not CE if:

(i) Your AU is not eligible because of striker requirements under WAC 388-480-0001;

(ii) Your AU is ineligible for knowingly transferring resources in order to qualify for benefits under WAC 388-488-0010;

(iii) Your AU refused to cooperate in providing information that is needed to determine your eligibility;

(iv) The head of household for your AU failed to meet work requirements; or

(v) Anyone in your AU is disqualified because of an intentional program violation under WAC 388-446-0015; or

(vi) Anyone in your AU is ineligible for Basic Food under WAC 388-442-0010 because of a conviction for a drug-related felony.

benefits. When effective, these permanent rules will replace emergency rules filed as WSR 04-03-015.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-448-0170 and 388-448-0190; and amending WAC 388-448-0001, 388-448-0010, 388-448-0020, 388-448-0030, 388-448-0120, 388-448-0160, 388-448-0180, 388-448-0200, and 388-448-0210.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.005.

Other Authority: Chapter 10, Laws of 2003 1st sp.s.

Adopted under notice filed as WSR 04-02-048 on January 5, 2004.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-448-0160(6) changed to ensure current evidence is used to review case before adverse action to close for prior error.

As a result of comments received, WAC 388-448-0160 was revised. The text in the left of the table is the proposed subsection (6), and on the right is subsection (6) as adopted:

Proposed WAC 388-448-0160	WAC 388-448-0160 as Adopted
<p>(6) We stop assistance before the end of your incapacity period when we discover that the previous incapacity decision was made:</p> <p>(a) Using faulty or insufficient information; or</p> <p>(b) Against the rule in effect at the time.</p>	<p>(6) Even if your condition has not improved, you are not eligible for general assistance when:</p> <p>(a) We get current medical evidence that does not meet progressive evaluation process criteria in WAC 388-448-0035 through 388-448-0110; and</p> <p>(b) Our prior decision that your incapacity met the requirements was incorrect because:</p> <p>(i) The information we had was incorrect or not enough to show incapacity; or</p> <p>(ii) We did not apply the rules correctly to the information we had at the time.</p>

PERMANENT

WSR 04-07-140

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 22, 2004, 4:24 p.m., effective May 1, 2004]

Date of Adoption: March 15, 2004.

Purpose: To implement a change in RCW 74.04.005 (6)(g) adopted by the legislature that changes the burden of proof from the department to the recipient for continuing general assistance benefits based on incapacity. See chapter 10, Laws of 2003 1st sp.s. Other changes clarify the requirements a person must meet to be considered incapacitated by the department and while waiting for the Social Security Administration to decide on eligibility for federal disability

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 2.

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 8, 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 9, Repealed 2.

Effective Date of Rule: May 1, 2004.

March 15, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-15-018, filed 7/10/00, effective 9/1/00)

WAC 388-448-0001 (~~(Establishing)~~) **What are the incapacity requirements for general assistance (~~(unemployable)~~)?** For the purposes of this chapter, "we" and "us" refer to the department of social and health services. "You" means the applicant or recipient. (~~(In order)~~) "GA" means the general assistance program. For you to receive general assistance (~~(unemployable (GAU))~~) GA program benefits, we must (~~(first)~~) determine (~~(if)~~) you are incapacitated.

"Incapacitated" means that you cannot be gainfully employed as a result of a physical or mental impairment that is expected to continue for at least ninety days from the date you apply.

"Physical impairment" means a diagnosable physical illness. "Mental impairment" means a diagnosable mental disorder. We exclude any diagnosis of or related to alcohol or drug abuse or addiction.

(1) We determine you are incapacitated if you are:

- (a) Eligible for payments based on Social Security Administration (SSA) disability criteria;
- (b) Eligible for services from the division of developmental disabilities (DDD);
- (c) Diagnosed as (~~(mentally retarded)~~) having mental retardation based on a full scale score of seventy or lower on the Wechsler adult intelligence scale (WAIS);
- (d) At least (~~(sixty-five)~~) sixty-four years old and seven months;

(e) Eligible for long-term care services from aging and (~~(adult)~~) disability services administration; or

(f) Approved (~~(by)~~) through the progressive evaluation process (PEP).

(2) We consider you to be incapacitated for ninety days (~~(following your release from:~~

- (a) An inpatient psychiatric treatment facility if:
 - (i) You directly participate in outpatient mental health treatment; and
 - (ii) The release from in-patient treatment was not against medical advice)) after:

(a) You are released from inpatient treatment for a mental impairment if:

(i) The release from inpatient treatment was not against medical advice; and

(ii) There is no break in your participation between inpatient and outpatient treatment of your mental impairment.

(b) You are released from a medical institution where you received long-term care services from the aging and (~~(adult)~~) disability services administration.

(c) The Social Security Administration stops your Supplemental Security Income payments because you are not a citizen.

AMENDATORY SECTION (Amending WSR 00-16-113, filed 8/2/00, effective 9/1/00)

WAC 388-448-0010 How do we decide if you are incapacitated(~~(s)~~)? When you apply for (~~(general assistance unemployable (GAU))~~) GA program benefits, you must provide medical evidence to us to show that you are unable to work. (~~(If we say that you are "incapacitated," it means that you are incapable of gainful employment as a result of a physical or mental impairment that is expected to continue for ninety days or more from the date of application.~~

(~~(4)~~) If you are gainfully employed at the time of your application for (~~(GAU)~~) GA, we deny incapacity. (~~(("Perform))~~) "Gainful employment" means you (~~(can perform))~~ are performing, in a regular and predictable manner, an activity usually done for pay or profit.

(1) We do not consider work to be gainful employment when you are working:

(a) (~~(Working))~~ Under special conditions(~~(-like)) that go beyond the employer providing reasonable accommodation, such as in a sheltered workshop we have approved; or~~

(b) (~~(Working))~~ Occasionally or part-time (~~(if your medical condition)) because your impairment limits the hours you (~~(can))~~ are able to work compared to unimpaired workers in the same job as verified by your employer.~~

(2) We decide if you are (~~(able to perform gainful employment))~~ incapacitated when:

(a) (~~(We receive an application for))~~ You apply for GA benefits. We may waive this decision if (~~(medical documentation requirements are waived under)) we use the criteria in WAC 388-448-0001 except the PEP to determine you are incapacitated;~~

(b) You become employed; (~~(or))~~

(c) You obtain work skills by completing a training program; or

(d) We get new information that indicates you may be employable.

(3) Unless (~~(medical documentation requirements are waived under))~~ you meet the other incapacity criteria in WAC 388-448-0001, we (~~(determine if incapacity exists using the progressive evaluation process (PEP)). When we receive your medical evidence, we use the PEP to decide if there is a medical impairment that prevents you from being gainfully employed. The PEP is a sequence of seven steps))~~ decide incapacity by applying the progressive evaluation process (PEP) to the medical evidence that you provide that meets WAC 388-448-0030. The PEP is the sequence of seven steps described in WAC 388-448-0035 through 388-448-0110.

(4) You are not eligible for (~~(GAU)~~) GA benefits if you are incapacitated only because of alcoholism or drug addiction. If you have a physical or mental impairment and you are impaired by alcohol or drug addiction, we decide if you are eligible for general assistance. If you qualify for both (~~(GAU)~~) GA and the ADATSA Shelter program, you may choose either program.

(5) In determining incapacity, we consider only your ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: Sitting, standing, walking, lifting, carrying, handling, seeing, hearing,

communicating, and understanding and following instructions.

AMENDATORY SECTION (Amending WSR 01-14-059, filed 6/29/01, effective 8/1/01)

WAC 388-448-0020 (~~How and from whom you can get~~) Which health professionals can I go to for medical evidence (for incapacity determination)? (~~Before we can decide if you are eligible for GAU, you must give us medical evidence that meets the requirements in WAC 388-448-0030. Medical evidence provides us with the details of your impairment and how it affects your ability to be gainfully employed. If you cannot get medical evidence without cost to you and you are otherwise eligible according to WAC 388-400-0025, we will pay the fees or other expenses based on our published policies and payment limits.~~)

We accept medical evidence from ~~(the)~~ these sources (listed below):

(1) For a physical impairment, ~~(we only accept reports from the following licensed medical professionals as primary evidence)~~ a health professional licensed in Washington state or where the examination was performed:

(a) A physician~~(s)~~, which for GA program purposes, includes:

(i) Medical doctor (M.D.);

(ii) Doctor of osteopathy (D.O.);

(iii) Doctor of optometry (O.D.) to evaluate visual acuity impairments;

(iv) Doctor of podiatry (D.P.) for foot disorders; and

(v) Doctor of dental surgery (D.D.S.) or doctor of medical dentistry (D.M.D.) for tooth abscesses or temporomandibular joint (TMJ) disorders.

(b) An advanced registered nurse practitioner (ARNP) ~~(is)~~ for physical impairments that are within the ARNP's area of certification to treat;

(c) The chief of medical administration of the Veterans' Administration, or their designee, as authorized in federal law; or

(d) A physician assistant when the report is co-signed by the supervising physician.

(2) For a mental impairment, ~~(we only accept reports from one of the following licensed)~~ professionals (as primary evidence) licensed in Washington state or where the examination was performed:

(a) A psychiatrist;

(b) A psychologist;

(c) An advanced registered nurse practitioner ~~(when)~~ certified in psychiatric nursing; or

(d) At our discretion:

(i) A person ~~(who provides)~~ identified as a mental health (services in a community mental health services agency and meets the minimum mental health) professional within the regional support network mental health treatment system provided the person's training and qualifications (set by them, which consist of) at a minimum include having a Master's degree and two years of mental health treatment experience; or

~~((e))~~ (ii) The physician who is currently treating you for a mental (disorder) impairment.

(3) **"Supplemental medical evidence"** means ~~(a report from a practitioner that can be used to support)~~ information from a health professional not listed in subsection (1) or (2) of this section and who can provide supporting medical evidence (given) for impairments identified by any of the (practitioners) professionals listed in subsections (1) (and) or (2) of this section. We (accept) include as supplemental medical evidence (reports from) sources:

(a) A ~~(practitioner who is providing)~~ health professional who has conducted tests on or provides on-going treatment to you, such as a physical therapist, chiropractor, nurse, physician assistant; (or)

(b) Workers at state institutions and agencies (that) who are not health professionals and are providing or have provided medical or health-related services to you; or

(c) Chemical dependency professionals (CDPs) when requesting information on the effects of alcohol or drug abuse.

AMENDATORY SECTION (Amending WSR 00-16-113, filed 8/2/00, effective 9/1/00)

WAC 388-448-0030 (~~The kind of~~) What medical evidence (you) do I need to provide (for determination of incapacity)? You must provide medical evidence that clearly explains ~~(what physical or mental health problem you have that incapacitates you. "Impairment" means any diagnosable physical or mental condition except alcoholism or drug addiction. The following describes how we decide if the medical evidence that you provide regarding your impairment meets the requirements:~~

(1) ~~We only accept written medical evidence. It must contain clear, objective medical documentation that includes:~~

(a) ~~A diagnosis for the incapacitating condition;~~

(b) ~~The effect of the condition on your ability to perform work-related activities; and~~

(c) ~~Relevant medical history and sufficient medical documentation to support conclusions of incapacity.~~

(2) ~~The medical evidence must be based on an exam within the last ninety days.~~

(3) ~~When making an incapacity decision, we do not use your report of symptoms as evidence unless medical findings show there is a medical condition that could reasonably be expected to produce the symptoms reported. In those cases, you must provide us with clear and objective medical information, including observation by the medical practitioner and relevant medical history that supports conclusions about:~~

(a) ~~The existence and persistence of the symptom(s); and~~

(b) ~~Its effect on your ability to perform basic work activities.~~

(4) if you have an impairment and how that impairment prevents you from being capable of gainful employment. Medical evidence must be in writing and be clear, objective and complete.

(1) Objective evidence means:

(a) For physical impairment:

(i) Laboratory test results;

(ii) Pathology reports;

(iii) Radiology findings including results of X-rays and computer imaging scans;

(iv) Clinical finding, including but not limited to ranges of joint motion, blood pressure, temperature or pulse; and observations from physical examination; or

(v) Hospital history and physical reports and admission and discharge summaries; or

(vi) Other medical history and physical reports.

(b) For mental impairment:

(i) Examination results including:

(A) Clinical interview observations, including mental status exam results and interpretation; and

(B) Explanation of how examination findings meet the clinical and diagnostic criteria of the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM).

(ii) Testing results, if any, including:

(A) Description and interpretation of tests of memory, concentration, cognition or intelligence; or

(B) Interpretation of medical tests to identify or exclude a connection between the mental impairment and physical illness.

(2) To be complete, medical evidence must include:

(a) Diagnosis for the impairment;

(b) A clear description of how the impairment relates to your ability to perform the work-related activities listed in WAC 388-448-0010(5) including signs and observations of drug or alcohol abuse and whether any limitations on ability to perform work-related activities would continue after sixty days of abstinence from use of drugs or alcohol;

(c) Facts in addition to objective evidence to support the medical provider's opinion that you are unable to be gainfully employed, such as proof of hospitalization; and

(d) Based on an examination done within the ninety days of the date of application or the forty-five days prior to the month of incapacity review.

(3) When making an incapacity decision, we do not use your report of symptoms as evidence unless objective evidence shows there is an impairment that could reasonably be expected to produce those symptoms.

(4) If you cannot get medical evidence without cost to you and you meet the eligibility conditions other than incapacity in WAC 388-400-0025, we pay the costs to obtain objective evidence based on our published payment limits and designated fee schedules.

(5) We decide incapacity based solely on the objective information we receive. We are not obligated to accept a decision that you are incapacitated or unemployable made by another agency or person.

AMENDATORY SECTION (Amending 01-14-059, filed 6/29/01, effective 8/1/01)

WAC 388-448-0120 How we decide how long you are incapacitated. We (use the medical evidence and expected length of recovery from the incapacitating condition to decide the length of time you are eligible for GAU as follows:

(1) If you are eligible for GAU, a maximum of twelve months; or

(2) If we decide you are eligible for general assistance expedited Medicaid (GAX), a maximum of thirty-six months from the date of the latest incapacity approval) decide how

long you are incapacitated, up to the maximum period set by WAC 388-448-0160, using medical evidence on the expected length of time needed to heal or recover from the incapacitating disorder(s).

AMENDATORY SECTION (Amending WSR 00-16-113, filed 8/2/00, effective 9/1/00)

WAC 388-448-0160 ((Review of your incapacity))
When do my general assistance benefits end? (1) ((In order to review your incapacity, we must have sufficient written medical information based on an examination within the last sixty days. We may also require information about your progress with required treatment or agency referrals according to WAC 388-448-0130.

(2) We cannot extend GAU eligibility beyond the current eligibility end date if we do not receive current medical evidence that we decide is enough to show that you continue to be incapacitated)) The maximum period of eligibility for general assistance is twelve months before we must review additional medical evidence. We use medical evidence and the expected length of time before you are capable of gainful employment to decide when your benefits will end.

(2) Your benefits stop at the end of your incapacity period unless you provide additional medical evidence that demonstrates during your current incapacity period that there was no material improvement in your impairment. No material improvement means that your impairment continues to meet the progressive evaluation process criteria in WAC 388-448-0010 through 388-448-0110, excluding the requirement that your impairment(s) prevent employment for ninety days.

(3) Additional medical evidence must meet all of the criteria defined in WAC 388-448-0030.

(4) We use additional medical evidence received after your incapacity period had ended when:

(a) The delay was not due to your failure to cooperate; and

(b) We receive the evidence within thirty days of the end of your incapacity period; and

(c) The evidence meets the progressive evaluation process criteria in WAC 388-448-0010 through 388-448-0110.

(5) You must provide information about your cooperation and progress with treatment or agency referrals we required according to WAC 388-448-0130.

(6) Even if your condition has not improved, you are not eligible for general assistance when:

(a) We get current medical evidence that does not meet the progressive evaluation process criteria in WAC 388-448-0035 through 388-448-0110; and

(b) Our prior decision that your incapacity met the requirements was incorrect because:

(i) The information we had was incorrect or not enough to show incapacity; or

(ii) We did not apply the rules correctly to the information we had at that time.

AMENDATORY SECTION (Amending WSR 01-14-059, filed 6/29/01, effective 8/1/01)

WAC 388-448-0180 How ((and when)) do we re-determine your eligibility ((if)) when we decide you are eli-

~~gible for ((GAX.)) general assistance expedited Medicaid (GAX)? ((When we decide you are eligible for GAX, we may extend your incapacity period up to thirty-six months from the date of the last incapacity decision without requesting additional medical documentation.))~~

~~(1) The maximum period of eligibility for GAX is twelve months before we must review additional medical evidence. If you remain on GAX at the end of the ((thirty-six month)) twelve-month period, we determine your eligibility using current medical evidence.~~

~~(2) If your application for SSI is denied, and the denial is upheld by an SSI/SSA administrative hearing before the end of the ((thirty-six month)) twelve-month incapacity period, we change your program eligibility from GAX to ((GAU)) GA and adjust the incapacity review date to be sixty days after the administrative hearing date.~~

AMENDATORY SECTION (Amending WSR 01-14-059, filed 6/29/01, effective 8/1/01)

WAC 388-448-0200 ((Eligibility for)) Can I get general assistance ((unemployable pending SSI eligibility.)) while waiting for Supplemental Security Income (SSI)? ((If we approve you for GAX, benefits are authorized through the month SSI payments begin if you.))

~~(1) ((Apply for SSI, follow through with your application, and do not withdraw your application;~~

~~(2) Agree to assign the initial or reinstated SSI payment to DSHS as provided under WAC 388-448-0210; and~~

~~(3) Are otherwise eligible according to WAC 388-400-0025)) You may receive general assistance benefits while you are waiting to receive Social Security Supplemental Security Income (SSI) benefits only when you:~~

~~(a) Have filed your SSI application with the Social Security Administration (SSA), follow through with SSA directions and requirements to process your application including keeping all interview and consultative examination appointments, and do not withdraw your application;~~

~~(b) Agree to assign the initial or reinstated SSI payment to us provided under WAC 388-448-0210;~~

~~(c) Are otherwise eligible according to WAC 388-400-0025; and~~

~~(d) Meet incapacity criteria listed in WAC 388-448-0001.~~

~~(2) When we obtain certification that you are likely to qualify for SSI, we also approve categorical needy medical coverage under WAC 388-505-0110.~~

AMENDATORY SECTION (Amending WSR 00-16-113, filed 8/2/00, effective 9/1/00)

WAC 388-448-0210 ((Assignment and recovery of)) What is interim assistance((+)) and how do I assign it to you? ((You can get)) The general assistance and SSI programs both provide cash assistance to meet your basic needs ((from only one government source at a time)). You cannot receive this assistance for the same time period from both programs. When you are approved for or reinstated on SSI, you may receive a ((payment going back to the date you applied for SSI. This means you are being paid a)) back payment ((for your basic needs)). When ((you have received

~~GAU during that time period, the amount paid to you in the form of GAU must be reimbursed to the state)) we made GA payments to you or on your behalf for the same time period, you must assign your interim assistance to repay us.~~

~~(1) "Assign" means that you sign a written authorization for the Social Security Administration (SSA) ((will pay DSHS directly from your reimbursement amount. The assignment will be up to the amount of)) to send the SSI back payment to us. We will deduct the interim assistance we ((provide)) provided to you.~~

~~(2) "Interim assistance" means the ((state)) GA funds we ((provide to you to meet basic needs)) paid to you or on your behalf during:~~

~~(a) The time between your SSI application date and the month recurring SSI payments begin; or~~

~~(b) The period your SSI payments were suspended or terminated, and later reinstated ((for that period)).~~

~~(3) We pay up to twenty-five percent of the interim assistance reimbursement that we receive from the SSA to the attorney who ((has)) successfully represented you in your effort to receive SSI.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-448-0170 Termination requirement—
How we determine you are
no longer incapacitated.

WAC 388-448-0190 Reinstating your eligibility
after termination due to lack
of medical evidence.

WSR 04-07-141
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed March 22, 2004, 4:27 p.m.]

Date of Adoption: March 15, 2004.

Purpose: Repealing the eligibility rules for the medically indigent (MI) program. The MI program was eliminated effective June 30, 2003, due to budget reductions.

When effective, these permanent rules will replace emergency rules filed as WSR 04-06-023.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-416-0030 Certifications for the medically indigent (MI) program and 388-438-0100 Medically indigent (MI) program; and amending WAC 388-503-0505 General eligibility requirements for medical programs.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.530.

Other Authority: Chapter 25, Laws of 2003 1st sp.s.

Adopted under notice filed as WSR 04-04-074 on February 2, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 2.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 2.

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

March 15, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-17-030, filed 8/12/02, effective 9/12/02)

WAC 388-503-0505 General eligibility requirements for medical programs. (1) Persons applying for benefits under the medical coverage programs established under chapter 74.09 RCW must meet the eligibility criteria established by the department in chapters 388-400 through 388-555 WAC.

(2) Persons applying for medical coverage are considered first for federally funded or federally matched programs. State-funded programs are considered after federally funded programs are not available to the client except for brief periods when the state-funded programs offer a broad scope of care which meet a specific client need.

(3) Unless otherwise specified in program specific WAC, the eligibility criteria for each medical program is as follows:

(a) Verification of age and identity (chapters 388-404, 388-406, and 388-490 WAC); and

(b) Residence in Washington state (chapter 388-468 WAC); and

(c) Citizenship or immigration status in the United States (chapter 388-424 WAC); and

(d) Possession of a valid Social Security Account Number (chapter 388-476 WAC); and

(e) Assignment of medical support rights to the state of Washington (WAC 388-505-0540); and

(f) Cooperation in securing medical support (chapter 388-422 WAC); and

(g) Countable resources within program limits (chapters 388-470 and 388-478 WAC); and

(h) Countable income within program limits (chapters 388-450 and 388-478 WAC).

(4) In addition to the general eligibility requirements in subsection (3) of this section, each program has specific eligibility requirements as described in applicable WAC.

(5) Persons living in a public institution, including a correctional facility, are not eligible for the department's medical

coverage programs. (~~A person living in a city or county jail may be considered only for the medically indigent (MI) program.~~) For a person under age twenty or over age sixty-five who is a patient in an institution for mental disease see WAC 388-513-1315(13) for exception.

(6) Persons terminated from SSI or TANF cash grants and those who lose eligibility for categorically needy (CN) medical coverage have their CN coverage continued while their eligibility for other medical programs is redetermined. This continuation of medical coverage is described in chapter 388-434 WAC.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-416-0030

Certification periods for the medically indigent (MI) program.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-438-0100

Medically indigent (MI) program.

**WSR 04-07-146
PERMANENT RULES
CRIMINAL JUSTICE
TRAINING COMMISSION**

[Filed March 23, 2004, 8:12 a.m.]

Date of Adoption: March 10, 2004.

Purpose: WAC 139-01-100 Language and address update.

Statutory Authority for Adoption: RCW 43.101.080.

Adopted under notice filed as WSR 04-02-040 on January 5, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.
 March 22, 2004
 Sharon M. Tolton
 Deputy Director

AMENDATORY SECTION (Amending WSR 00-17-017, filed 8/4/00, effective 9/4/00)

WAC 139-01-100 Description of central and field organization. The Washington state criminal justice training commission consists of the executive director, staff, and fourteen commissioners. Recommendations for training pursuant to commission adopted goals and standards may be approved by the executive director of the commission. Other recommendations will be reviewed by the commissioners for approval or rejection. Approved recommendations and other matters of the commission necessitating implementation or staff involvement will be assigned by the executive director to appropriate personnel.

The business office of the commission is located at ~~((621 Woodland Square Loop, P.O.))~~ 3060 Willamette Drive N.E., Lacey, Washington 98516. The mailing address is Post Office Box 40905, Olympia, Washington((;)) 98504. It is maintained by the commission's executive director and staff from 8:00 a.m. to 5:00 p.m., Monday through Friday, and serves as a central repository for the commission's records of administration and operation.

The Criminal Justice Training Center, 19010 1st Avenue, ~~((Seattle))~~ Burien, Washington((;)) 98148, serves as the commission's primary training site. Other training is conducted locally, regionally, or at centralized locations statewide, as determined by staff.

WSR 04-07-151
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed March 23, 2004, 10:35 a.m.]

Date of Adoption: March 23, 2004.

Purpose: Will amend rule to allow for newer technology to store records and to allow for real estate brokers to maintain records at a distant location from their business license address.

Citation of Existing Rules Affected by this Order: Amending WAC 308-124C-030.

Statutory Authority for Adoption: RCW 18.85.040(1).

Adopted under notice filed as WSR 04-03-037 on January 15, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.
 March 16, 2004
 Mykel D. Gable
 Assistant Director

AMENDATORY SECTION (Amending WSR 98-01-107, filed 12/17/97, effective 1/17/98)

WAC 308-124C-030 Accuracy and accessibility of records. (1) Accuracy. All required real estate records shall be accurate, posted and kept up to date.

(2) Location. All required real estate records shall be kept at an address where the real estate broker is licensed to maintain a real estate office(~~((Such))~~), except physical records of transactions may be stored at one remote facility within the state of Washington. Only transactions that have been closed for at least one year can be maintained at the remote facility. Transactions stored at a different location must be available upon demand of the department and maintained in a manner to be readily retrievable. A listing of all transactions must be maintained at the broker's licensed office for all the transactions stored at the remote facility. All records shall be retained and available for inspection by the director or the director's authorized representative for a minimum of three years. ((While RCW 18.85.230(20) requires the retention of records for three years, licensees should be aware that the applicable statute of limitations may vary from this three-year retention period.))

(3) Alternative storage. Records may be stored on permanent storage media, such as optical disk or microfilm, provided the retrieval process does not permit modification of the documents. Retrieval must be possible at the broker's licensed location and allow for viewing and printing the document in its original form. The permanent media storage shall be nonerasable and prevent changes to the stored documents or records. The broker must maintain equipment at their licensed location in good repair to allow viewing and printing upon demand by the department. The storage media must be indexed to allow for immediate retrieval of all documents.

(4) Responsibility for records. In the case of a corporate, limited liability company, limited liability partnership or partnership brokerage firm, the responsibility imposed by this section shall apply to both the corporation, limited liability company, limited liability partnership or partnership and the natural person designated and licensed to act as broker for the corporation, limited liability company, limited liability partnership or partnership. Prior to issuing a new license indicating a change of designated broker for a corporate, limited liability company, limited liability partnership or partnership licensee, the licensee must submit evidence that the requirements have been satisfied.

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(5) Change of broker. A statement signed by both the outgoing designated broker and the incoming designated broker, listing all outstanding client trust liabilities, copies of trust account bank statements and the latest trust account reconciliations and certifying that funds in hand in the trust account maintained by the licensee are adequate to meet these client trust liabilities will satisfy this requirement. The incoming designated broker shall not be deemed responsible for any discrepancy identified in the statement, unless the incoming designated broker contracted to accept such responsibility.

WSR 04-07-152

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed March 23, 2004, 10:36 a.m.]

Date of Adoption: March 23, 2004.

Purpose: To correct reference within the WAC to RCW 18.85.230(26), which has been renumbered effective January 1, 2004, to RCW 18.85.230(23).

Citation of Existing Rules Affected by this Order: Amending WAC 308-124D-030.

Statutory Authority for Adoption: RCW 18.85.040(1).

Adopted under notice filed as WSR 04-03-038 on January 15, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

March 16, 2004

Mykel D. Gable

Assistant Director

AMENDATORY SECTION (Amending Order RE 114, filed 7/2/75)

WAC 308-124D-030 Expedient performance. A real estate licensee shall perform all acts required of the licensee by a real estate agreement as expeditiously as possible. Intentional or negligent delays in such performance shall be considered detrimental to the public interest in violation of RCW 18.85.230(~~(26)~~)(23).

WSR 04-07-153

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed March 23, 2004, 10:39 a.m.]

Date of Adoption: March 23, 2004.

Purpose: To allow for e-commerce in the payment of the examination fee, to allow for payment with credit card, debit card, e-checks, and vouchers. Also amends the rule to allow payment at the time of registration for the examination.

Citation of Existing Rules Affected by this Order: Amending WAC 308-124A-110(3).

Statutory Authority for Adoption: RCW 18.85.040(1).

Adopted under notice filed as WSR 04-03-039 on January 15, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

March 17, 2004

Mykel D. Gable

Assistant Director

AMENDATORY SECTION (Amending WSR 02-07-060, filed 3/15/02, effective 4/15/02)

WAC 308-124A-110 Application for real estate examination, licensed in another jurisdiction. (1) Any person applying for a real estate broker or real estate salesperson examination who is actively licensed in the same or greater capacity in another jurisdiction and has maintained his or her license in good standing or who was actively licensed in the same or greater capacity in good standing within the preceding six months is eligible to take the Washington law portion of the examination.

(2) Any person applying to take the examination under this section shall submit an examination application approved by the department and shall submit evidence of licensure in another jurisdiction by a license verification form completed by an administrative officer of the licensure authority in such jurisdiction.

(3) After the qualifications for the examination have been verified by the department the candidate shall telephone the testing service up to three days prior to the desired test date to schedule and pay for an examination by cashier's check, certified check, money order, credit card, debit card, e-checks, or money voucher to the testing service approved by the department. Candidates requesting a morning or after-

noon test session shall be scheduled immediately for an examination and will be provided with a registration number confirming their reservation. On the day of the examination, the candidate shall submit at the test site the verified examination application and ((examination fee by cashier's check, certified check or money order to the testing service approved by the department. Cash or personal checks will not be accepted from candidates)) any supporting documents required by the department.

(4) The director, upon advice of the Washington state real estate commission, may consider entering into written recognition agreements with other jurisdictions which license real estate brokers and salespersons similarly to Washington state. The recognition agreement(s) shall require the other jurisdiction to grant the same licensing process to licensees of Washington state as is offered by Washington state to licensee applicants from other jurisdictions.

WSR 04-07-160
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed March 23, 2004, 1:59 p.m., effective May 1, 2004]

Date of Adoption: March 23, 2004.

Purpose: Chapter 269-45 WAC, Safety standards for electrical workers; chapter 296-78 WAC, Safety standards for sawmills and woodworking operations; chapter 296-155 WAC, Safety standards for construction work; chapter 296-305 WAC, Safety standards for fire fighters, chapter 296-307 WAC, Safety standards for agriculture; and chapter 296-800 WAC, Safety and health core rules.

In *Dept of Labor & Indus. v. Nat'l Sec. Consultants*, the Division II Court of Appeals determined that WISHA first-aid rules in chapter 296-800 WAC, Safety and health core rules, do not apply to employers with fewer than fifty employees. However, exempting employers with fewer than fifty employees from the first-aid training requirements would result in the department being less-effective-than OSHA. RCW 49.17.050(2) requires that WISHA adopt rules that are at-least-as-effective-as OSHA rules. The department is repealing the current first-aid rules in the core rules and the agriculture standards and adopting a rule in each that requires employers to comply with the OSHA first-aid rule.

WAC 296-45-125 Medical services and first aid.

- The adopted rule updates the reference to WAC 296-800-150.

WAC 296-78-540 First-aid training and certification.

- The adopted rule removes a reference to WAC 296-800-150.

WAC 296-155-120 First-aid training and certification.

- The adopted rule removes a reference to WAC 296-800-150.

WAC 296-305-01515 First-aid training and certification.

- The adopted rule removes a reference to WAC 296-800-150.

WAC 296-307-039 First-aid rule summary.

- The adopted rule updates the summary of the rule.
- The adopted rule adds a note to WAC 296-62-080 Occupational exposure to bloodborne pathogens.

WAC 296-307-03905 Make sure that first-aid trained personnel are available to provide quick and effective first aid.

- The adopted rule deletes current wording.
- The adopted rule adds language from 29 C.F.R. 1910.151, which makes the rule at-least-as-effective-as the federal equivalent.

WAC 296-800-150 Rule summary.

- The adopted rule updates the summary of the rule.
- The adopted rule adds a note to chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.

WAC 296-800-15005 Make sure that first-aid trained personnel are available to provide quick and effective first aid.

- The adopted rule deletes current wording.
- The adopted rule adds language from 29 C.F.R. 1910.151, which makes the rule at-least-as-effective-as the federal equivalent.

Repealed Sections: WAC 296-307-03910 Make sure first-aid training contains required subjects, WAC 296-307-03915 Document your first-aid training, WAC 296-307-03925 Provide a first-aid station when required, WAC 296-800-15010 Make sure first-aid training contains required subjects, WAC 296-800-15015 Document your first-aid training, and WAC 296-800-15025 Provide a first-aid station when required.

Citation of Existing Rules Affected by this Order: Amending WAC 296-45-125 Medical services and first aid, 296-78-540 First-aid training and certification, 296-155-120 First-aid training and certification, 296-305-01515 First-aid training and certification, 296-307-039 First-aid rule summary, 296-307-03905 Make sure that first-aid trained personnel are available to provide quick and effective first aid, 296-800-150 Rule summary and 296-800-15005 Make sure that first-aid trained personnel are available to provide quick and effective first aid; and repealing 296-307-03910 Make sure first-aid training contains required subjects, 296-307-03915 Document your first-aid training, 296-307-03925 Provide a first-aid station when required, 296-800-15010 Make sure first-aid training contains required subjects, 296-800-15015 Document your first-aid training, and 296-800-15025 Provide a first-aid station when required.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Adopted under notice filed as WSR 04-01-155 on December 22, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 8, Repealed 6; 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 8, Repealed 6.

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 8, Repealed 6.

Effective Date of Rule: May 1, 2004.

March 23, 2004

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 02-16-047, filed 8/1/02, effective 10/1/02)

WAC 296-800-150 Rule summary. Your responsibility: Make sure first-aid trained personnel are available to provide quick and effective first aid.

You must:

Make sure that first-aid trained personnel are available to provide quick and effective first aid.

WAC 246-800-15005.

((Make sure first-aid training contains required subjects.

WAC 296-800-15010.

Keep current and document your first-aid training.

WAC 296-800-15015))

Make sure appropriate first-aid supplies are readily available.

WAC 296-800-15020.

((Provide a first-aid station when required.

WAC 296-800-15025))

Make sure emergency washing facilities are functional and readily accessible.

WAC 296-800-15030.

Inspect and activate your emergency washing facilities.

WAC 296-800-15035.

Make sure supplemental flushing equipment provides sufficient water.

WAC 296-800-15040.

((Reference))

Note: • Employers who require their employees to provide first aid must comply with chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.

• Your workplace may be covered by separate first-aid rules. If you do any of the types of work listed below, you must follow separate industry specific rules:

Industry	Chapter (WAC)
Agriculture	296-307
Compressed air	296-36
Construction	296-155
Fire fighting	296-305
Logging	296-54

Industry	Chapter (WAC)
Sawmill	296-78
Ship building and repairing	296-304

You can get copies of these rules by calling 1-800-4BE SAFE (1-800-423-7233), or by going to <http://www.ini.wa.gov>.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-800-15005 Make sure that first-aid trained personnel are available to provide quick and effective first aid. ((You must:

• Choose one of the following two options to make sure that your employees have access to personnel who are trained in first aid:

Option 1:

Make sure first-aid trained employees are in your workplace to help your employees if they become hurt or ill on the job by doing the following:

— Make sure that:

◆ Each person in charge of employees has first-aid training; or

◆ Another person with first-aid training is present or available to your employees, whenever you have 2 or more employees present.

— Adequately post emergency telephone numbers in your workplace.

or

Option 2:

Develop and maintain a written first-aid response plan for your workplace. If you choose this option, you must do all of the following:

— Determine how many, if any, employees should be trained in first aid, based on the following factors:

◆ What type(s) of occupational hazards are present in your workplace?

◆ How likely is it that a workplace injury or illness will occur?

◆ How serious are the occupational hazards in your workplace?

◆ How remote is your workplace?

◆ How complex is your worksite in terms of size, design, etc.?

◆ What medical emergencies have occurred at your workplace in the past?

◆ How far away and how long does it take to get to emergency medical services?

((Note: Employers who require their employees to provide first aid must comply with chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.

You must:

• Make sure your first-aid response plan:

— Fits your work location, type of work, and environmental conditions.

— Identifies the available emergency medical services and access numbers and where they are posted.

— Describes the type of first-aid training employees receive, if applicable.

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- ~~—Identifies the location(s) of first-aid supplies and/or first-aid stations.~~
- ~~—Identifies the contents of first-aid kits.~~
- ~~—Describes how first-aid supplies or kits will be inspected and maintained.~~
- ~~—Describes how injured or ill employees will have access to first-aid-trained employees-))~~ **You must:**

Comply with the first-aid training requirements of 29 CFR 1910.151(b) which states:

"In the absence of an infirmary, clinic, or hospital in near proximity to the workplace, which is used for the treatment of all injured employees, a person or persons shall be adequately trained to render first aid."

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-800-15010 Make sure first-aid training contains required subjects.
- WAC 296-800-15015 Document your first-aid training.
- WAC 296-800-15025 Provide a first-aid station when required.

AMENDATORY SECTION (Amending WSR 02-12-098, filed 6/5/02, effective 8/1/02)

WAC 296-307-039 First-aid rule summary. Your responsibility: Make sure first-aid trained personnel are available to provide quick and effective first aid.

You must:

Make sure that first-aid trained personnel are available to provide quick and effective first aid.

~~WAC 296-307-03905.~~

~~(Make sure first-aid training contains required subjects.~~

~~WAC 296-307-03910.~~

~~Keep current and document your first-aid training.~~

~~WAC 296-307-03915.))~~

Make sure appropriate first-aid supplies are readily available.

~~WAC 296-307-03920.~~

~~(Provide a first-aid station when required.~~

~~WAC 296-307-03925.))~~

Note:

- Employers who require their employees to provide first aid must comply with the bloodborne pathogen rule, WAC 296-62-080.
- Additional requirements relating to first aid are also located in the following sections:
 - WAC 296-307-07013(12), What rules apply to vehicles used to transport employees?
 - WAC 296-307-16175, First-aid requirements for operators of temporary worker housing.
 - WAC 296-307-16380, First-aid requirements for operators of cherry harvest camps.

Definitions:

First aid: The extent of treatment you would expect from a person trained in basic first aid, using supplies from a first-aid kit.

Emergency medical service: Medical treatment and care given at the scene of any medical emergency or while transporting any victim to a medical facility.

You can get copies of these rules by calling 1-800-4BE SAFE (1-800-423-7233), or by going to <http://www.lni.wa.gov>.

AMENDATORY SECTION (Amending WSR 01-17-033, filed 8/8/01, effective 9/1/01)

WAC 296-307-03905 Make sure that first-aid trained personnel are available to provide quick and effective first aid. ((You must:

• Choose one of the following two options to make sure that your employees have access to personnel who are trained in first-aid:

Option 1:

Make sure first-aid trained persons are in your workplace to help your employees if they become hurt or ill on the job by doing the following:

—Make sure that:

◆ Each person in charge of employees has first-aid training; or

◆ Another person with first-aid training is present or available to your employees, whenever you have 2 or more employees present.

((Note:

This rule is met if persons other than an employee, such as the farm operator or spouse, hold a current first-aid certificate and are available during working hours.

((EXCEPTION:

This rule does not apply to individual employees whose duties require them to work alone at isolated workstations. However, employees working alone must be checked at intervals by some method agreed upon by you and the employee.

—Adequately post emergency telephone numbers in your workplace.

Option 2:

Develop and maintain a written first-aid response plan for your workplace. If you choose this option, you must do all of the following:

—Determine how many, if any, employees should be trained in first aid, based on the following factors:

◆ What type(s) of occupational hazards are present in your workplace?

◆ How likely is it that a workplace injury or illness will occur?

◆ How serious are the occupational hazards in your workplace?

◆ How remote is your workplace?

◆ How complex is your worksite in terms of size, design, etc.?

◆ What medical emergencies have occurred at your workplace in the past?

◆ How far away and how long does it take to get to emergency medical services?

((Note:

Employers who require their employees to provide first-aid must comply with the bloodborne pathogen rule, WAC 296-62-080.

You must:

• Make sure your first-aid response plan:

—Fits your work location, type of work, and environmental conditions.

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- ~~-Identifies the available emergency medical services and access numbers and where they are posted.~~
- ~~-Describes the type of first aid training employees receive, if applicable.~~
- ~~-Identifies the location(s) of first aid supplies and/or first aid stations.~~
- ~~-Identifies the contents of first aid kits.~~
- ~~-Describes how first aid supplies or kits will be inspected and maintained.~~
- ~~-Describes how injured or ill employees will have access to first aid trained employees.)~~

You must:
Comply with the first-aid training requirements of 29 CFR 1910.151(b) which states:

"In the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, a person or persons shall be adequately trained to render first aid."

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-307-03910 Make sure first-aid training contains required subjects.
- WAC 296-307-03915 Document your first-aid training.
- WAC 296-307-03925 Provide a first-aid station when required.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-45-125 Medical services and first aid. The employer shall provide medical services and first aid as required in WAC ~~((296-800-160))~~ 296-800-150. ~~((In addition to the requirements of WAC 296-800-160,))~~ The following requirements also apply:

(1) Cardiopulmonary resuscitation and first-aid training. When employees are performing work on or associated with exposed lines or equipment energized at 50 volts or more, persons trained in first aid including cardiopulmonary resuscitation (CPR) shall be available as follows:

(a) For field work involving two or more employees at a work location, at least two trained persons shall be available. However, only one trained person need be available if all new employees are trained in first aid, including CPR, within 3 months of their hiring dates.

(b) For fixed work locations such as generating stations, the number of trained persons available shall be sufficient to ensure that each employee exposed to electric shock can be reached within 4 minutes by a trained person. However, where the existing number of employees is insufficient to meet this requirement (at a remote substation, for example), all employees at the work location shall be trained.

(2) First-aid supplies. First-aid supplies required by WAC ~~((296-800-160))~~ 296-800-150 shall be placed in weatherproof containers if the supplies could be exposed to the weather.

(3) First-aid kits. Each first-aid kit shall be maintained, shall be readily available for use, and shall be inspected frequently enough to ensure that expended items are replaced but at least once per year.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-78-540 First-aid training and certification.

The employer must ensure that first-aid trained personnel are available to help employees who are injured or who become acutely ill on the job. The employer must meet this requirement by maintaining first-aid trained staff on the job site. The employer must ensure that:

(1) Each person in charge of employees has first-aid training; or another person with first-aid training is present or available to the employees. Such training must be successfully completed every two years ~~((as required in WAC 296-800-150))~~;

(2) Documentation of first-aid training is kept ~~((as required in WAC 296-800-150))~~;

(3) Emergency telephone numbers are adequately posted~~((;~~

~~((4) First aid training includes the core elements contained in WAC 296-800-150)).~~

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-155-120 First-aid training and certification.

This section is designed to assure that all employees in this state are afforded quick and effective first-aid attention in the event of an on the job injury. To achieve this purpose the presence of personnel trained in first-aid procedures at or near those places where employees are working is required. Compliance with the provisions of this section may require the presence of more than one first-aid trained person.

~~((1) ((The first-aid training requirements of the safety and health core rules, chapter 296-800 WAC, apply within the scope of chapter 296-155 WAC.~~

~~((2)))~~ Each employer must have available at all worksites, where a crew is present, a person or persons holding a valid first-aid certificate.

~~((3)))~~ (2) All crew leaders, supervisors or persons in direct charge of one or more employees must have a valid first-aid certificate.

~~((4)))~~ (3) For the purposes of this section, a crew means a group of two or more employees working at any worksite.

Note: The requirement that all crew leaders, supervisors or person in direct charge of one or more employees (subsection (3) of this section) applies even if other first-aid trained person(s) are available. In emergencies, crew leaders will be permitted to work up to thirty days without having the required certificate, providing an employee in the crew or another crew leaders in the immediate work area has the necessary certificate.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-305-01515 First-aid training and certification.

(1) All fire fighters except directors of fire departments

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and the directors' designated personnel, shall have as a minimum first-aid training as evidenced by a current, valid first-aid card, EMT or First Responder certification.

(2) New fire fighters shall have such first-aid training within 90 days of the date of their employment or enroll for training in the next available class for which they are eligible.

(3) ~~(First aid training and certification for other employees and directors of fire departments shall conform to the requirements of WAC 296-800-150.~~

(4)) Fire service duties include exposure to bloodborne pathogens. The requirements of this section and chapter 296-823 WAC, Occupational exposure to bloodborne pathogens, shall apply.

WSR 04-07-161
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed March 23, 2004, 2:03 p.m., effective June 1, 2004]

Date of Adoption: March 23, 2004.

Purpose: Chapter 296-24 WAC, General safety and health standards, the requirements in WAC 296-24-75011 relating to standard guardrails were not at-least-as-effective-as the Occupational Safety and Health Administration (OSHA) requirements. The department is changing the height requirements of the guardrails to a height of 42 inches, plus or minus 3 inches in order to be at-least-as-effective-as OSHA. References were also updated throughout the chapter.

Citation of Existing Rules Affected by this Order: Repealing chapter 296-24 WAC, Part B-1; and amending WAC 296-24-012, 296-24-56527, 296-24-61703, 296-24-63399, 296-24-75011, 296-24-95603, and chapter 296-26 WAC, Part E.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Adopted under notice filed as WSR 03-24-086 on December 2, 2003.

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 6, 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 7, Repealed 1.

Effective Date of Rule: June 1, 2004.

March 23, 2004

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 02-12-098, filed 6/5/02, effective 8/1/02)

WAC 296-24-012 Definitions applicable to all sections of this chapter.

Note: Meaning of words. Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section.

(1) "Approved" means approved by the director of the department of labor and industries or his/her authorized representative: Provided, however, That should a provision of this chapter state that approval by an agency or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH), the provisions of WAC ~~((296-24-006))~~ 296-800-360 shall apply.

(2) "Authorized person" means a person approved or assigned by the employer to perform a specific type of duty or duties or to be at a specific location or locations at the job site.

(3) "Competent person" means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective action to eliminate them.

(4) "Department" means the department of labor and industries.

(5) "Director" means the director of the department of labor and industries, or his/her designated representative.

(6) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations: Provided, That any person, partnership, or business entity not having employees, and who is covered by the industrial insurance act shall be considered both an employer and an employee.

(7) "First aid" means, for purposes of this section, the extent of treatment that could be expected to be given by a person trained in basic first aid, using supplies from a first-aid kit. Tests, such as X rays, shall not be confused with treatment.

(8) "Hazard" means that condition, potential or inherent, which can cause injury, death, or occupational disease.

(9) "Hospitalization" means to be sent to; to go to; or be admitted to a hospital or an equivalent medical facility and receive medical treatment beyond that which would be considered as first-aid treatment, regardless of the length of stay in the hospital or medical facility.

PERMANENT

(10) "Qualified" means one who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve or resolve problems relating to the subject matter, the work, or the project.

(11) "Safety factor" means the ratio of the ultimate breaking strength of a member or piece of material or equipment to the actual working stress or safe load when in use.

(12) "Safety and health standard" means a standard which requires the adoption or use of one or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

(13) "Shall" means mandatory.

(14) "Should" means recommended.

(15) "Standard safeguard" means a device designed and constructed with the object of removing the hazard of accident incidental to the machine, appliance, tool, building, or equipment to which it is attached.

Standard safeguards shall be constructed of either metal or wood or other suitable material or a combination of these. The final determination of the sufficiency of any safeguard rests with the director of the department of labor and industries.

(16) "Suitable" means that which fits, or has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

(17) "Working day" means a calendar day, except Saturdays, Sundays, and legal holidays as set forth in RCW 1.16.050, as now or hereafter amended, and for the purposes of the computation of time within which an act is to be done under the provisions of this chapter, shall be computed by excluding the first working day and including the last working day.

(18) "Worker," "personnel," "person," "employee," and other terms of like meaning, unless the context of the provision containing such term indicates otherwise, mean an employee of an employer who is employed in the business of his/her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is his/her personal labor for an employer whether by manual labor or otherwise.

(19) "Work place" means any plant, yard, premises, room, or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control, and includes, but is not limited to, all work places covered by industrial insurance under Title 51 RCW, as now or hereafter amended.

(20) Abbreviations used in this chapter:

(a) "ANSI" means American National Standards Institute.

(b) "API" means American Petroleum Institute.

(c) "ASA" means American Standards Association.

(d) "ASAE" means American Society of Agricultural Engineers.

(e) "ASHRE" means American Society of Heating and Refrigeration Engineers.

(f) "ASME" means American Society for Mechanical Engineers.

(g) "ASTM" means American Society for Testing and Materials.

(h) "AWS" means American Welding Society.

(i) "BTU" means British thermal unit.

(j) "BTUH" means British thermal unit per hour.

(k) "CFM" means cubic feet per minute.

(l) "CFR" means Code of Federal Regulations.

(m) "CGA" means Compressed Gas Association.

(n) "CIE" means Commission Internationale de l'Eclairage.

(o) "DOT" means department of transportation.

(p) "FRP" means fiberglass reinforced plastic.

(q) "GPM" means gallons per minute.

(r) "ICC" means Interstate Commerce Commission.

(s) "ID" means inside diameter.

(t) "LPG" means liquefied petroleum gas.

(u) "MCA" means Manufacturing Chemist Association. (New name: Chemical Manufacturers Association.)

(v) "NBFU" means National Board of Fire Underwriters.

(w) "NEMA" means National Electrical Manufacturing Association.

(x) "NFPA" means National Fire Protection Association.

(y) "NTP" means normal temperature and pressure.

(z) "OD" means outside diameter.

(aa) "PSI" means pounds per square inch.

(bb) "PSIA" means pounds per square inch atmospheric.

(cc) "PSIG" means pounds per square inch gauge.

(dd) "RMA" means Rubber Manufacturers Association.

(ee) "SAE" means Society of Automotive Engineers.

(ff) "TFI" means The Fertilizer Institute.

(gg) "TSC" means Trailer Standard Code.

(hh) "UL" means Underwriters' Laboratories, Inc.

(ii) "USASI" means United States of America Standards Institute.

(jj) "USC" means United States Code.

(kk) "USCG" means United States Coast Guard.

(ll) "WAC" means Washington Administrative Code.

(mm) "WISHA" means Washington Industrial Safety and Health Act of 1973.

((PART B-1

~~TEMPORARY LABOR CAMPS AND NONWATER-CARRIAGE DISPOSAL SYSTEMS))~~

PART E

HAZARDOUS MATERIALS, FLAMMABLE AND COMBUSTIBLE LIQUIDS, SPRAY FINISHING (~~G-DIP-TANKS~~))

Hazardous Materials

AMENDATORY SECTION (Amending Order 81-32, filed 12/24/81)

WAC 296-24-56527 Fire alarm signaling systems. The employer shall assure that fire alarm signaling systems are maintained and tested in accordance with the requirements of WAC ((296-24-63107)) 296-800-31080.

AMENDATORY SECTION (Amending Order 81-32, filed 12/24/81)

WAC 296-24-61703 General requirements. (1) Fixed extinguishing system components and agents shall be designed and approved for use on the specific fire hazards they are expected to control or extinguish.

(2) If for any reason a fixed extinguishing system becomes inoperable, the employer shall notify employees and take the necessary temporary precautions to assure their safety until the system is restored to operating order. Any defects or impairments shall be properly corrected by trained personnel.

(3) The employer shall provide a distinctive alarm or signaling system which complies with WAC (~~296-24-631~~) 296-800-310, and is capable of being perceived above ambient noise or light levels, on all extinguishing systems in those portions of the workplace covered by the extinguishing system to indicate when the extinguishing system is discharging. Discharge alarms are not required on systems where discharge is immediately recognizable.

(4) The employer shall provide effective safeguards to warn employees against entry into discharge areas where the atmosphere remains hazardous to employee safety or health.

(5) The employer shall post hazard warning or caution signs at the entrance to, and inside of, areas protected by fixed extinguishing systems which use agents in concentrations known to be hazardous to employee safety and health.

(6) The employer shall assure that fixed systems are inspected annually by a person knowledgeable in the design and function of the system to assure that the system is maintained in good operating condition.

(7) The employer shall assure that the weight and pressure of refillable containers is checked at least semiannually. If the container shows a loss in net content or weight of more than five percent, or a loss in pressure of more than ten percent, it shall be subjected to maintenance.

(8) The employer shall assure that factory charged non-refillable containers which have no means of pressure indication are weighed at least semiannually. If a container shows a loss in net weight of more than five percent it shall be replaced.

(9) The employer shall assure that inspection and maintenance dates are recorded on the container, on a tag attached to the container, or in a central location. A record of the last semiannual check shall be maintained until the container is checked again or for the life of the container, whichever is less.

(10) The employer shall train employees designated to inspect, maintain, operate, or repair fixed extinguishing systems and annually review their training to keep them up-to-date in the functions they are to perform.

(11) The employer shall not use chlorobromomethane or carbon tetrachloride as an extinguishing agent where employees may be exposed.

(12) The employer shall assure that systems installed in the presence of corrosive atmospheres are constructed of noncorrosive material or otherwise protected against corrosion.

(13) Automatic detection equipment shall be approved, installed and maintained in accordance with WAC 296-24-629.

(14) The employer shall assure that all systems designed for and installed in areas with climatic extremes shall operate effectively at the expected extreme temperatures.

(15) The employer shall assure that at least one manual station is provided for discharge activation of each fixed extinguishing system.

(16) The employer shall assure that manual operating devices are identified as to the hazard against which they will provide protection.

(17) The employer shall provide and assure the use of the personal protective equipment needed for immediate rescue of employees trapped in hazardous atmospheres created by an agent discharge.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-63399 Appendix C—Fire protection references for further information. (1) Appendix general references. The following references provide information which can be helpful in understanding the requirements contained in all of the sections of Part G:

(a) Fire Protection Handbook, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(b) Accident Prevention Manual for Industrial Operations, National Safety Council, 444 North Michigan Avenue, Chicago, IL 60611.

(c) Various associations also publish information which may be useful in understanding these standards. Examples of these associations are: Fire Equipment Manufacturers Association (FEMA) of Cleveland, OH 44115-2851, and the National Association of Fire Equipment Distributors (NAFED) of Chicago, IL 60611-4267.

(2) Appendix references applicable to individual sections. The following references are grouped according to individual sections contained in Part G. These references provide information which may be helpful in understanding and implementing the standards of each section of Part G.

(a) WAC 296-24-58505 - Fire brigades:

(i) Private Fire Brigades, NFPA 27; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ii) Initial Fire Attack, Training Standard On, NFPA 197; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iii) Fire Fighter Professional Qualifications, NFPA 1001; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iv) Organization for Fire Services, NFPA 1201; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(v) Organization of a Fire Department, NFPA 1202; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vi) Protective Clothing for Structural Fire Fighting, ANSI/NFPA 1971; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vii) American National Standards Institute for Men's Safety-Toe Footwear, ANSI Z41.1; American National Standards Institute, New York, NY 10036.

(viii) American National Standards Institute for Occupational and Educational Eye and Face Protection, ANSI Z87.1; American National Standards Institute, New York, NY 10036.

(ix) American National Standards Institute, Safety Requirements for Industrial Head Protection, ANSI Z89.1; American National Standards Institute, New York, NY 10036.

(x) Specifications for Protective Headgear for Vehicular Users, ANSI Z90.1; American National Standards Institute, New York, NY 10036.

(xi) Testing Physical Fitness; Davis and Santa Maria, Fire Command, April 1975.

(xii) Development of a Job-Related Physical Performance Examination for Fire Fighters; Dotson and Others. A summary report for the National Fire Prevention and Control Administration, Washington, D.C., March 1977.

(xiii) Proposed Sample Standards for Fire Fighters' Protective Clothing and Equipment; International Association of Fire Fighters, Washington, D.C. 20006-5395.

(xiv) A Study of Facepiece Leakage of Self-Contained Breathing Apparatus by DOP Man Tests; Los Alamos National Laboratory, Los Alamos, N.M.

(xv) The Development of Criteria for Fire Fighters' Gloves; Vol. II: Glove Criteria and Test Methods; National Institute for Occupational Safety and Health, Cincinnati, Ohio, 1976.

(xvi) Model Performance Criteria for Structural Fire Fighters' Helmets; National Fire Prevention and Control Administration, Washington, D.C., 1977.

(xvii) Fire Fighters; Job Safety and Health Magazine, Occupational Safety and Health Administration, Washington, D.C., June 1978.

(xviii) Eating Smoke—The Dispensable Diet; Utech, H.P. The Fire Independent, 1975.

(xix) Project Monoxide—A Medical Study of an Occupational Hazard of Fire Fighters; International Association of Fire Fighters, Washington, D.C. 20006-5395.

(xx) Occupational Exposures to Carbon Monoxide in Baltimore Fire Fighters; Radford Baltimore, MD. Journal of Occupational Medicine, September, 1976.

(xxi) Fire Brigades; National Safety Council, Chicago, IL 60611, 1966.

(xxii) American National Standards Institute, Practice for Respiratory Protection for the Fire Service, ANSI Z88.5; American National Standards Institute, New York, NY 10036.

(xxiii) Respirator Studies for the Nuclear Regulatory Commission; October 1, 1977—September 30, 1978. Evaluation and Performance of Open-Circuit Breathing Apparatus. NUREG/CR-1235. Los Alamos National Laboratory; Los Alamos, NM 87545, January, 1980.

(b) WAC 296-24-592 - Portable fire extinguishers:

(i) Standard for Portable Fire Extinguishers, ANSI/NFPA 10; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

(ii) Methods for Hydrostatic Testing of Compressed-Gas Cylinders, C-1; Compressed Gas Association, 1725 Jefferson Davis Highway, Arlington, VA 22202-4100.

(iii) Recommendations for the Disposition of Unserviceable Compressed-Gas Cylinders, C-2; Compressed Gas Association, 1725 Jefferson Davis Highway, Arlington, VA 22202-4100.

(iv) Standard for Visual Inspection of Compressed-Gas Cylinders, C-6; Compressed Gas Association, 1725 Jefferson Davis Highway, Arlington, VA 22202-4100.

(v) Portable Fire Extinguisher Selection Guide, National Association of Fire Equipment Distributors, 401 North Michigan Avenue Chicago, IL 60611-4267.

(c) WAC 296-24-602 - Standpipe and hose systems:

(i) Standard for the Installation of Sprinkler Systems, ANSI/NFPA 13; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ii) Standard of the Installation of Standpipe and Hose Systems, ANSI/NFPA 14; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iii) Standard for the Installation of Centrifugal Fire Pumps, ANSI/NFPA 20; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iv) Standard for Water Tanks for Private Fire Protection, ANSI/NFPA 22; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(v) Standard for Screw Threads and Gaskets for Fire Hose Connections, ANSI/NFPA 194; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vi) Standard for Fire Hose, NFPA 196; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vii) Standard for the Care of Fire Hose, NFPA 198; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(d) WAC 296-24-607 - Automatic sprinkler systems:

(i) Standard of the Installation of Sprinkler Systems, ANSI/NFPA 13; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ii) Standard for the Care and Maintenance of Sprinkler Systems, ANSI/NFPA 13A; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iii) Standard for the Installation of Standpipe and Hose Systems, ANSI/NFPA 14; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iv) Standard for the Installation of Centrifugal Fire Pumps, ANSI/NFPA 20; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(v) Standard for Water Tanks for Private Fire Protection, ANSI/NFPA 22; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vi) Standard for Indoor General Storage, ANSI/NFPA 231; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vii) Standard for Rack Storage of Materials, ANSI/NFPA 231C; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(e) WAC 296-24-617 - Fixed extinguishing systems, general information:

(i) Standard for Foam Extinguishing Systems, ANSI/NFPA 11; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ii) Standard for Hi-Expansion Foam Systems, ANSI/NFPA 11A; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iii) Standard on Synthetic Foam and Combined Agent Systems, ANSI/NFPA 11B; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iv) Standard on Carbon Dioxide Extinguishing Systems, ANSI/NFPA 12; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(v) Standard on Halon 1301, ANSI/NFPA 12A; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vi) Standard on Halon 1211, ANSI/NFPA 12B; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vii) Standard for Water Spray Systems, ANSI/NFPA 15; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(viii) Standard for Foam-Water Sprinkler Systems and Foam-Water Spray Systems, ANSI/NFPA 16; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ix) Standard for Dry Chemical Extinguishing Systems, ANSI/NFPA 17; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(f) WAC 296-24-622 - Fixed extinguishing systems, dry chemical:

(i) Standard for Dry Chemical Extinguishing Systems, ANSI/NFPA 17; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ii) National Electrical Code, ANSI/NFPA 70; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iii) Standard for the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapor from Commercial Cooling Equipment, NFPA 96; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(g) WAC 296-24-623 - Fixed extinguishing systems, gaseous agents:

(i) Standard on Carbon Dioxide Extinguishing Systems, ANSI/NFPA 12; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ii) Standard on Halon 1301, ANSI/NFPA 12B; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iii) Standard on Halon 1211, ANSI/NFPA 12B; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iv) Standard on Explosion Prevention Systems, ANSI/NFPA 69; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(v) National Electrical Code, ANSI/NFPA 70; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vi) Standard on Automatic Fire Detectors, ANSI/NFPA 72E; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vii) Determination of Halon 1301/1211 Threshold Extinguishing Concentrations Using the Cup Burner Method, Riley and Olson, Ansul Report AL-530-A.

(h) WAC 296-24-627 - Fixed extinguishing systems, water spray and foam agents:

(i) Standard for Foam Extinguisher Systems, ANSI/NFPA 11; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ii) Standard for High-Expansion Foam Systems, ANSI/NFPA 11A; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iii) Standard for Water Spray Fixed Systems for Fire Protection, ANSI/NFPA 15; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iv) Standard for the Installation of Foam-Water Sprinkler Systems and Foam-Water Spray Systems, ANSI/NFPA 16; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(i) WAC 296-24-629 - Fire detection systems:

(i) National Electrical Code, ANSI/NFPA 70; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ii) Standard for Central Station Signaling Systems, ANSI/NFPA 71; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iii) Standard on Automatic Fire Detectors, ANSI/NFPA 72E; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(j) WAC ((296-24-631)) 296-800-310 - Employee alarm systems:

(i) National Electrical Code, ANSI/NFPA 70; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(ii) Standard for Central Station Signaling Systems, ANSI/NFPA 71; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iii) Standard for Local Protective Signaling Systems, ANSI/NFPA 72A; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(iv) Standard for Auxiliary Protective Signaling Systems, ANSI/NFPA 72B; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(v) Standard for Remote Station Protective Signaling Systems, ANSI/NFPA 72C; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vi) Standard for Proprietary Protective Signaling Systems, ANSI/NFPA 72D; National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.

(vii) Vocal Emergency Alarms in Hospitals and Nursing Facilities: Practice and Potential, National Institute of Standards and Technology, Quince Orchard and Clopper Roads, Gaithersburg, MD 20899-0011, July, 1977.

(viii) Fire Alarm and Communication Systems, National Institute of Standards and Technology, Quince Orchard and Clopper Roads, Gaithersburg, MD 20899-0011, April, 1976.

AMENDATORY SECTION (Amending Order 90-18, filed 1/10/91, effective 2/12/91)

WAC 296-24-75011 Railing, toeboards, and cover specifications. (1) A standard railing shall consist of top rail, intermediate rail, and posts, and shall have a vertical height of ~~((from thirty-six to))~~ forty-two inches ~~((nominal))~~, plus or minus three inches, from upper surface of top rail to floor, platform, runway, or ramp level and:

(a) The top rail shall be smooth-surfaced throughout the length of the railing.

(b) The intermediate rail shall be approximately halfway between the top rail and the floor, platform, runway, or ramp.

(c) The ends of the rails shall not overhang the terminal posts except where such overhang does not constitute a projection hazard.

(d) Guardrails with heights greater than 42 inches are permissible provided the extra height does not create a dangerous situation for employees and that additional mid-rails were installed so that openings beneath the top rail would not permit the passage of a 19-inch or larger spherical object.

(2) A stair railing shall be of construction similar to a standard railing but the vertical height shall be not more than thirty-four inches nor less than thirty inches from upper surface of top rail to surface of tread in line with face of riser at forward edge of tread.

(3) Minimum requirements for standard railings under various types of construction are specified in this subsection. Dimensions specified are based on the U.S. Department of Agriculture Wood Handbook, No. 72, 1955 (No. 1 (S4S) Southern Yellow Pine (Modulus of Rupture 7,400 p.s.i.)) for wood; ANSI G 41.5-1970, American National Standard Specifications for Structural Steel, for structural steel; and ANSI B 125.1-1970, American National Standard Specifications for Welded and Steamless Steel Pipe, for pipe.

(a) For wood railings, the posts shall be of at least two-inch by four-inch nominal stock spaced not to exceed six feet; the top and intermediate rails shall be of at least two-inch by four-inch nominal stock. If top rail is made of two right-angle pieces of one-inch by four-inch stock, posts may be spaced on eight-foot centers, with two-inch by four-inch intermediate rail.

(b) For pipe railings, posts and top and intermediate railings shall be at least one and one-half inches nominal diameter (outside diameter) with posts spaced not more than eight feet on centers.

(c) For structural steel railings, posts and top and intermediate rails shall be of two-inch by two-inch by three-eighths-inch angles or other metal shapes of equivalent bending strength with posts spaced not more than eight feet on centers.

(d) The anchoring of posts and framing of members for railings of all types shall be of such construction that the completed structure shall be capable of withstanding a load of at least two hundred pounds applied in any direction at any point on the top rail.

(e) Other types, sizes, and arrangements of railing construction are acceptable provided they meet the following conditions:

(i) A smooth-surfaced top rail at a height above floor, platform, runway, or ramp level of from thirty-six to forty-two inches nominal;

(ii) A strength to withstand at least the minimum requirement of two hundred pounds top rail pressure;

(iii) Protection between top rail and floor, platform, runway, ramp, or stair treads, equivalent at least to that afforded by a standard intermediate rail;

(iv) Elimination of overhang of rail ends unless such overhang does not constitute a hazard; such as, baluster railings, scrollwork railings, paneled railings.

(4) A standard toeboard shall be a minimum of four inches nominal in vertical height from its top edge to the level of the floor, platform, runway, or ramp. It shall be securely fastened in place and with not more than one-quarter-inch clearance above floor level. It may be made of any substantial material either solid or with openings not over one inch in greatest dimension.

Where material is piled to such height that a standard toeboard does not provide protection, paneling from floor to intermediate rail, or to top rail shall be provided.

(5) A handrail shall consist of a lengthwise member mounted directly on a wall or partition by means of brackets attached to the lower side of the handrail so as to offer no obstruction to a smooth surface along the top and both sides of the handrail. The handrail shall be of rounded or other section that will furnish an adequate handhold for anyone grasping it to avoid falling. The ends of the handrail should be turned in to the supporting wall or otherwise arranged so as not to constitute a projection hazard.

(a) The height of handrails shall be not more than thirty-four inches nor less than thirty inches from upper surface of handrail to surface of tread in line with face of riser or to surface of ramp.

(b) The size of handrails shall be: When of hardwood, at least two inches in diameter; when of metal pipe, at least one and one-half inches in diameter. The length of brackets shall be such as will give a clearance between handrail and wall or any projection thereon of at least one and one-half inches. The spacing of brackets shall not exceed eight feet.

(c) The mounting of handrails shall be such that the completed structure is capable of withstanding a load of at least two hundred pounds applied in any direction at any point on the rail.

(6) All handrails and railings shall be provided with a clearance of not less than one and one-half inches between the handrail or railing and any other object.

(7) Floor opening covers may be of any material that meets the following strength requirements:

(a) Trench or conduit covers and their supports, when located in plant roadways, shall be designed to carry a truck rear-axle load of at least twenty thousand pounds.

(b) Manhole covers and their supports, when located in plant roadways, shall comply with local standard highway requirements if any; otherwise, they shall be designed to carry a truck rear-axle of at least twenty thousand pounds.

(c) The construction of floor opening covers may be of any material that meets the strength requirements. Covers projecting not more than one inch above the floor level may be used providing all edges are chamfered to an angle with

the horizontal of not over thirty degrees. All hinges, handles, bolts, or other parts shall set flush with the floor or cover surface.

(8) Skylight screens shall be of such construction and mounting that they are capable of withstanding a load of at least two hundred pounds applied perpendicularly at any one area on the screen. They shall also be of such construction and mounting that under ordinary loads or impacts, they will not deflect downward sufficiently to break the glass below them. The construction shall be of grillwork with openings not more than four inches long or of slatwork with openings not more than two inches wide with length unrestricted.

(9) Wall opening barriers (rails, rollers, picket fences, and half doors) shall be of such construction and mounting that, when in place at the opening, the barrier is capable of withstanding a load of at least two hundred pounds applied in any direction (except upward) at any point on the top rail or corresponding member.

(10) Wall opening grab handles shall be not less than twelve inches in length and shall be so mounted as to give one and one-half inches clearance from the side framing of the wall opening. The size, material, and anchoring of the grab handle shall be such that the completed structure is capable of withstanding a load of at least two hundred pounds applied in any direction at any point of the handle.

(11) Wall opening screens shall be of such construction and mounting that they are capable of withstanding a load of at least two hundred pounds applied horizontally at any point on the near side of the screen. They may be of solid construction, of grillwork with openings not more than eight inches long, or of slatwork with openings not more than four inches wide with length unrestricted.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-24-95603 Electric utilization systems. (1)

Scope.

(a) **Covered.** The provisions of WAC 296-24-95603 through 296-24-985 cover electrical installations and utilization equipment installed or used within or on buildings, structures, and other premises including:

- (i) Yards;
- (ii) Carnivals;
- (iii) Parking and other lots;
- (iv) Mobile homes;
- (v) Recreational vehicles;
- (vi) Industrial substations under 750 volts. Chapter ~~((296-44)) 296-45~~ WAC, Safety standards ~~((—))~~ for electrical ~~((Construction Code))~~ workers, shall apply to industrial substations of 750 volts or more;

(vii) Conductors that connect the installations to a supply of electricity; and

(viii) Other outside conductors on the premises.

(b) **Not covered.** The provisions of WAC 296-24-95603 through 296-24-985 do not cover:

(i) Installations in ships, watercraft, railway rolling stock, aircraft, or automotive vehicles other than mobile homes and recreational vehicles.

(ii) Installations underground in mines.

(iii) Installations of railways for generation, transformation, transmission, or distribution of power used exclusively for operation of rolling stock or installations used exclusively for signaling and communication purposes.

(iv) Installations of communication equipment under the exclusive control of communication utilities, located outdoors or in building spaces used exclusively for such installations.

(v) Installations under the exclusive control of electric utilities for the purpose of communication or metering; or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, etc., or outdoors by established rights on private property.

(2) Extent of application.

(a) The requirements contained in the sections listed below shall apply to all electrical installations and utilization equipment, regardless of when they were designed or installed:

Sections:

WAC 296-24-95605	(2)	Examination, installation, and use of equipment.
"	"	(3) Splices.
"	"	(4) Arcing parts.
"	"	(5) Marking.
"	"	(6) Identification of disconnecting means.
"	"	(7)(b) Guarding of live parts.
WAC 296-24-95607	(5)(a)(i)	Protection of conductors and equipment.
"	"	(5)(a)(iv) Location in or on premises.
"	"	(5)(a)(v) Arcing or suddenly moving parts.
"	"	(6)(a)(ii) 2-Wire DC systems to be grounded.
"	"	(6)(a)(iii) and
"	"	(iv) AC systems to be grounded.
"	"	(6)(a)(v) AC systems 50 to 1000 volts not required to be grounded.
"	"	(6)(c) Grounding connections.
"	"	(6)(d) Grounding path.
WAC 296-24-95607	(6)(e)(iv)	(A) through (D) . . Fixed equipment required to be grounded.
"	"	(6)(e)(v) Grounding of equipment connected by cord and plug.
"	"	(6)(e)(vi) Grounding or nonelectrical equipment.
"	"	(6)(f)(i) Methods of grounding fixed equipment.
WAC 296-24-95609	(7)(a)(i) and (ii) . .	Flexible cords and cables, uses.
"	"	(7)(a)(iii) Flexible cords and cables prohibited.
"	"	(7)(b)(ii) Flexible cords and cables, splices.
"	"	(7)(b)(iii) Pull at joints and terminals of flexible cords and cables.
WAC 296-24-95613	Hazardous (classified) locations.

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(b) Every electric utilization system and all utilization equipment installed after March 15, 1972, and every major replacement, modification, repair, or rehabilitation, after March 15, 1972, of any part of any electric utilization system or utilization equipment installed before March 15, 1972, shall comply with the provisions of WAC 296-24-956 through 296-24-985.

Note: "Major replacements, modifications, repairs, or rehabilitations" include work similar to that involved when a new building or facility is built, a new wing is added, or an entire floor is renovated.

(c) The following provisions apply to electric utilization systems and utilization equipment installed after April 16, 1981:

- WAC 296-24-95605 (8)(d)(i) and (ii) . . . Entrance and access to work space (over 600 volts).
- WAC 296-24-95607 (5) (a)(vi)(B) Circuit breakers operated vertically.
- " " (5)(a)(vi)(C) Circuit breakers used as switches.
- " " (6)(g)(ii) Grounding of systems of 1000 volts or more supplying portable or mobile equipment.
- WAC 296-24-95609 (10)(f)(ii)(B) Switching series capacitors over 600 volts.
- WAC 296-24-95611 (3)(b) Warning signs for elevators and escalators.
- " " (9) Electrically controlled irrigation machines.
- " " (10)(e) Ground-fault circuit interrupters for fountains.
- WAC 296-24-95615 (1)(a)(ii) Physical protection of conductors over 600 volts.
- " " (3)(b) Marking of Class 2 and Class 3 power supplies.
- " " (4) Fire protective signaling circuits.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-24-120 Sanitation.

**WSR 04-07-163
PERMANENT RULES
DEPARTMENT OF CORRECTIONS**

[Filed March 23, 2004, 2:08 p.m.]

Date of Adoption: March 23, 2004.

Purpose: The amendments make the possession of tobacco, or trafficking in tobacco products or paraphernalia an infraction.

Citation of Existing Rules Affected by this Order: Amending WAC 137-28-260.

Statutory Authority for Adoption: RCW 72.01.090, 72.09.130, and 9.94.070.

Adopted under notice filed as WSR 04-05-076 on February 17, 2004.

Changes Other than Editing from Proposed to Adopted Version: An editing change has been made to infraction #563. The proscribed activity has been clarified and contained within one infraction, #606. The proposed changes to #707 have been withdrawn.

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 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 23, 2004

Eldon Vail

for Joseph D. Lehman

Secretary

AMENDATORY SECTION (Amending WSR 02-12-023, filed 5/28/02, effective 6/28/02)

WAC 137-28-260 Serious infractions.

(1) Assault/threatening actions/causing injury to another person

- 501 - Committing homicide.
- 502 - Aggravated assault on another offender.
- 503 - Extortion, blackmail, or demanding or receiving money or anything of value in return for protection against others, or under threat of informing.
- 505 - Fighting with any person.
- 506 - Threatening another with bodily harm or with any offense against another person, property or family.
- 508 - Throwing objects, materials, substances or spitting at staff, visitors, or other inmates.
- 511 - Aggravated assault on a visitor.
- 521 - Taking or holding any person hostage.
- 588 - Causing a valid and documented threat of transmission of a contagious disease to any person due to intentional, negligent or reckless action.
- 604 - Aggravated assault on a staff member.
- 611 - Sexual assault on a staff member.

- 633 - Assault on another offender.
- 635 - Sexual assault on another offender.
- 663 - Using physical force, intimidation or coercion against any person.
- 704 - Assault on a staff member.
- 711 - Assault on a visitor.
- 717 - Causing a threat of injury to another person by resisting orders, resisting assisted movement or physical efforts to restrain.
- 777 - Causing injury to another person by resisting orders, resisting assisted movement or physical efforts to restrain.

Unauthorized possession

- 559 - Gambling; possession of gambling paraphernalia.
- 601 - Possession, manufacture or introduction of an explosive device or any ammunition, or any components of an explosive device or ammunition.
- 602 - Possession, manufacture or introduction of any gun, firearm, weapon, sharpened instrument, knife, or poison or any components thereof.
- 620 - Receipt or possession of contraband during participation in off-grounds or outer perimeter activity or work detail.
- 660 - Unauthorized possession of money, stamps, or negotiable instruments, the value of which is five dollars or more.
- 702 - Possession, manufacture or introduction of an unauthorized tool.
- 736 - Possession, manufacture or introduction of unauthorized keys.
- 738 - Possession of the clothing of a staff member.
- 739 - Possession of personal information about currently employed staff, contractors or volunteers, or their immediate family members, not voluntarily given to the offender by the individual involved, including, but not limited to: Social Security numbers, unpublished home addresses or telephone numbers, drivers license numbers, medical, personnel, financial or real estate records, bank or credit card numbers, or other like information not authorized by the court or the superintendent.

Tattooing

- 710 - Being tattooed while incarcerated, tattooing another, or possessing tattoo paraphernalia.

Theft/possession of stolen property

- 555 - Theft of property or possession of stolen property.
- 741 - Theft of food, the value of which is more than five dollars.

- 755 - Misuse or waste of issued supplies, goods, services or property, the replacement value of which is ten dollars or more.

Forgery

- 654 - Counterfeiting, forging, altering or unauthorized reproduction of any document, article of identification, money, security, or official paper.

Setting fire, damaging or destroying property

- 553 - Setting a fire.
- 554 - Mutilating, altering, defacing or destroying any item, the value of which is ten dollars or more and that is not the personal property of the inmate.
- 563 - Making a false fire alarm ((~~of~~)), tampering ((~~with~~)), damaging, blocking or interfering with fire alarms, fire extinguishers, fire hoses, fire exits, or other fire fighting equipment or devices.
- 600 - Tampering with, damaging, blocking, or interfering with any locking or security device.
- 720 - Flooding a cell or other area of the institution.

Inciting others/participation in unacceptable group behavior

- 650 - Rioting.
- 651 - Inciting others to riot.
- 652 - Engaging in or inciting a group demonstration.
- 682 - Engaging in or inciting an organized work stoppage.
- 708 - Organizing or participating in an unauthorized group activity or meeting.
- 734 - Participating or engaging in the activities of any unauthorized club, organization, gang or security threat group; or wearing or possessing the symbols of an unauthorized club, organization, gang or security threat group.
- 746 - Engaging in or inciting an organized hunger strike.

Inappropriate sexual behavior

- 504 - Engaging in sexual acts with others with the exception of spouses during approved extended family visits.
- 659 - Sexual harassment; any word, action, gesture or other behavior that is sexual in nature and that would be offensive to a reasonable person.
- 728 - Possession of any written, photographic or hand-drawn material that depicts a sexually explicit act as defined in WAC 137-28-160.
- 750 - Indecent exposure.

Providing false statements

- 551 - Providing false information to a disciplinary hearing officer or on a disciplinary appeal.

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- 552 - Causing an innocent person to be penalized or proceeded against by providing false information.
- 706 - Giving false information about proposed community residence when proposing a release plan, community placement, etc.

Interfering with staff/impersonating

- 558 - Interfering with staff members, medical personnel, fire fighters, or law enforcement personnel in the performance of their duties.
- 605 - Impersonating any staff member, other inmate or visitor.

Failure to follow orders and rules

- 509 - Refusing a direct order by any staff member to proceed to or disperse from a particular area.
- 556 - Refusing to submit to or cooperate in a search when ordered to do so by a staff member.
- 557 - Refusing to participate in an available education or work program or other mandatory programming assignment.
- 609 - Refusing or failing to submit to testing required by policy, statute, or court order, such as DNA blood tests, when ordered to do so by a staff member.
- 658 - Failing to comply with any administrative or posthearing sanction imposed for committing any general or serious infraction.
- 724 - Refusing a cell or housing assignment.
- 745 - Refusing a transfer to another facility.

Counts/unauthorized absence

- 653 - Causing an inaccurate count by means of unauthorized absence, hiding, concealing ones self or other form of deception or distraction.

Escape/attempted escape

- 525 - Violating conditions of furlough.
- 550 - Escape or attempted escape.
- 560 - Unauthorized possession of items or materials likely to be used in an escape attempt.

Committing crimes/excess infractions

- 507 - Committing any act that is a felony under state or federal law that is not otherwise included in these rules.
- 517 - Committing any act that is a misdemeanor under local, state, or federal law that is not otherwise included in these rules.
- 657 - Being found guilty of four or more general infractions which have been reported in writing arising out of separate incidents, all of which occur within a six-month period.

Unacceptable communication

- 718 - Use of mail or telephone in violation of court order or local, state or federal law.
- 726 - Telephoning or sending written communication or otherwise initiating communication with a minor without the approval of that minor's parent or guardian.
- 727 - Telephoning or sending written communications to any person contrary to previous written warnings and/or documented disciplinary actions.

Misuse of controlled substances, drugs, alcohol and related programs

- 603 - Possession, introduction, or transfer of any narcotic, controlled substance, illegal drug, unauthorized drug or drug paraphernalia.
- 606 - Possession ((~~of~~)), introduction or transfer of any tobacco, tobacco products ((and/or)), matches ((in close/maximum housing units where strictly prohibited)), or tobacco paraphernalia.
- 607 - Refusing to submit to a urinalysis and/or failure to provide a urine sample when ordered to do so by a staff member.
- 608 - Refusing or failing to submit to a breathalyzer or other standard sobriety test when ordered to do so by a staff member.
- 610 - Unauthorized accumulation of prescribed medication greater than a single or daily dose.
- 655 - Making intoxicants, alcohol, controlled substances, narcotics, or the possession of ingredients, equipment, items, formulas or instructions that are used in making intoxicants, alcohol, controlled substances, or narcotics.
- 707 - Possession, introduction, or transfer of any alcoholic or intoxicating beverage.
- 716 - Unauthorized use of drugs, alcohol or other intoxicants.
- 752 - Receiving a positive test for use of unauthorized drugs, alcohol, or other intoxicants.

Soliciting/fraud

- 656 - Giving, offering or receiving from any person a bribe or anything of value for an unauthorized favor or service.
- 662 - Soliciting goods or services for which the provider would expect payment when the inmate knows or should know that no funds are available to pay for those goods or services.

- 714 - Giving, selling, borrowing, lending, or trading money or anything of value to, or accepting or purchasing money or anything of value from, another inmate or that inmate's friend(s) or family, the value of which is ten dollars or more.
- 740 - Fraud, embezzlement, or obtaining goods, services, money, or anything of value under false pretense.

Creating an emergency situation

- 712 - Attempted suicide or self-mutilation.
- 742 - Creating a false emergency by feigning illness when contrary to medical/mental health screening results.
- 744 - Making a bomb threat.
- (2) In determining whether a #728 infraction or a #328 infraction pursuant to WAC 137-28-220 should be charged, the infracting officer shall consider mitigating factors as defined in WAC 137-28-160.

WSR 04-07-168

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed March 23, 2004, 4:07 p.m.]

Date of Adoption: March 23, 2004.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-030 and 308-56A-040.

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 04-03-120 on January 21, 2004.

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 2, 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 23, 2004

James A. Fellows
for Fred Stephens
Director

AMENDATORY SECTION (Amending WSR 03-05-081, filed 2/19/03, effective 3/22/03)

WAC 308-56A-030 Owner name and address—Recorded on vehicle record—Application for certificate of ownership. (1) What registered owner and lien holder or secured party information is required on the vehicle record - application for certificate of ownership?

Effective April 23, 2004, the application for certificate of ownership must include:

(a) The name of each registered owner (individual(s) or business) of the vehicle and, if the vehicle is subject to a lien or other security interest, the name of each secured party;

(b) The registered owner's (~~mailing~~) primary residence street address; and

(c) The (~~first~~) primary secured party's mailing address.

(2) What does primary residence mean for an individual owner and a registered owner that is a business?

(a) "Primary residence" means the domicile of the registered owner.

(b) In the case of an individual, the term "domicile" means the person's true, fixed and permanent home and place of habitation in Washington. The department will presume that a registered owner's primary residence is the same as the address used in driver's license records and voter registration records.

(c) In the case of a business, the term "domicile" means the principal place in Washington from which the trade or business of the registered owner is directed, managed or conducted.

(3) Do the addresses for the application for certificate of ownership, vehicle record and registration need to conform to United States Postal Service (USPS) standards?

Yes. USPS address standards must be used on all vehicle records, registrations, and certificates of ownership.

~~((3) Can more than one mailing address be shown on the application if there are multiple owners with different addresses?)~~

~~No. The address of only one of the registered owners and the first secured party will be accepted on the application for certificate of ownership.)~~ **(4) Are there exceptions to the requirement to provide a primary residence street address?**

Yes. Exceptions will be made for:

(a) Overseas mailing addresses for military personnel, e.g., Army or Air Force Personnel Post Office (APO) or Fleet Post Office (FPO) will be accepted;

(b) Members of the address confidentiality program administered through the secretary of state's office; or

(c) Those who do not have USPS mail delivery available at their primary residence street address.

(5) Will the department renew a vehicle registration if the registered owner does not provide a primary residence street address?

No. For purposes of determining if local taxes are due, the registered owner's primary residence street address is required for vehicle registration renewals unless one of the exceptions specified in subsection (4) of this section is met and the completed and signed Certificate of Fact for Address Verification, in the form of a declaration under penalty of perjury, is filed with the department.

(6) What will the department do if it becomes aware that there is an error in the primary residence street address?

The department will flag the record and the registered owner will be required, prior to the time of next renewal, to provide information to reconcile any discrepancy.

(7) Can more than one address be shown on the vehicle record or application if there are multiple owners with different addresses?

No. Only one address for the registered owner will be shown on the vehicle record.

(8) Can more than one address be shown on the vehicle record of application if there is more than one secured party?

No. Only one address for the primary secured party will be shown on the vehicle record.

(9) Is the applicant or registered owner required to certify the truth of the information contained in the application for certificate of ownership or vehicle renewal?

Yes, the applicant or registered owner must complete and sign a Certificate of Fact for Address Verification, in the form of a declaration under penalty of perjury.

AMENDATORY SECTION (Amending WSR 03-05-081, filed 2/19/03, effective 3/22/03)

WAC 308-56A-040 Name and address—Change of address. (1) **If the owner's address changes, does the owner need to notify the department?**

Yes.

(2) What information does the owner need to provide to the department if their address changes?

The owner ((shall)) must provide the department with the following information:

- (a) The registered owner's name (individual(s) or business) as it appears on the ((department)) vehicle records;
- (b) The license plate number or vehicle identification number (VIN) of each vehicle;
- (c) The new street address for the primary residence as defined in WAC 308-56A-030(2) with at least a five digit zip code and preferably a nine digit zip code; and
- (d) The county of the new address.

(3) Are there exceptions to the requirement to provide a primary residence street address on the department's change of address form?

Yes. To be exempt from the requirement to provide the primary resident street address, the registered owner must complete and sign a Certificate of Fact for Address Verification, in the form of a declaration under penalty of perjury, that at least one of the exceptions in WAC 308-56A-030(4) is met. The department shall provide the required form of address verification.

(4) Does the address need to conform to United States Postal Service (USPS) standards?

Yes. USPS address standards must be used on all vehicle records, registrations, and certificates of ownership.

(5) Is the registered owner required to certify the truth of the information provided when using the department's change of address form?

Yes, the owner must sign the department's change of address form, which includes certification under penalty of perjury that the information provided is true and correct.

**WSR 04-07-192
PERMANENT RULES
BUILDING CODE COUNCIL**

[Filed March 24, 2004, 11:38 a.m., effective July 1, 2004]

Date of Adoption: March 23, 2004.

Purpose: To amend the Washington State Ventilation and Indoor Air Quality Code (chapter 51-13 WAC) to update standards and codes referenced within the document.

Citation of Existing Rules Affected by this Order: Chapter 51-13 WAC, amending WAC 51-13-106, 51-13-201, 51-13-302, 51-13-303, 51-13-304, 51-13-402, 51-13-502, and 51-13-503.

Statutory Authority for Adoption: RCW 19.27.190 and 19.27.020.

Other Authority: Chapters 19.27 and 34.05 RCW.

Adopted under notice filed as WSR 04-03-033 on January 14, 2004.

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 8, 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 8, 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: July 1, 2004.

March 23, 2004

Tim Nogler
for Stan Price
Council Chair

AMENDATORY SECTION (Amending WSR 98-02-047, filed 1/5/98, effective 7/1/98)

WAC 51-13-106 Conflicts with other codes.

106.1 Conflicts with Other Codes: In addition to the requirements of this Code, buildings must conform to the provisions of the State Building Code (chapter 19.27 RCW and chapters ((51-40, 51-42, 51-44 and 51-46)) 51-50, 51-52, 51-54 and 51-56 Washington Administrative Code). In case of conflicts between the ((Uniform)) International Building, Uniform Plumbing, ((Uniform)) International Mechanical, and ((Uniform)) International Fire Codes as adopted and amended in chapters ((51-40, 51-42, 51-44 and 51-46)) 51-50, 51-52, 51-54 and 51-56 Washington Administrative

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Code, the provisions of chapter 51-13 shall govern. This Code is not intended to abridge any safety or health requirements under any other applicable codes or ordinances.

Where, in any specific case, different sections of this Code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

Wherever in this Code reference is made to the appendix, the provisions of the appendix shall not apply unless specifically adopted.

106.2 Authority: Local legislative authorities are authorized and directed to enforce this Code. Local legislative authorities are authorized to promulgate, adopt, and issue those rules and regulations necessary for the effective and efficient administration of this Code.

AMENDATORY SECTION (Amending WSR 95-01-128, filed 12/21/94, effective 6/30/95)

WAC 51-13-201 General.

201.1 General: For the purposes of this Code, certain terms, phrases, words, and their derivatives shall be construed as specified in this section. Words used is the singular include the plural and the plural, the singular. Words used in the masculine gender include the feminine and feminine, the masculine.

Where terms are not defined in this section, the definitions shall be taken from Chapter 2 of the ~~((Uniform))~~ International Building Code.

Where terms are not defined in either this section or Chapter 2 of the ~~((Uniform))~~ International Building Code, ~~((they))~~ such terms shall have ~~((their ordinary))~~ ordinarily accepted meanings ~~((within))~~ such as the context ~~((with which they are used. Webster's Third International Dictionary of the English Language, Unabridged, copyrighted 1986, shall be considered as providing ordinarily accepted meanings))~~ implies.

AMENDATORY SECTION (Amending WSR 01-02-099, filed 1/3/01, effective 7/1/01)

WAC 51-13-302 Mechanical ventilation criteria using performance or design methods for Group R Occupancies four stories and less.

302.1 Applicability: Group R Occupancies four (4) stories and less as defined by the Washington State Building Code shall comply with either this section or Section 303.

302.1.1 Compliance by Calculations or Testing: Compliance with this section shall be demonstrated through engineering calculation or performance testing. Documentation of calculations or performance test results shall be submitted to the building official. Performance testing shall be conducted in accordance with recognized test methods.

302.1.2 Minimum Ventilation Performance: Each dwelling unit or guest room shall be equipped with source specific and whole house ventilation systems designed and installed to satisfy the ventilation requirements of this section.

All public corridors shall meet the ventilation requirements in section ~~((1203-3))~~ 1203 of the ~~((Uniform))~~ International Building Code.

302.2 Source Specific Ventilation Requirements.

302.2.1 Source Specific Ventilation: Source specific exhaust ventilation is required in each kitchen, bathroom, water closet, laundry room, indoor swimming pool, spa, and other rooms where excess water vapor or cooking odor is produced.

The minimum source specific ventilation effective exhaust capacity shall be not less than levels specified in Table 3-1.

302.2.2 Source Specific Ventilation Controls: Source specific ventilation systems shall be controlled by manual switches, dehumidistats, timers, or other approved means. Source specific ventilation system controls shall be readily accessible.

302.2.3 Source Specific Ventilation Ducts: Source specific ventilation ducts shall terminate outside the building. Exhaust ducts in systems which are designed to operate intermittently shall be equipped with back-draft dampers. All exhaust ducts in unconditioned spaces shall be insulated to a minimum of R-4. Terminal elements shall have at least the equivalent net free area of the duct work. Terminal elements for exhaust fan duct systems shall be screened or otherwise protected from entry by leaves or other material.

302.3 Requirements for Whole House Ventilation Systems.

302.3.1 Whole House Ventilation Systems: Each dwelling unit shall be equipped with a whole house ventilation system which shall be capable of providing the volume of outdoor air specified in Table 3-2 under normal operating conditions.

EXCEPTION: Maximum flow rates listed in Table 3-2 do not apply to heat recovery ventilation systems.

302.3.2 Whole House Ventilation System Controls: All ventilation system controls shall be readily accessible. Controls for whole house ventilation systems shall be capable of operating the ventilation system without energizing other energy-consuming appliances.

Intermittently operated whole house ventilation systems shall be constructed to have the capability for continuous operation, and shall have a manual control and an automatic control, such as a clock timer. At the time of final inspection, the automatic control timer shall be set to operate the whole house fan for at least eight hours a day. A label shall be affixed to the control that reads "Whole House Ventilation (see operating instructions)."

302.3.3 Fan Noise: Whole house fans located four feet or less from the interior grille shall have a sone rating of 1.5 or less measured at 0.1 inches water gauge. Manufacturer's noise ratings shall be determined as per HVI 915 (October 1995). Remotely mounted fans shall be acoustically isolated from the structural elements of the building and from attached duct work using insulated flexible duct or other approved material.

EXCEPTION: Whole house ventilation systems which are integrated with forced-air heating systems or heat-recovery ventilation systems are exempt from the sone rating requirements of this section.

302.3.4 Whole House Ventilation Ducts: All ducts shall terminate outside the building. Exhaust ducts in systems which are designed to operate intermittently shall be equipped with back-draft dampers. All exhaust ducts in unconditioned spaces shall be insulated to a minimum of R-4. All supply ducts in the conditioned space shall be insulated to a minimum of R-4.

302.3.5 Outdoor Air.

302.3.5.1 Outdoor Air Supply: A mechanical system shall supply outdoor air as required in Section 302.3.1. The mechanical system may consist of exhaust fans, supply fans, or both.

302.3.5.2 Outdoor Air Inlets: Inlets shall be screened or otherwise protected from entry by leaves or other material. Outdoor air inlets shall be located so as not to take air from the following areas:

- a) Closer than ten feet from an appliance vent outlet, unless such vent outlet is three feet above the outdoor air inlet.
- b) Where it will pick up objectionable odors, fumes, or flammable vapors.
- c) A hazardous or unsanitary location.
- d) A room or space having any fuel-burning appliances therein.
- e) Closer than ten feet from a vent opening of a plumbing drainage system unless the vent opening is at least three feet above the air inlet.
- f) Attic, crawl spaces, garages.

302.3.5.3 Outdoor Air Distribution: Outdoor air shall be distributed to each habitable room by means such as individual inlets, separate duct systems, or a forced-air system. Where outdoor air supplies are separated from exhaust points by doors, provisions shall be made to ensure air flow by installation of distribution ducts, undercutting doors, installation of grilles, transoms, or similar means where permitted by the ((Uniform)) International Building Code. Doors shall be undercut to a minimum of one-half inch above the surface of the finish floor covering.

302.3.5.4 Doors and operable lites in windows are deemed not to meet the outdoor air supply intake requirements.

302.3.5.5 Individual Room Outdoor Air Inlets: Where provided, individual room outdoor air inlets shall:

- a) Have controllable and secure openings;
- b) Be sleeved or otherwise designed so as not to compromise the thermal properties of the wall or window in which they are placed.

302.3.5.6 Ventilation Integrated with Forced-Air Systems: Where outdoor air is provided by a forced-air system, the outdoor air connection to the return air stream shall be located upstream of the forced-air system blower and shall not be connected directly into a furnace cabinet to prevent thermal shock to the heat exchanger.

AMENDATORY SECTION (Amending WSR 01-02-099, filed 1/3/01, effective 7/1/01)

WAC 51-13-303 Mechanical ventilation criteria using prescriptive methods for Group R Occupancies four stories and less.

303.1 Applicability: Group R Occupancies 4 stories or less shall comply with this section or Section 302. This section establishes minimum prescriptive design requirements for intermittently operated systems. Continuously operated systems shall comply with Section 302. A system which meets the requirements of this section shall be deemed to satisfy the requirements of this chapter.

303.2 Minimum Ventilation Performance: Each dwelling unit or guest room shall be equipped with source specific and whole house ventilation systems designed and installed to satisfy the ventilation requirements of this section. All public corridors shall meet the ventilation requirements in Section ((1203-3)) 1203 of the ((Uniform)) International Building Code.

303.3 Source Specific Exhaust Ventilation Requirements.

303.3.1 Source Specific Ventilation: Source specific exhaust ventilation is required in each kitchen, bathroom, water closet, laundry room, indoor swimming pool, spa, and other rooms where excess water vapor or cooking odor is produced. The minimum source specific ventilation effective exhaust capacity shall be not less than levels specified in Table 3-1.

303.3.2 Source Specific Exhaust Fans: Exhaust fans providing source specific ventilation shall have a minimum fan flow rating not less than 50 cfm at 0.25 inches water gauge for bathrooms, laundries, or similar rooms and 100 cfm at 0.25 inches water gauge for kitchens. Manufacturers' fan flow ratings shall be determined as per HVI 916 (April 1995) or AMCA 210.

EXCEPTION: Where a range hood or down draft exhaust fan is used to satisfy the source specific ventilation requirements for kitchens, the range hood or down draft exhaust shall not be less than 100 cfm at 0.10 inches water gauge.

303.3.3 Source Specific Ventilation Controls: Source specific ventilation systems shall be controlled by manual switches, dehumidistats, timers, or other approved means.

Source specific ventilation system controls shall be readily accessible.

303.3.4 Source Specific Ventilation Ducts: Source specific ventilation ducts shall terminate outside the building. Exhaust ducts shall be equipped with back-draft dampers. All exhaust ducts in unconditioned spaces shall be insulated to a minimum of R-4. Terminal elements shall have at least the equivalent net free area of the duct work. Terminal elements for exhaust fan duct systems shall be screened or otherwise protected from entry by leaves or other material.

303.4 Prescriptive Whole House Ventilation Systems: Whole house ventilation shall be provided by a system that meets the requirements of either Section 303.3.1, 303.3.2, 303.3.3, or 303.3.4. A system which meets all of the requirements of one of these sections shall be deemed to satisfy the requirements for a whole house ventilation system.

303.4.1 Intermittent Whole House Ventilation Using Exhaust Fans: This section establishes minimum prescriptive requirements for intermittent whole house ventilation systems using exhaust fans. A system which meets all the requirements of this section shall be deemed to satisfy the requirements for a whole house ventilation system.

303.4.1.1 Whole House Ventilation Fans: Exhaust fans providing whole house ventilation shall have a flow rating at 0.25 inches water gauge as specified in Table 3-2. Manufacturers' fan flow ratings shall be determined according to HVI 916 (April 1995) or AMCA 210.

303.4.1.2 Fan Noise: Whole house fans located four feet or less from the interior grille shall have a sone rating of 1.5 or less measured at 0.1 inches water gauge. Manufacturer's noise ratings shall be determined as per HVI 915 (October 1995). Remotely mounted fans shall be acoustically isolated from the structural elements of the building and from attached duct work using insulated flexible duct or other approved material.

303.4.1.3 Fan Controls: The whole house ventilation fan shall be controlled by a 24-hour clock timer with the capability of continuous operation, manual and automatic control. The 24-hour timer shall be readily accessible. The 24-hour timer shall be capable of operating the whole house ventilation fan without energizing other energy-consuming appliances. At the time of final inspection, the automatic control timer shall be set to operate the whole house fan for at least eight hours a day. A label shall be affixed to the control that reads "Whole House Ventilation (see operating instructions)."

303.4.1.4 Exhaust Ducts: All exhaust ducts shall terminate outside the building. Exhaust ducts shall be equipped with back-draft dampers. All exhaust ducts in unconditioned spaces shall be insulated to a minimum of R-4.

303.4.1.5 Outdoor Air Inlets: Outdoor air shall be distributed to each habitable room by individual outdoor air inlets. Where outdoor air supplies are separated from exhaust points by doors, provisions shall be made to ensure air flow by installation of distribution ducts, undercutting doors, installation of grilles, transoms, or similar means where per-

mitted by the ((Uniform)) International Building Code. Doors shall be undercut to a minimum of one-half inch above the surface of the finish floor covering.

Individual room outdoor air inlets shall:

- a. Have controllable and secure openings;
- b. Be sleeved or otherwise designed so as not to compromise the thermal properties of the wall or window in which they are placed;
- c. Provide not less than four square inches of net free area of opening for each habitable space. Any inlet or combination of inlets which provide 10 cfm at 10 Pascals as determined by the Home Ventilating Institute Air Flow Test Standard (HVI 901 (November 1996)) are deemed equivalent to four square inches net free area.

Inlets shall be screened or otherwise protected from entry by leaves or other material. Outdoor air inlets shall be located so as not to take air from the following areas:

- a. Closer than 10 feet from an appliance vent outlet, unless such vent outlet is 3 feet above the outdoor air inlet.
- b. Where it will pick up objectionable odors, fumes or flammable vapors.
- c. A hazardous or unsanitary location.
- d. A room or space having any fuel-burning appliances therein.
- e. Closer than 10 feet from a vent opening of a plumbing drainage system unless the vent opening is at least 3 feet above the air inlet.
- f. Attic, crawl spaces, or garages.

EXCEPTION: Exhaust only ventilation systems do not require outdoor air inlets if the home has a ducted forced air heating system that communicates with all habitable rooms and the interior doors are undercut to a minimum of one-half inch above the surface of the finish floor covering.

303.4.2 Prescriptive Requirements for Intermittent Whole House Ventilation Integrated with a Forced-Air System: This section establishes minimum prescriptive requirements for intermittent whole house ventilation systems integrated with forced-air ventilation systems. A system which meets all the requirements of this section shall be deemed to satisfy the requirements for a whole house ventilation system.

303.4.2.1 Integrated Whole House Ventilation Systems: Integrated Whole House Ventilation Systems shall provide outdoor air at the rates specified in Table 3-2. Integrated Forced-Air Ventilation Systems shall distribute outdoor air to each habitable room through the forced-air system ducts. Integrated Forced-Air Ventilation Systems shall have an outdoor air inlet duct connecting a terminal element on the outside of the building to the return air plenum of the forced-air system, at a point within four (4) feet upstream of the air handler. The outdoor air inlet duct connection to the return air stream shall be located upstream of the forced-air system blower and shall not be connected directly into a furnace cabinet to prevent thermal shock to the heat exchanger. The outdoor air inlet duct shall be prescriptively sized in accordance with Table 3-5. The system will be equipped with one of the following:

1. A motorized damper connected to the automatic ventilation control as specified in Section 303.3.2.2; or

2. A damper installed and set to meet minimum flow rates as specified in Table 3-2, by either field testing or following manufacturer's installation instructions based on site conditions; or

3. An automatic flow regulated device with field measured or field calculated minimum negative pressure of 0.07 inches water gauge at the point where the outside air duct is connected to the return air plenum.

303.4.2.2 Ventilation Controls: The whole house ventilation system shall be controlled by a 24-hour clock timer with the capability of continuous operation, manual and automatic control. This control will control the forced air system blower and if applicable the automatic damper. The 24-hour timer shall be readily accessible. The 24-hour timer shall be capable of operating the whole house ventilation system without energizing other energy-consuming appliances. At the time of final inspection, the automatic control timer shall be set to operate the whole house system for at least eight hours a day. A label shall be affixed to the control that reads "Whole House Ventilation (see operating instructions)."

303.4.2.3 Ventilation Duct Insulation: All supply ducts in the conditioned space shall be insulated to a minimum of R-4.

303.4.2.4 Outdoor Air Inlets: Inlets shall be screened or otherwise protected from entry by leaves or other material. Outdoor air inlets shall be located so as not to take air from the following areas:

- a. Closer than 10 feet from an appliance vent outlet, unless such vent outlet is 3 feet above the outdoor air inlet.
- b. Where it will pick up objectionable odors, fumes or flammable vapors.
- c. A hazardous or unsanitary location.
- d. A room or space having any fuel-burning appliances therein.
- e. Closer than 10 feet from a vent opening of a plumbing drainage system unless the vent opening is at least 3 feet above the air inlet.
- f. Attic, crawl spaces, or garages.

303.4.3 Prescriptive Requirements for Intermittent Whole House Ventilation Using a Supply Fan: This section establishes minimum prescriptive requirements for intermittent whole house ventilation systems using an inline supply fan. A system which meets all the requirements of this section shall be deemed to satisfy the requirements for a whole house ventilation system.

303.4.3.1 Outdoor Air: Supply Fan Ventilation Systems shall distribute outdoor air to each habitable room through the forced-air system ducts or through dedicated ducts to each habitable room. Supply fans shall have the capacity to provide the amount of outdoor air specified in Table 3-2 at 0.4 inches water gauge as per HVI 916 (April 1995). The outdoor air must be filtered before it is delivered to habitable rooms. The filter may be located at the intake device, inline with the fan, or, in the case of a connection to the return plenum of the airhandler, using the furnace filter. An outdoor air inlet shall be connected to either the supply or return air stream.

303.4.3.2 Ducts: An outdoor air inlet duct connection to the supply air stream shall be located downstream of the forced-air system blower. An outdoor air inlet duct connection to the return air stream shall be located at least four feet upstream of the forced-air system blower and its filter. Neither type of duct shall be connected directly into a furnace cabinet to prevent thermal shock to the heat exchanger. The outdoor air inlet duct shall be prescriptively sized in accordance with Table 3-6. The terminal element on the outside of the building shall be sized two inches in diameter larger than the outdoor air inlet duct.

303.4.3.3 Dampers: The system shall be equipped with a back-draft damper and one of the following:

1. A calibrated manual volume damper installed and set to meet the measured flow rates specified in Table 3-2 by field testing with a pressure gauge and/or following manufacturer's installation instructions, or
2. A manual volume damper installed and set to meet the measured flow rates specified in Table 3-2 by field testing with a flow hood or a flow measuring station; or
3. An automatic flow-regulating device sized to the specified flow rates in Table 3-2 which provides constant flow over a pressure range of 0.2 to 0.6 inches water gauge.

303.4.3.4 Ventilation Controls: The whole house ventilation system shall be controlled by a 24 hour clock timer with the capability of continuous operation, manual and automatic control. This control will control the inline supply fan. The 24-hour timer shall be readily accessible. The 24 hour timer shall be capable of operating the whole house ventilation system without energizing other energy-consuming appliances. At the time of final inspection, the automatic control timer shall be set to operate the whole house system for at least eight hours a day. A label shall be affixed to the control that reads "Whole House Ventilation (see operating instructions)."

303.4.3.5 Ventilation Duct Insulation: All supply ducts in the conditioned space shall be insulated to a minimum of R-4.

303.4.3.6 Outdoor Air Inlets: Inlets shall be screened or otherwise protected from entry by leaves or other material. Outdoor air inlets shall be located so as not to take air from the following areas:

- a. Closer than 10 feet from an appliance vent outlet, unless such vent outlet is 3 feet above the outdoor air inlet.
- b. Where it will pick up objectionable odors, fumes or flammable vapors.
- c. A hazardous or unsanitary location.
- d. A room or space having any fuel-burning appliances therein.
- e. Closer than 10 feet from a vent opening of a plumbing drainage system unless the vent opening is at least 3 feet above the air inlet.
- f. Attic, crawl spaces, or garages.

303.4.4 Prescriptive Requirements for Intermittent Whole House Ventilation Using a Heat Recovery Ventilation System: This section establishes minimum prescriptive

requirements for intermittent whole house ventilation using a heat recovery ventilation system.

303.4.4.1 Heat Recovery Ventilation Systems: All duct work in heat recovery ventilation systems shall be not less than six inch diameter. Balancing dampers shall be installed on the inlet and exhaust side. Flow measurement grids shall be installed on the supply and return. System minimum flow rating shall be not less than that specified in Table 3-2. Maximum flow rates in Table 3-2 do not apply to heat recovery ventilation systems.

303.4.4.2 Ventilation Controls: The whole house ventilation system shall be controlled by a 24 hour clock timer with the capability of continuous operation, manual and automatic control. This control will control the inline supply fan. The 24-hour timer shall be readily accessible. The 24 hour timer shall be capable of operating the whole house ventilation system without energizing other energy-consuming appliances. At the time of final inspection, the automatic control timer shall be set to operate the whole house system for at least eight hours a day. A label shall be affixed to the control that reads "Whole House Ventilation (see operating instructions)."

303.4.4.3 Ventilation Duct Insulation: All supply ducts in the conditioned space installed upstream of the heat exchanger shall be insulated to a minimum of R-4.

303.4.4.4 Outdoor Air Inlets: Inlets shall be screened or otherwise protected from entry by leaves or other material. Outdoor air inlets shall be located so as not to take air from the following areas:

- a. Closer than 10 feet from an appliance vent outlet, unless such vent outlet is 3 feet above the outdoor air inlet.
- b. Where it will pick up objectionable odors, fumes or flammable vapors.
- c. A hazardous or unsanitary location.
- d. A room or space having any fuel-burning appliances therein.
- e. Closer than 10 feet from a vent opening of a plumbing drainage system unless the vent opening is at least 3 feet above the air inlet.
- f. Attic, crawl spaces, or garages.

AMENDATORY SECTION (Amending WSR 01-02-099, filed 1/3/01, effective 7/1/01)

WAC 51-13-304 Mechanical ventilation criteria and minimum ventilation performance for all other occupancies not covered in sections 302 and 303.

304.1 Ventilation: The minimum requirements for operable area to provide natural ventilation are specified in the (~~Uniform~~) International Building Code (~~(UBC)~~) (IBC) as adopted by the state of Washington.

Where a mechanical ventilation system is installed, the mechanical ventilation system shall be capable of supplying ventilation air to each zone with the minimum outdoor air quantities specified in Table 3-4.

EXCEPTION: Where occupancy density is known and documented in the plans, the outside air rate may be based on the

design occupant density. Under no circumstance shall the occupancies used result in outside air less than one-half that resulting from application of Table 3-4 estimated maximum occupancy values.

The outdoor air shall be ducted in a fully enclosed path directly to every air handling unit in each zone not provided with sufficient operable area for natural ventilation.

EXCEPTION: Ducts may terminate within 12 inches of the intake to an HVAC unit provided they are physically fastened so that the outside air duct is directed into the unit intake.

In all parking garages, other than open parking garages as defined in (~~UBC 311.9~~) IBC 406.3, used for storing or handling of automobiles operating under their own power and on all loading platforms in bus terminals, ventilation shall be provided at 1.5 cfm per square foot of gross floor area. The building official may approve an alternate ventilation system designed to exhaust a minimum fourteen thousand cfm for each operating vehicle. Such system shall be based on the anticipated instantaneous movement rate of vehicles but not less than 2.5 percent (or one vehicle) of the garage capacity. Automatic carbon monoxide sensing systems may be submitted for approval.

In all buildings used for the repair of automobiles, each repair stall shall be equipped with an exhaust extension duct, extending to the outside of the building, which if over ten feet in length, shall mechanically exhaust three hundred cfm. Connecting offices and waiting rooms shall be supplied with conditioned air under positive pressure.

Combustion air requirements shall conform to the requirements of Chapter 7 of the (~~UMC~~) International Mechanical Code (IMC).

Mechanical refrigerating equipment and rooms storing refrigerants shall conform to the requirements of Chapter 11 of the (~~UMC~~) IMC.

304.2 Alternate Systems: Alternate systems designed in accordance with ASHRAE Standard 62.1.1999 shall be permitted.

TABLE 3-1
Minimum Source Specific Ventilation Capacity Requirements

	Bathrooms	Kitchens
Intermittently operating	50 cfm	100 cfm
Continuous operation	20 cfm	25 cfm

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TABLE 3-2
Ventilation Rates For All Group R Occupancies four (4) stories and less*
 Minimum and Maximum Ventilation Rates: Cubic Feet Per Minute (CFM)

Floor Area, ft ²	Bedrooms													
	2 or less		3		4		5		6		7		8	
	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
<500	50	75	65	98	80	120	95	143	110	165	125	188	140	210
501-1000	55	83	70	105	85	128	100	150	115	173	130	195	145	218
1001-1500	60	90	75	113	90	135	105	158	120	180	135	203	150	225
1501-2000	65	98	80	120	95	143	110	165	125	188	140	210	155	233
2001-2500	70	105	85	128	100	150	115	173	130	195	145	218	160	240
2501-3000	75	113	90	135	105	158	120	180	135	203	150	225	165	248
3001-3500	80	120	95	143	110	165	125	188	140	210	155	233	170	255
3501-4000	85	128	100	150	115	173	130	195	145	218	160	240	175	263
4001-5000	95	143	110	165	125	188	140	210	155	233	170	255	185	278
5001-6000	105	158	120	180	135	203	150	225	165	248	180	270	195	293
6001-7000	115	173	130	195	145	218	160	240	175	263	190	285	205	308
7001-8000	125	188	140	210	155	233	170	255	185	278	200	300	215	323
8001-9000	135	203	150	225	165	248	180	270	195	293	210	315	225	338
>9000	145	218	160	240	175	263	190	285	205	308	220	330	235	353

*For residences that exceed 8 bedrooms, increase the minimum requirement listed for 8 bedrooms by an additional 15 CFM per bedroom. The maximum CFM is equal to 1.5 times the minimum.

TABLE 3-3
 Prescriptive Exhaust Duct Sizing

Fan Tested CFM @ 0.25 W.G.	Minimum Flex Diameter	Maximum Length Feet	Minimum Smooth Diameter	Maximum Length Feet	Maximum Elbows ¹
50	4 inch	25	4 inch	70	3
50	5 inch	90	5 inch	100	3
50	6 inch	No Limit	6 inch	No Limit	3
80	4 inch ²	NA	4 inch	20	3
80	5 inch	15	5 inch	100	3
80	6 inch	90	6 inch	No Limit	3
100	5 inch ²	NA	5 inch	50	3
100	6 inch	45	6 inch	No Limit	3
125	6 inch	15	6 inch	No Limit	3
125	7 inch	70	7 inch	No Limit	3

- For each additional elbow subtract 10 feet from length.
- Flex ducts of this diameter are not permitted with fans of this size.

TABLE 3-4
 Outdoor air requirements for ventilation¹
 Occupancies not subject to sections 302 and 303

Application	Estimated Maximum ² Occupancy P/1000 ft ² or 100 m ²	Outdoor Air Requirements cfm/person
Dry Cleaners, Laundries³		
Commercial laundry	10	25
Commercial dry cleaner	30	30
Storage, pick up	30	35

Application	Estimated Maximum ² Occupancy P/1000 ft ² or 100 m ²	Outdoor Air Requirements cfm/person
Coin-operated laundries	20	15
Coin-operated dry cleaner	20	15
Dwelling Units In Buildings Greater Than Four Stories or Attached to I-Occupancy Facilities		
Bedroom & living area ²⁴		15
Food and Beverage Service		
Dining rooms	70	20
Cafeteria, fast food	100	20
Bars, cocktail lounges ⁴	100	30
Kitchens (cooking) ²³	20	15
Garages, Repair, Service Stations		
Enclosed parking garage ⁵		1.50 cfm/ft.sq.
Auto repair rooms		1.50 cfm/ft.sq.
Hotels, Motels, Resorts, Congregate Residences with More Than Four Stories⁶		
Bedrooms		30 cfm/room
Living Rooms		30 cfm/room
Bath ⁷		35 cfm/room
Lobbies	30	15
Conference rooms	50	20
Assembly rooms	120	15
Gambling casinos ⁴	120	30
Offices		
Office space ⁹	7	20
Reception area	60	15
Telecommunication centers and data entry areas	60	20
Conference rooms	50	20

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Application	Estimated Maximum ² Occupancy P/1000 ft ² or 100 m ²	Outdoor Air Requirements cfm/person
Public Spaces		
Corridors and utilities		0.05 cfm/ft.sq.
Public restroom, cfm/wc or urinal ¹⁰		50
Lockers and dressing rooms		0.50 cfm/ft.sq.
Smoking lounge ¹¹	70	60
Elevators ¹²		1.0 cfm/ft.sq.
Retail Stores, Sales Floors, and Show Room Floors		
Basement and street	30	0.30 cfm/ft.sq.
Upper floors	20	0.20 cfm/ft.sq.
Storage rooms	15	0.15 cfm/ft.sq.
Dressing rooms		0.20 cfm/ft.sq.
Malls and arcades	20	0.20 cfm/ft.sq.
Shipping and receiving	10	0.15 cfm/ft.sq.
Smoking lounge ¹¹	70	60
Warehouses	5	0.05 cfm/ft.sq.
Specialty Shops		
Barber	25	15
Beauty	25	25
Reducing salons	20	15
Florists ¹³	8	15
Clothiers, furniture		0.30 cfm/ft.sq.
Hardware, drugs, fabric	8	15
Supermarkets	8	15
Pet shops		1.00 cfm/ft.sq.
Sports and Amusement¹⁴		
Spectator areas	150	15
Game rooms	70	25
Ice arenas (playing areas)		0.50 cfm/ft.sq.
Swimming Pools (pool and deck area) ¹⁵		0.50 cfm/ft.sq.
Playing floor (gymnasium)	30	20
Ballrooms and discos	100	25
Bowling alleys (seating areas)	70	25
Theaters¹⁶		
Ticket booths	60	20
Lobbies	150	20
Auditorium	150	20
Stages, studios	70	15
Transportation¹⁷		
Waiting rooms	100	15
Platforms	100	15
Vehicles	150	15
Workrooms		
Meat processing ¹⁸	10	15
Photo studios	10	15
Darkrooms	10	0.50 cfm/ft.sq.
Pharmacy	20	15
Bank vaults	5	15
Duplicating, printing ¹⁹		0.50 cfm/ft.sq.
INSTITUTIONAL FACILITIES		
Education		

Application	Estimated Maximum ² Occupancy P/1000 ft ² or 100 m ²	Outdoor Air Requirements cfm/person
Classroom	50	15
Laboratories ²⁰	30	20
Training shop	30	20
Music rooms	50	15
Libraries	20	15
Locker rooms		0.50 cfm/ft.sq.
Corridors		0.10 cfm/ft.sq.
Auditoriums	150	15
Smoking lounges ¹¹	70	60
Hospitals, Nursing and Convalescent Homes		
Patient rooms ²¹	10	25
Medical procedure	20	15
Operating rooms	20	30
Recovery and ICU	20	15
Autopsy rooms ²²		0.50 cfm/ft.sq.
Physical Therapy	20	15
Correctional Facilities		
Cells	20	20
Dining halls	100	15
Guard station	40	15

1. Derived from ASHRAE Standard 62-1989.
2. Net occupiable space.
3. Dry-cleaning process may require more air.
4. Supplementary smoke-removal equipment may be required.
5. Distribution among people must consider worker location and concentration of running engine; stands where engines are run must incorporate systems for positive engine exhaust withdrawal. Contaminant sensors may be used to control ventilation.
6. Independent of room size.
7. Installed capacity for intermittent use.
8. See also food and beverage service, merchandising, barber and beauty shops, garages.
9. Some office equipment may require local exhaust.
10. Mechanical exhaust with no recirculation is recommended.
11. Normally supplied by transfer air, local mechanical exhaust; with no recirculation recommended.
12. Normally supplied by transfer air.
13. Ventilation to optimize plant growth may dictate requirements.
14. When internal combustion engines are operated for maintenance of playing surfaces, increased ventilation rates may be required.
15. Higher values may be required for humidity control.
16. Special ventilation will be needed to eliminate special stage effects.
17. Ventilation within vehicles may require special considerations.
18. Spaces maintained at low temperatures (-10°F. to+ 50°F.) are not covered by these requirements unless the occupancy is continuous. Ventilation from adjoining spaces is permissible. When the occupancy is intermittent, infiltration will normally exceed the ventilation requirements.
19. Installed equipment must incorporate positive exhaust and control of undesirable contaminants.
20. Special contamination control systems may be required for processes or functions including laboratory animal occupancy.

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- 21. Special requirements or codes and pressure relationships may determine minimum ventilation rates and filter efficiency. Procedures generating contaminants may require higher rates.
- 22. Air shall not be recirculated into other spaces.
- 23. Makeup air for hood exhaust may require more ventilating air.
- 24. Occupant loading shall be based on the number of bedrooms as follows: first bedroom, two persons; each additional bedroom, one person. Where higher occupant loadings are known, they shall be used.

OR

2. The appliance and manufacturer's recommended combustion air supply, as an installed unit, shall be certified by an independent testing laboratory to have passed Test No. 11 - Negative Pressure Test, Section 12.3, of ULC S627-M1984 "Space Heaters for Use with Solid Fuels," modified as follows:

A) Negative pressure of 8 Pascal shall be initially established with the chamber sealed and the air supply, if not directly connected to the appliance, closed off.

B) The air supply, if not directly connected to the appliance, shall then be opened.

C) The maximum allowable air exchange rate from chamber leakage and intentional air supply for the unit (appliance with combustion air supply) in the test chamber is 3.5 air changes per hour, or 28 cfm (cubic feet of air per minute), whichever is less.

EXCEPTION: Combustion air may be supplied to the room in which the solid fuel burning appliance is located in lieu of direct ducting, provided that one of the following conditions is met:
 1) The solid fuel burning appliance is part of a central heating plant and installed in an unconditioned space in conformance with the ((Uniform)) International Mechanical Code; or
 2) The solid fuel burning appliance is installed in existing construction directly on a concrete floor or surrounded by masonry materials as in a fireplace.

The combustion air terminus shall be located as close to the solid fuel burning appliance as possible and shall be provided with a barometric damper or equivalent. The combustion air source shall be specified by the manufacturer or no less than four (4) inches in diameter or the equivalent in area or as approved.

402.3 Fireplaces: Fireplaces shall be provided with each of the following:

a) Tightly fitting flue dampers, operated by a readily accessible manual or approved automatic control.

EXCEPTION: Fireplaces with gas logs shall be installed in accordance with the ((Uniform)) International Mechanical Code section 901, except that the standards for liquefied petroleum gas installations shall be NFPA 58 (Liquefied Petroleum Gas Code) and NFPA 54 (National Fuel Gas Code).

b) An outside source for combustion air ducted into the firebox. The duct shall be at least six (6) square inches, and shall be provided with an operable outside air duct damper.

EXCEPTION: Washington certified fireplaces shall be installed with the combustion air systems necessary for their safe and efficient combustion and specified by the manufacturer in accordance with the Washington state ((UBC Standard 31-2 (WAC 51-40-31200) and UBC section 3102.5.4 (WAC 51-40-3102)))) building code standard 31-2 (WAC 51-50-31200) and International Building Code Section 2114 (WAC 51-50-2114).

c) Site built fireplaces shall have tight fitting glass or metal doors, or a flue draft induction fan, or as approved for minimizing back-drafting. Factory built fireplaces shall use doors listed for the installed appliance.

TABLE 3-5

Prescriptive Integrated Forced Air Supply Duct Sizing

Required Flow (CFM) Per Table 3-2	Minimum Smooth Duct Diameter	Minimum Flexible Duct Diameter	Maximum Length ¹	Maximum Number of Elbows ²
50-80	6"	7"	20'	3
80-125	7"	8"	20'	3
115-175	8"	10"	20'	3
170-240	9"	11"	20'	3

- 1. For lengths over 20 feet increase duct diameter 1 inch.
- 2. For elbows numbering more than 3 increase duct diameter 1 inch.

TABLE 3-6

Prescriptive Supply Fan Duct Sizing

Supply Fan Tested CFM At 0.4" WG		
Specified volume from Table 3-2	Minimum Smooth Duct Diameter	Minimum Flexible Duct Diameter
50-90 CFM	4 inch	5 inch
90-150 CFM	5 inch	6 inch
150-250 CFM	6 inch	7 inch
250-400 CFM	7 inch	8 inch

AMENDATORY SECTION (Amending WSR 98-02-047, filed 1/5/98, effective 7/1/98)

WAC 51-13-402 Solid fuel burning appliances and fireplaces.

402.1 General: Solid fuel burning appliances and fireplaces shall satisfy one of the following criteria.

402.2 Solid Fuel Burning Appliances: Solid fuel burning appliances shall be provided with the following:

a) Tight fitting metal or ceramic glass doors.

b) 1. A source from outside the structure of primary combustion air, connected to the appliance as per manufacturer's specification. The air inlet shall originate at a point below the fire box. The duct shall be 4 inches or greater in diameter, not exceed 20 feet in length, and be installed as per manufacturer's instructions;

PERMANENT

402.4 Masonry Heaters: Masonry heaters shall be approved by the department of ecology and shall contain both of the following:

a) Primary combustion air ducted from the outside of the structure to the appliance.

b) Tight fitting ceramic glass or metal doors. Flue damper, when provided, shall have an external control and when in the closed position shall have a net free area of not less than five percent of the flue cross sectional area.

AMENDATORY SECTION (Amending WSR 98-02-047, filed 1/5/98, effective 7/1/98)

WAC 51-13-502 Statewide radon requirements.

502.1 Crawlspace:

502.1.1 General: All crawlspaces shall comply with the requirements of this section.

502.1.2 Ventilation: All crawlspaces shall be ventilated as specified in section ((2306.7)) 1203.3 of the ((Washington State Uniform)) International Building Code (chapter ((51-40)) 51-50 WAC).

If the installed ventilation in a crawlspace is less than one square foot for each three hundred square feet of crawlspace area, or if the crawlspace vents are equipped with operable louvers, a radon vent shall be installed to originate from a point between the ground cover and soil. The radon vent shall be installed in accordance with sections 503.2.6 and 503.2.7.

502.1.3 Crawlspace Plenum Systems: In crawlspace plenum systems used for providing supply air for an HVAC system, aggregate, a permanently sealed soil gas retarder membrane and a radon vent pipe shall be installed in accordance with section 503.2. Crawlspace shall not be used for return air plenums.

In addition, an operable radon vent fan shall be installed. The fan shall be located as specified in section 503.2.7. The fan shall be capable of providing at least one hundred cfm at one inch water column static pressure. The fan shall be controlled by a readily accessible manual switch. The switch shall be labeled "RADON VENT FAN."

AMENDATORY SECTION (Amending WSR 01-02-099, filed 1/3/01, effective 7/1/01)

WAC 51-13-503 Radon prescriptive requirements.

503.1 Scope: This section applies to those counties specified in section 501.2.2. This section establishes prescriptive construction requirements for reducing the potential for radon entry into all Group R Occupancies, and for preparing the building for future mitigation if desired.

In all crawlspaces, except crawlspace plenums used for providing supply air for an HVAC system, a continuous air barrier shall be installed between the crawlspace area and the occupied area to limit air transport between the areas. If a wood sheet subfloor or other material is utilized as an air bar-

rier, in addition to the requirements of section 502.1.6.2 of the Washington state energy code, all joints between sheets shall be sealed.

503.2 Floors in Contact with the Earth

503.2.1 General: Concrete slabs that are in direct contact with the building envelope shall comply with the requirements of this section.

EXCEPTION: Concrete slabs located under garages or other than Group R Occupancies need not comply with this chapter.

503.2.2 Aggregate: A layer of aggregate of four inch minimum thickness shall be placed beneath concrete slabs. The aggregate shall be continuous to the extent practical.

503.2.3 Gradation: Aggregate shall:

a) Comply with ASTM Standard C-33 Standard Specification for Concrete Aggregate and shall be size No. 8 or larger size aggregate as listed in Table 2, Grading Requirements for Coarse Aggregate; or

b) Meet the 1988 Washington State Department of Transportation specification 9-03.1 (3) "Coarse Aggregate for Portland Cement Concrete," or any equivalent successor standards. Aggregate size shall be of Grade 8 or larger as listed in section 9-03.1 (3) C, "Grading"; or

c) Be screened, washed pea gravel free of deleterious substances in a manner consistent with ASTM Standard C-33 with one hundred percent (100%) passing a one-half (1/2) inch sieve and less than five percent (5%) passing a No. 16 sieve. Sieve characteristics shall conform to those acceptable under ASTM Standard C-33.

EXCEPTION: Aggregate shall not be required if a substitute material or system, with sufficient load bearing characteristics, and having approved capability to provide equal or superior air flow, is installed.

503.2.4 Soil-Gas Retarder Membrane: A soil-gas retarder membrane, consisting of at least one layer of virgin polyethylene with a thickness of at least six mil, or equivalent flexible sheet material, shall be either placed directly under all concrete slabs so that the slab is in direct contact with the membrane, or on top of the aggregate with two inches (2") minimum of fine sand or pea gravel installed between the concrete slab and membrane. The flexible sheet shall extend to the foundation wall or to the outside edge of the monolithic slab. Seams shall overlap at least twelve inches. The membrane shall also be fitted tightly to all pipes, wires, and other penetrations of the membrane and sealed with an approved sealant or tape. All punctures or tears shall be repaired with the same or approved material and similarly lapped and sealed.

503.2.5 Sealing of Penetrations and Joints: All penetrations and joints in concrete slabs or other floor systems and walls below grade shall be sealed by an approved sealant to create an air barrier to limit the movement of soil-gas into the indoor air.

Sealants shall be approved by the manufacturer for the intended purpose. Sealant joints shall conform to manufac-

turer's specifications. The sealant shall be placed and tooled in accordance with manufacturer's specifications. There shall be no gaps or voids after the sealant has cured.

503.2.6 Radon Vent: One continuous sealed pipe shall run from a point within the aggregate under each concrete slab to a point outside the building. Joints and connections shall be permanently gas tight. The continuous sealed pipe shall interface with the aggregate in the following manner, or by other approved equal method: The pipe shall be permanently connected to a "T" within the aggregate area so that the two end openings of the "T" lie within the aggregate area. A minimum of five feet of perforated drain pipe of three inches minimum diameter shall join to and extend from the "T."

The perforated pipe shall remain in the aggregate area and shall not be capped at the ends. The "T" and ~~((it's))~~ its perforated pipe extensions shall be located at least five feet horizontally from the exterior perimeter of the aggregate area.

The continuous sealed pipe shall terminate no less than twelve inches above the eave, and more than ten horizontal feet from a woodstove or fireplace chimney, or operable window. The continuous sealed pipe shall be labeled "radon vent." The label shall be placed so as to remain visible to an occupant.

The minimum pipe diameter shall be three inches unless otherwise approved. Acceptable sealed plastic pipe shall be smooth walled, and may include either PVC schedule 40 or ABS schedule of equivalent wall thickness.

The entire sealed pipe system shall be sloped to drain to the sub-slab aggregate.

The sealed pipe system may pass through an unconditioned attic before exiting the building; but to the extent practicable, the sealed pipe shall be located inside the thermal envelope of the building in order to enhance passive stack venting.

EXCEPTION: A fan forced sub-slab depressurization system includes:

- 1) Soil-gas retarder membrane as specified in section 503.2.4;
- 2) Sealing of penetrations and joints as specified in section 503.2.5;
- 3) A three-inch continuous sealed radon pipe shall run from a point within the aggregate under each concrete slab to a point outside the building;
- 4) Joints and connections ~~((may))~~ shall be gas tight, and may be of either PVC schedule 40 or ABS schedule of equivalent in wall thickness;
- 5) A label of "radon vent" shall be placed on the pipe so as to remain visible to the occupant;
- 6) Fan circuit and wiring as specified in section 503.2.7 and a fan.

If the sub-slab depressurization system is exhausted through the concrete foundation wall or rim joist, the exhaust terminus shall be a minimum of six feet from operable windows or outdoor air intake vents and shall be directed away from operable windows and outdoor air intake vents to prevent radon re-entrainment.

503.2.7 Fan Circuit and Wiring and Location: An area for location of an in-line fan shall be provided. The location shall be as close as practicable to the radon vent pipe's point

of exit from the building, or shall be outside the building shell; and shall be located so that the fan and all downstream piping is isolated from the indoor air.

Provisions shall be made to allow future activation of an in-line fan on the radon vent pipe without the need to place new wiring. A one hundred ten volt power supply shall be provided at a junction box near the fan location.

503.2.8 Separate Aggregate Areas: If the four-inch aggregate area underneath the concrete slab is not continuous, but is separated into distinct isolated aggregate areas by a footing or other barrier, a minimum of one radon vent pipe shall be installed into each separate aggregate area.

EXCEPTION: Separate aggregate areas may be considered a single area if a minimum three-inch diameter connection joining the separate areas is provided for every thirty feet of barrier separating those areas.

503.2.9 Concrete Block Walls: Concrete block walls connected to below grade areas shall be considered unsealed surfaces. All openings in concrete block walls that will not remain accessible upon completion of the building shall be sealed at both vertical and horizontal surfaces, in order to create a continuous air barrier to limit the transport of soil-gas into the indoor air.

WSR 04-07-193

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed March 24, 2004, 11:39 a.m., effective July 1, 2004]

Date of Adoption: March 23, 2004.

Purpose: To amend WAC 51-04-030 to update referenced codes and standards.

Citation of Existing Rules Affected by this Order: Chapter 51-04 WAC, amending WAC 51-04-030.

Statutory Authority for Adoption: RCW 19.27.031 and 19.27.074.

Adopted under notice filed as WSR 04-03-034 on January 14, 2004.

Changes Other than Editing from Proposed to Adopted Version: Added Chapter 1 of the International Residential Code to the list. This code was inadvertently left off the list.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 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: July 1, 2004.

March 23, 2004
 Tim Nogler
 for Stan Price
 Council Chair

dential buildings as defined by RCW 19.27.015 that are not adopted by the council shall be submitted to the council for consideration as local government residential amendments to the building code. Local government residential amendments shall conform to the limitations provided in RCW 19.27.040.

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

[AMENDATORY SECTION (Amending WSR 98-24-077, filed 12/1/98)]

WAC 51-04-030 Policies for consideration of proposed local government residential amendments. All amendments to the building code, as adopted by cities and counties for implementation and enforcement in their respective jurisdictions, that apply to single and multifamily buildings as defined by RCW 19.27.015, shall be submitted to the council for approval.

The council shall consider and approve or deny all proposed local government residential amendments to the building code within ninety days of receipt of a proposal, unless alternative scheduling is agreed to by the council and the proposing entity.

All local government residential amendments to the building code that require council approval shall be submitted in writing to the council, after the city or county legislative body has adopted the amendment and prior to implementation and enforcement of the amendment by the local jurisdiction.

It is the policy of the council to encourage joint proposals for local government residential amendments from more than one jurisdiction. Local government residential amendments submitted to the council for approval should be based on:

- (1) Climatic conditions that are unique to the jurisdiction.
- (2) Geologic or seismic conditions that are unique to the jurisdiction.
- (3) Environmental impacts such as noise, dust, etc., that are unique to the jurisdiction.
- (4) Life, health, or safety conditions that are unique to the local jurisdiction.
- (5) Other special conditions that are unique to the jurisdiction.

EXCEPTIONS: Appendices or portions thereof that have the effect of amending the uniform codes, that do not conflict with the building code for single and multifamily residential buildings as defined by RCW 19.27.015, may be adopted by local jurisdictions without council review or approval.

Local government residential amendments to:

- (1) Chapter 1, 17, or 34 of the ~~((Uniform))~~ International Building Code;
- ~~((2))~~ (2) Chapter 1 of the International Residential Code;
- ~~((3))~~ (3) Chapter 1 of the ((Uniform)) International Mechanical Code;
- ~~((3))~~ (4) ((Article)) Chapter 1 of the ((Uniform)) International Fire Code;
- ~~((4))~~ (5) Chapter 1 of the Uniform Plumbing Code;
- ~~((5))~~ (6) Chapter 1 or 11 of the State Energy Code; or
- ~~((6))~~ (7) Chapter 1 of the Ventilation and Indoor Air Quality Code need not be submitted to the Council for review and approval provided that such amendments do not diminish the construction requirements of those chapters.

Those portions of the supplement or accumulative supplements that affect single and multifamily resi-

PERMANENT



**WSR 04-07-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-36—Filed March 3, 2004, 4:18 p.m., effective March 5, 2004, 12:01 a.m.]

Date of Adoption: March 3, 2004.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 232-28-61900F and 232-28-61900N; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The winter whitefish season allows the use of bait; with a 3/16 (Sz. 14) hook size. However, anglers have been targeting steelhead under the guise of fishing for whitefish. Since steelhead are listed under the Endangered Species Act as endangered, fisheries are constrained by take limits. The Methow, Chewuch, and Wenatchee rivers whitefish fisheries have met the take authorization associated with the whitefish season. 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 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 5, 2004, 12:01 a.m.

March 3, 2004

J. P. Koenings

Director

by Larry Peck

Closed to fishing March 5, 2004 through March 31, 2004.

(2) Methow River - From mouth to falls above brush Creek

Closed to fishing from March 5, 2004 through March 31, 2004.

(3) Wenatchee River - From mouth to Highway 2 Bridge in Leavenworth

Closed to fishing from March 5, 2004 through March 31, 2004.

(4) Columbia River from Highway 395 Bridge at Pasco to the Old Hanford townsite wooden power line towers upstream of Ringold Springs Rearing Facility - Open only through March 31, 2004, to fish for and possess up to two hatchery steelhead per day.

(5) Okanogan River - Open only through March 31, 2004, from mouth upstream, except closed from Zosel Dam downstream to one-quarter mile below railroad trestle. Selective gear rules except lawful to fish from motorized vessels. Night closure. Daily limit may contain up to two adipose fin-clipped steelhead.

- Except: The area from the Highway 97 Bridge at Omak to a line across the river 500 feet above the mouth of Omak Creek, closed to fishing.

(6) Similkameen River - Open only through March 31, 2004, from mouth to 400 feet below Enloe Dam. Selective gear rules. Night closure. Daily limit may contain up to two adipose fin-clipped steelhead.

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 12:01 a.m. March 5, 2004:

WAC 232-28-61900F Exceptions to statewide rules—Columbia, Methow, Okanogan and Similkameen rivers. (03-314)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 1, 2004:

WAC 232-28-61900N Exceptions to statewide rules—Chewuch, Methow, Wenatchee Columbia, Okanogan and Similkameen rivers.

NEW SECTION

WAC 232-28-61900N Exceptions to statewide rules—Chewuch, Methow, Wenatchee, Columbia, Okanogan and Similkameen rivers. Notwithstanding the provisions of WAC 232-28-619; effective immediately until further notice it is unlawful to violate the following provisions in the following waters:

(1) Chewuch River - From mouth to Pasayten Wilderness Boundary

**WSR 04-07-005
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-38—Filed March 3, 2004, 4:20 p.m., effective March 13, 2004, 12:01 a.m.]

Date of Adoption: March 3, 2004.

Purpose: Amend personal use rules.

EMERGENCY

Citation of Existing Rules Affected by this Order:
Amending WAC 220-56-250.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This regulation is necessary so that state regulations conform to federal regulations for lingcod fishing in coastal waters. The federal government recently changed the opening date of the lingcod season and the requested change would change the opening date under state regulations to match the federal date. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: March 13, 2004, 12:01 a.m.

March 3, 2004

J. P. Koenings

Director

NEW SECTION

WAC 220-56-25000F Lingcod—Areas and seasons. Notwithstanding the provisions of WAC 220-56-250, effective 12:01 a.m. March 13, 2004, until further notice, it is lawful to fish for and possess lingcod for personal use in Catch Record Card Areas 1, 2, and 3.

WSR 04-07-006

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 04-41—Filed March 3, 2004, 4:23 p.m., effective March 4, 2004, 12:01 a.m.]

Date of Adoption: March 3, 2004.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-56-23500T; and amending WAC 220-56-235.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The federal government has enacted rules that prohibit the retention of canary rockfish in Areas 1, 2, 3 and 4. This emergency rule is needed to bring state rules into conformity with federal rules. Permanent rules that prohibit the retention of canary rockfish were recently adopted by the Fish and Wildlife Commission and will become effective May 1, 2004.

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: March 4, 2004, 12:01 a.m.

March 3, 2004

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-56-23500T Possession limits—Bottomfish. Notwithstanding the provisions of WAC 220-56-235, effective 12:01 a.m. March 4, 2004, until further notice, it is unlawful to fish for or possess canary rockfish in those waters of Marine Areas 1 through 4.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 1, 2004:

WAC 220-56-23500T Possession limits—Bottomfish.

WSR 04-07-007

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 04-33—Filed March 4, 2004, 2:13 p.m., effective March 16, 2004]

Date of Adoption: March 4, 2004.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900M; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Large numbers of adult hatchery origin spring chinook are expected to return to these systems in 2004. Fishery managers predict 12,700 fish will return to Wind River, 8,400 to Drano Lake, and 3,500 to the Klickitat River. 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: March 16, 2004.

March 4, 2004
Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-61900M Exceptions to statewide rules—Klickitat River, Drano Lake and Wind River. Notwithstanding the provisions of WAC 232-28-619:

(1) Klickitat River (Klickitat Co.) Effective April 3 through May 31, 2004, it is lawful to fish for salmonids in those waters of the Klickitat River from the mouth to Fisher Hill Bridge - open only on Mondays, Wednesdays and Saturdays. Special daily limit of two chinook salmon greater than 12 inches in length or two hatchery steelhead greater than 20 inches in length or a combination of one such salmon and one such steelhead. Night closures and non-buoyant lure restrictions are in effect.

(2) Little White Salmon River (Drano Lake)(Skamania Co.) Effective March 16 through June 30, 2004, it is lawful to fish for salmonids in those waters of the Little White Salmon River (Drano Lake) downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of the Highway 14 Bridge. Special daily limit of two chinook salmon greater than 12 inches in length or two hatchery steelhead greater than 20 inches in

length or a combination of one such salmon and one such steelhead. Except closed Wednesdays April 14 through May 26, 2004. Night closures and non-buoyant lure restrictions are in effect.

(3) Wind River (Skamania Co.)

(a) Effective March 16 through June 30, 2004, it is lawful to fish for salmonids in those waters of the Wind River from buoy line/markers upstream to 400 feet below Shipherd Falls. Special daily limit of two chinook salmon greater than 12 inches in length or two hatchery steelhead greater than 20 inches in length or a combination of one such salmon and once such steelhead. Night closures and non-buoyant lure restrictions are in effect.

(b) Effective May 1 through June 30, 2004, it is lawful to fish for salmonids in those waters of the Wind River from 100 feet above Shipperd Falls to 400 feet below coffer dam and 100 feet above coffer dam to 800 yards downstream from the fishway at Carson National Fish Hatchery. Special daily limit of two chinook salmon greater than 12 inches in length or two hatchery steelhead greater than 20 inches in length or a combination of one such salmon and once such steelhead. Night closures and non-buoyant lure restrictions are in effect.

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

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 12:01 a.m. July 1, 2004:

WAC 232-28-61900M Exceptions to statewide rules—Klickitat River, Drano Lake. and Wind River.

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

WSR 04-07-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-42—Filed March 4, 2004, 2:16 p.m.]

Date of Adoption: March 4, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000T; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Harvestable numbers of hatchery salmon are available and impacts to ESA listed fish are expected to be within the guidelines that have been established. The use of short soak times, and recovery boxes will aid in the survival of spring chinook and steelhead that are released. An interim management agreement signed in 2001 provides allocation of ESA impacts to upriver spring chinook to non-Indian fisheries, and Washington and Oregon Fish and Wildlife Commissions have provided guidance on sharing of impacts between commercial and recreational fishers. Impacts in this fishery are consistent with the management agreement and the biological opinion provided by the National Marine Fisheries Service. This rule is consistent with actions of the Columbia River compact of March 3, 2004, and conforms Washington and Oregon state rules. 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 4, 2004

Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 220-33-01000U Columbia River gillnet seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Blind Slough/Knappa Slough Select Area

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

a) Gear: 7 1/4-inch minimum mesh through March 7 and 8-inch maximum mesh thereafter. Mono-filament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on leadline.

b) Dates:

7:00 p.m. Saturdays to 7:00 a.m. Sundays immediately through March 7, 2004

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

Only Blind Slough is open through March 7. After March 7, both Blind Slough and Knappa Slough are open.

c) Allowable Sale: Salmon, sturgeon, shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period through March 7.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2) Deep River Select Area

a) Area: Deep River boat launch upstream to the Highway 4 Bridge.

b) Dates:

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

c) Gear: 8-inch maximum mesh size.

d) Allowable sale: salmon, sturgeon, shad.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful unless by licensed buyer. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

f) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 3:00 p.m. March 4 through 7:00 a.m. March 5, 2004.

b) Gear: 9-inch minimum and 9 3/4 inch maximum mesh. Gill nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required. Net length not to exceed 150 fathoms.

c) Allowable Sale: Adipose fin-clipped salmon, sturgeon, and shad. An adipose fin-clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. A maximum of three white sturgeon may be possessed or sold by each participating vessel.

d) Sanctuaries: Grays River, Gnat Creek, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

4) Miscellaneous Regulations:

a) At least one fisher on each boat must possess a tangle net certificate issued by either WDFW or ODFW. The certificate must be displayed to WDFW or ODFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

b) Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

c) Red corks are required at 25 fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

d) Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is a least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

e) All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box.

f) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

h) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

5) Tangle net permit. Any individual meeting the qualifications of RCW 77.65.040(2) may obtain a tangle net certificate by attending and completing a WDFW- or ODFW sponsored workshop concerning live captive commercial fishing techniques. A tangle net certificate shall expire on December 31, 2004. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2004.

6) Nothing in this section sets any precedent for any fishery after the 2004 spring chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2004 does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in spring 2005 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2004. In particular, WDFW may consider an

individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

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:

WAC 220-33-01000T Columbia River gillnet seasons below Bonneville. (04-37)

**WSR 04-07-013
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-43—Filed March 4, 2004, 4:30 p.m., effective March 5, 2004, 7:00 a.m.]

Date of Adoption: March 4, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000X and 220-52-04600I; and amending WAC 220-52-040 and 220-52-046.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The pot limits for the commercial crab fishery in the Puget Sound licensing district are to maintain commercial harvest allocation plans. The closure of catch areas specified in this regulation is required by state/tribal management agreement for softshell concerns or to meet allocation objectives. 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 2, 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 5, 2004, 7:00 a.m.
 March 4, 2004
 J. P. Koenings
 Director

The following section of the Washington Administrative Code is repealed 8:00 p.m. March 10, 2004:

WAC 220-52-04600I Crab fishery—Seasons and areas. (04-30)

NEW SECTION

WAC 220-52-04000Y Commercial crab fishery—Exceptions to permanent rules for pot limits. Notwithstanding the provisions of WAC 220-52-040, effective immediately, until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 75 pots per license, per buoy tag number in all waters of the Puget Sound Marine Fish Shellfish Catch Reporting Areas 23A, 23B, 23C, 24A, 24B, 24C, 24D, 25B, 25D, 26AE, 26AW, and 29. The remaining 25 buoy tags per license must be onboard the designated vessel and available for inspection.

NEW SECTION

WAC 220-52-04600K Crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046:

(1) Effective immediately, until further notice, it is unlawful to fish for Dungeness crab for commercial purposes in Catch Areas, 23D, 24A, 24B, 24C, 24D, 25A, 25B, 25D, 25E 26A-E and 26A-W.

(2) Effective 8 p.m. March 10, 2004 until further notice, it is unlawful to fish for Dungeness crab for commercial purposes in that portion of Marine Fish/Shellfish Catch Area 22A that includes Lopez Sound and Blakely Sound, south of a line extending from Upright Head to the green flashing marker on the southwest tip of Obstruction Island; west of a line extending due south from the green flashing marker on the southwest tip of Obstruction Island to Blakely Island; west of a line drawn from the red flashing buoy at the southern tip of Blakely Island across Thatcher Pass to the white flashing marker at Fauntleroy Point on the northwest corner of Decatur Island and west of a line drawn due south through Lopez Pass from the red flashing marker on the southern tip of Decatur Island to the point of land across Lopez Pass on Lopez Island. The closed area includes Shoal, Swifts, Hunter, Mud, Reads, Brigantine, and Sylvan Bays and Blakely Island Shoal.

(3) Effective immediately until further notice, it will be lawful to fish for Dungeness Crab for commercial purposes in the following areas:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 21B in Samish Bay south of a line from Fish Point and Point Williams in water deeper than 60 feet.

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:00 a.m. March 5, 2004:

WAC 220-52-04000X Commercial crab fishery—Exceptions to permanent rules for pot limits. (04-29)

WSR 04-07-019

EMERGENCY RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 04-44—Filed March 5, 2004, 3:17 p.m., effective March 8, 2004, 7:00 a.m.]

Date of Adoption: March 5, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000Y; and amending WAC 220-52-040.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The pot limits for the commercial crab fishery in the Puget Sound licensing district are to maintain commercial harvest allocation plans. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: March 8, 2004, 7:00 a.m.

March 5, 2004

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-04000Z Commercial crab fishery—Exceptions to permanent rules for pot limits. Notwithstanding the provisions of WAC 220-52-040, effective immediately, until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than

75 pots per license, per buoy tag number in all waters of the Puget Sound Marine Fish Shellfish Catch Reporting Areas 23C and 29. The remaining 25 buoy tags per license must be onboard the designated vessel and available for inspection.

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:00 a.m. March 8, 2004:

WAC 220-52-04000Y Commercial crab fishery—
Exceptions to permanent
rules for pot limits. (04-43)

WSR 04-07-026
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-40—Filed March 8, 2004, 4:18 p.m., effective March 10, 2004,
12:01 a.m.]

Date of Adoption: March 5, 2004.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 232-28-61900K and 232-28-61900P; and
amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: It was determined to be extremely difficult and potentially unsafe to require anglers in larger vessels to not completely remove salmon and steelhead from the water that were to be released. This change is an interim measure until a longer term solution to releasing fish from larger vessels is reached. 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 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 10, 2004, 12:01 a.m.

March 5, 2004

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-28-61900P Exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 232-28-619:

(1) Effective 12:01 a.m. April 1, 2004 through May 15, 2004, it is lawful to fish for and possess adipose fin-clipped spring chinook, adipose fin-clipped steelhead, and shad in those waters of the Columbia River from the Buoy 10 line upstream to the I-5 Bridge.

Daily limit:

a) Six chinook, no more than two of which may be adults, and all of which must be adipose fin-clipped. Minimum size 12 inches in length.

b) Two trout minimum size 12 inches in length. Release wild steelhead and wild cutthroat.

(2) Effective March 16, 2004 through May 15, 2004, it is lawful to fish for and possess adipose fin-clipped spring chinook, adipose fin-clipped steelhead, and shad in those waters of the Columbia River from:

a) Those waters of the Columbia River from the I-5 Bridge upstream to 600 feet below the fish ladder at Bonneville Dam.

b) The Bonneville Reservoir upstream from the Tower Island power lines. Waters upstream from the Interstate Bridge (Highway 197) to The Dalles Dam are closed except that bank fishing is permitted up to the downstream navigation lock wall on the Washington shore.

c) The Dalles Reservoir.

d) John Day Reservoir.

Daily limit: 1) Six chinook, no more than two of which may be adults, and all of which must be adipose fin-clipped. Minimum size 12 inches in length.

2) Two trout minimum size 12 inches in length. Release wild steelhead. Release wild cutthroat from the I-5 Bridge upstream to Bonneville Dam.

(3) Effective March 10 through May 15, 2004, in those waters of the Columbia River from the Rocky Point/Tongue Point line upstream, that are open under the above seasons, it is unlawful to totally remove salmon or steelhead from the water if it is unlawful to retain those salmon and steelhead. Anglers fishing from vessels 30 feet or longer, as listed on either their state or Coast Guard registration, are exempt.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. March 10, 2004:

WAC 232-28-61900K Exceptions to statewide
rules—Columbia River. (04-
19)

EMERGENCY

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 16, 2004:

WAC 232-28-61900P Exceptions to statewide rules—Columbia River.

Effective Date of Rule: March 10, 2004, 12:01 p.m.
March 5, 2004
J. P. Koenings
Director
by Larry Peck

WSR 04-07-027
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-45—Filed March 8, 2004, 4:19 p.m., effective March 10, 2004, 12:01 p.m.]

Date of Adoption: March 8, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100Q and 220-32-05100R; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The guideline in Bonneville and The Dalles pools are expected to be reached by the closing date. Sturgeon management goals were determined at a Sturgeon Management Task Force meeting in mid-January. Concurrent with the establishment of pool specific guidelines, the size slot for sturgeon in Bonneville Pool was expanded to allow the treaty fisheries to focus on the relatively more abundant smaller fish in the pool. Fisheries are consistent with the interim management agreement and the biological opinion. Rule is consistent with action of the Columbia River compact on March 5, 2004. Conforms state rules with tribal rules. 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 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.

NEW SECTION

WAC 220-32-05100R Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, walleye, shad, carp, or sturgeon under the following provisions:

Open Periods: Effective 12:00 p.m. March 10 through 12:00 p.m. March 21, 2004.

Open Areas: SMCRA 1H

Gear: No mesh restriction on gillnets. Hoop nets, dip bag nets, and rod and reel with hook and line.

Allowable sale: Sturgeon between 48 inches and 60 inches in total length may be sold if caught in SMCRA 1H. Also, salmon, steelhead, walleye, and shad may be sold if caught in any of the open areas (SMCRA 1F, 1G, and 1H).

Miscellaneous: Sale of platform or hook and line caught fish is allowed during open commercial season.

Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the

Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.

Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:00 p.m. March 10, 2004:

WAC 220-32-05100Q Columbia River salmon seasons above Bonneville Dam. (04-11)

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. March 21, 2004:

WAC 220-32-05100R Columbia River salmon seasons above Bonneville Dam.

**WSR 04-07-028
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-46—Filed March 8, 2004, 4:21 p.m.]

Date of Adoption: March 8, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000U; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Harvestable numbers of hatchery salmon are available and impacts to ESA listed fish are expected to be within the guidelines that have been established. The use of short soak times, and recovery boxes will aid in the survival of spring chinook and steelhead that are released. An interim management agreement signed in 2001 provides allocation of ESA impacts to upriver spring chinook to non-Indian fisheries, and Washington and Oregon Fish and Wildlife Commissions have provided guidance on sharing of impacts between commercial and recreational fishers. Impacts in this fishery are consistent with the management agreement and the biological opinion provided by the National Marine Fisheries Service. This rule is consistent with actions of the Columbia River compact of March 8, 2004 and conforms Washington and Oregon state rules. 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 8, 2004
J. P. Koenings
Director
for Larry Peck

NEW SECTION

WAC 220-33-01000V Columbia River gillnet seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

- 1) Blind Slough/Knappa Slough Select Area

EMERGENCY

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

a) Gear: 8-inch maximum mesh. Mono-filament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on headline.

b) Dates:

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

Both Blind Slough and Knappa Slough are open.

c) Allowable Sale: Salmon, sturgeon, shad.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2) Deep River Select Area

a) Area: Deep River boat launch upstream to the Highway 4 Bridge.

b) Dates:

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

c) Gear: 8-inch maximum mesh size.

d) Allowable sale: salmon, sturgeon, shad.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful unless by licensed buyer. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

f) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 5:00 a.m. March 9 through 5:00 a.m. March 10, 2004.

b) Gear: 9-inch minimum and 9 3/4 inch maximum mesh. Gill nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required. Net length not to exceed 150 fathoms.

c) Allowable Sale: Adipose fin-clipped salmon, sturgeon, and shad. An adipose fin-clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. A maximum of three white sturgeon may be possessed or sold by each participating vessel.

d) Sanctuaries: Grays River, Gnat Creek, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

4) Miscellaneous Regulations:

a) At least one fisher on each boat must possess a tangle net certificate issued by either WDFW or ODFW. The certificate must be displayed to WDFW or ODFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

b) Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

c) Red corks are required at 25 fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

d) Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

e) All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box.

f) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

h) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

5) Tangle net permit. Any individual meeting the qualifications of RCW 77.65.040(2) may obtain a tangle net certificate by attending and completing a WDFW- or ODFW sponsored workshop concerning live captive commercial fishing techniques. A tangle net certificate shall expire on December 31, 2004. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2004.

6) Nothing in this section sets any precedent for any fishery after the 2004 spring chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2004 does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in

spring 2005 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2004. In particular, WDFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

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:

WAC 220-33-01000U Columbia River gillnet seasons below Bonneville. (04-42)

WSR 04-07-029
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-47—Filed March 8, 2004, 4:22 p.m.]

Date of Adoption: March 8, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-48-015.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This emergency regulation allows fishing on Wednesdays which would provide flexibility in selecting fishing days avoiding adverse weather conditions and also facilitate landing the product. This will improve vessel safety and help with marketing the product. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 8, 2004

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-48-01500T Beam trawl and bottom trawl seasons. Notwithstanding the provisions of WAC 220-48-015, effective immediately until further notice, it is lawful to fish with otter trawl gear on Monday through Friday in Marine Fish-Shellfish Management and Catch Reporting Area 23C.

WSR 04-07-042

EMERGENCY RULES

DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-49—Filed March 9, 2004, 4:57 p.m., effective March 10, 2004, 8:00 p.m.]

Date of Adoption: March 9, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-04600K; and amending WAC 220-52-046.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The closure of catch areas specified in this regulation is required by state/tribal management agreement for softshell concerns or to meet allocation objectives. 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: March 10, 2004, 8:00 p.m.
March 9, 2004
J. P. Koenings
Director
by Larry Peck

WSR 04-07-043
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
[Order 04-48—Filed March 9, 2004, 4:58 p.m.]

Date of Adoption: March 9, 2004.
Purpose: Amend personal use fishing rules.
Citation of Existing Rules Affected by this Order:
Repealing WAC 220-56-35000R; and amending WAC 220-56-350.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This emergency regulation is needed to implement clam season changes adopted by the Fish and Wildlife Commission. The clam season at Brown Point is extended due to an increase in the surveyed clam population. The clam season at Fort Flagler is extended due to an increase in the clam population and is shifted two weeks later to allow the beach to be open during free fishing weekend. The clam seasons at Potlatch DNR, Potlatch East, and Potlatch State Park are opened due to an increase in surveyed clam populations. Point Whitney Lagoon season extension remains in effect due to an increase in the clam population. The Point Whitney Tidelands season shift remains in effect to provide a more continuous string of sport harvest opportunities at local beaches. Closure at West Dewatto remains in effect to protect the limited clam resource. 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 9, 2004
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-52-04600L Crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046:

(1) Effective immediately, until further notice, it is unlawful to fish for Dungeness crab for commercial purposes in Catch Areas, 23D, 24A, 24B, 24C, 24D, 25A, 25B, 25D, 25E 26A-E and 26A-W.

(2) Effective immediately until further notice, it is unlawful to fish for Dungeness crab for commercial purposes in that portion of Marine Fish/Shellfish Catch Area 22A that includes Lopez Sound and Blakely Sound, south of a line extending from Upright Head to the green flashing marker on the southwest tip of Obstruction Island; west of a line extending due south from the green flashing marker on the southwest tip of Obstruction Island to Blakely Island; west of a line drawn from the red flashing buoy at the southern tip of Blakely Island across Thatcher Pass to the white flashing marker at Fauntleroy Point on the northwest corner of Decatur Island and west of a line drawn due south through Lopez Pass from the red flashing marker on the southern tip of Decatur Island to the point of land across Lopez Pass on Lopez Island. The closed area includes Shoal, Swifts, Hunter, Mud, Reads, Brigantine, and Sylvan Bays and Blakely Island Shoal.

(3) Effective immediately until further notice, it will be lawful to fish for Dungeness Crab for commercial purposes in the following areas:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 21B in Samish Bay south of a line from Fish Point and Point Williams in water deeper than 60 feet.

(4) Effective 7:00 p.m. March 14, 2004 until further notice, it is unlawful to fish for Dungeness crab for commercial purposes in Marine Fish/Shellfish Catch Areas 20A, 20B, 21A, 21B, 22A, 22B, 23A and 23B.

(5) Effective 7:00 p.m. March 31, 2004 until further notice, it is unlawful to fish for Dungeness crab for commercial purposes in Marine Fish/Shellfish Catch Areas 23C and 29.

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 p.m. March 10, 2004:

WAC 220-52-04600K Crab fishery—Seasons and areas. (04-43)

NEW SECTION

WAC 220-56-35000S Clams other than razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-350, effective immediately until further

EMERGENCY

notice, it is unlawful to take, dig for and possess clams, cockles, and mussels taken for personal use from the following public tidelands except during the open periods specified herein:

- (1) Brown Point (DNR 57-B): Open immediately through June 30.
- (2) Fort Flagler State Park including that portion of the spit west of the park boundary (Rat Island): Open April 15 through June 15.
- (3) Point Whitney (excluding Point Whitney Lagoon): Open immediately through March 31.
- (4) Point Whitney Lagoon: Open April 1 through May 31.
- (5) Potlatch DNR tidelands: Open April 1 through June 15.
- (6) Potlatch East: Open April 1 through June 15.
- (7) Potlatch State Park: Open April 1 through June 15.
- (8) South Indian Island County Park: Open April 1 through June 30.
- (9) West Dewatto (DNR 44-A): Closed.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-35000R Clams other than razor clams—Areas and seasons. (04-32)

WSR 04-07-046

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed March 10, 2004, 9:12 a.m.]

Date of Adoption: March 10, 2004.

Purpose: This rule-making order adds WAC 16-402-100, 16-402-110, 16-402-120, and 16-402-130 to chapter 16-402 WAC by establishing reporting and record-keeping requirements for nursery dealers for shipments of tree and shrub nursery stock from outside the state. It also establishes mandatory holding periods before tree and shrub nursery stock from outside the state may be sold, distributed, or transported or delivered to another location, to allow for inspection for plant pests.

Statutory Authority for Adoption: Chapters 15.13 and 17.24 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.

Reasons for this Finding: The intrusion into this state of nonnative, invasive plant pest species on or in association with horticultural plants is of grave and immediate concern. Several significant nonnative, invasive plant pests, including citrus longhorned beetle, the pathogen (phytophthora [phytophthora]ramorum) which causes sudden oak death (SOD),

and Japanese beetle, entered the state within the last three years via this pathway. The risk of introduction appears to be increasing dramatically. The primary shipping season for nursery stock is beginning now, and risk of entry of SOD is particularly urgent. This rule is being adopted at the request of the nursery industry, and in order to protect the economic well-being of the agricultural, forest, horticultural, floricultural and apiary industries, and the environmental quality and natural resources of the state.

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 3, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; or **Other Alternative Rule Making:** New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 10, 2004

Valoria H. Loveland
Director

REPORTING AND HOLDING OF TREE AND SHRUB NURSERY STOCK

NEW SECTION

WAC 16-402-100 Purpose. The intrusion of nonnative, invasive plant pest species into Washington state is a significant public concern. Plant pest species include insects, nematodes, snails, plant diseases, weeds and other species which harm plants or plant products. If established, such plant pests have potential to cause harm to the state's forest, agricultural, horticultural, floricultural and apiary industries, to damage natural resources and the property of private landowners, to reduce environmental quality, and to threaten the diversity and abundance of native species. In recent years, many of these invasive plant pests have entered the state, in some cases causing significant private and public expense for monitoring, control or eradication. This rule is intended to aid in the exclusion, tracking, identification, control and/or eradication of invasive plant pests which may enter the state on or in association with horticultural plants, in order to protect public health, safety, welfare, and the environment.

NEW SECTION

WAC 16-402-110 Definitions. The following definitions apply to WAC 16-402-100 through 16-402-130:

(1) "Tree and shrub nursery stock" means woody forest and ornamental trees, shrubs and vines grown or kept for propagation, distribution or sale, including bareroot, balled

and burlaped, and containerized plants, liners, budwood, seedlings and cuttings. Fruit, seeds and tissue culture plantlets are not considered tree and shrub nursery stock.

(2) "Business day" means Monday through Friday, excluding state holidays.

(3) "Receiving nursery" means any nursery dealer within Washington state, including landscape firms and greenhouses required to be licensed as nursery dealers, that acquires tree and shrub nursery stock via interstate or international shipment.

NEW SECTION

WAC 16-402-120 Notification requirement. (1) Receiving nurseries for tree and shrub nursery stock imported into Washington state from any out-of-state source are required to notify the Washington state department of agriculture (WSDA). Notification methods may include U.S. mail, telefacsimile, delivery service or e-mail to: Nursery Inspection Program Supervisor, Plant Protection Division, Washington State Department of Agriculture, 1111 Washington St. S.E., P.O. Box 42560, Olympia, WA 98504-2560; fax 360-902-2094; e-mail: nursery@agr.wa.gov.

(2) Notification must include the species of plant(s), quantities of each species, source of each shipment and the receiving nursery's contact information including telephone numbers and e-mail address (if available). Copies of regular shipping documents, such as load lists, with this information are encouraged.

(3) Notification must arrive at WSDA no later than two business days after arrival of the shipment at the receiving nursery. Notification in advance of the shipment is encouraged.

(4) WSDA may approve alternative notification systems, if the alternative systems allow the provisions of WAC 16-401-130 to be carried out.

NEW SECTION

WAC 16-402-130 Hold requirement. (1) Tree and shrub nursery stock shipments from outside the state must be held separate from other nursery stock for a minimum of one full business day after notification is received by WSDA.

(2) WSDA will contact the nursery before or during the hold period specified in subsection (1) of this section, if the tree and shrub nursery stock must be held for inspection. WSDA will conduct the inspection as soon as practicable.

(3) Unless the receiving nursery has been instructed by WSDA to hold the shipment under subsection (2) of this section, the receiving nursery may distribute the stock before the expiration of the hold period specified in subsection (1) of this section, if the disposition of the stock is fully traceable. Retail sale to cash customers is not permitted during the hold period.

WSR 04-07-049

EMERGENCY RULES

PUBLIC DISCLOSURE COMMISSION

[Filed March 10, 2004, 3:21 p.m.]

Date of Adoption: February 24, 2004.

Purpose: To conform to recent case law.

Citation of Existing Rules Affected by this Order: Amending 1, WAC 390-37-041 Enforcement procedures—Allegations to the attorney general's office and/or prosecuting attorneys.

Statutory Authority for Adoption: RCW 42.17.370(1).

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: To conform to recent case law.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

March 9, 2004

Vicki Rippie
Executive Director

AMENDATORY SECTION (Amending WSR 03-22-065, filed 11/4/03)

WAC 390-37-041 Enforcement procedures—Allegations submitted to the attorney general's office and/or prosecuting attorneys. ((+)) When a person has notified the attorney general or prosecuting attorney under RCW 42.17.400(4) that there is reason to believe a violation of the sections of chapter 42.17 RCW enforced by the commission has occurred, ~~((the statutory time periods are tolled when))~~ and the attorney general or prosecutor forwards the complaint to the commission.

~~((2) After the allegations have been forwarded to the commission;))~~ The commission staff may:

~~((a))~~ (1) Initiate an investigation;

~~((b))~~ (2) Submit a report to the commission that may include a recommendation;

~~((c))~~ (3) Schedule the matter for an adjudicative proceeding before the commission following investigation; and/or

((d)) (4) Take any other steps consistent with the agency's authority and resources.

WSR 04-07-050
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-51—Filed March 11, 2004, 9:27 a.m.]

Date of Adoption: March 10, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000V; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Harvestable numbers of hatchery salmon are available and impacts to ESA listed fish are expected to be within the guidelines that have been established. The use of short soak times, and recovery boxes will aid in the survival of spring chinook and steelhead that are released. An interim management agreement signed in 2001 provides allocation of ESA impacts to upriver spring chinook to non-Indian fisheries, and Washington and Oregon Fish and Wildlife Commissions have provided guidance on sharing of impacts between commercial and recreational fishers. Impacts in this fishery are consistent with the management agreement and the biological opinion provided by the National Marine Fisheries Service. This rule is consistent with actions of the Columbia River compact of March 10, 2004, and conforms Washington and Oregon state rules. 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 10, 2004
 J. P. Koenings
 Director
 by Larry Peck

NEW SECTION

WAC 220-33-01000W Columbia River gillnet seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Blind Slough/Knappa Slough Select Area

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

a) Gear: 7 1/4 inch minimum mesh through March 14 and 8-inch maximum mesh thereafter. Mono-filament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on leadline.

b) Dates:

7:00 p.m. Saturday March 13 to 7:00 a.m. Sunday March 14, 2004

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

Both Blind Slough and Knappa Slough are open.

c) Allowable Sale: Salmon, sturgeon, shad.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2) Deep River Select Area

a) Area: Deep River boat launch upstream to the Highway 4 Bridge.

b) Dates:

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

c) Gear: 8-inch maximum mesh size.

d) Allowable sale: salmon, sturgeon, shad.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful unless by licensed buyer. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

f) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 10:00 a.m. March 11 through 10:00 a.m. March 12, 2004.

b) Gear: 9-inch minimum and 9 3/4 inch maximum mesh. Gill nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required. Net length not to exceed 150 fathoms.

c) Allowable Sale: Adipose fin-clipped salmon, sturgeon, and shad. An adipose fin-clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. A maximum of three white sturgeon may be possessed or sold by each participating vessel.

d) Sanctuaries: Grays River, Gnat Creek, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

4) Miscellaneous Regulations:

a) At least one fisher on each boat must possess a tangle net certificate issued by either WDFW or ODFW. The certificate must be displayed to WDFW or ODFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

b) Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

c) Red corks are required at 25 fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

d) Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is a least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

e) All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box.

f) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

h) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

5) Tangle net permit. Any individual meeting the qualifications of RCW 77.65.040(2) may obtain a tangle net certificate by attending and completing a WDFW- or ODFW sponsored workshop concerning live captive commercial fishing techniques. A tangle net certificate shall expire on December 31, 2004. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2004.

6) Nothing in this section sets any precedent for any fishery after the 2004 spring chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2004 does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in spring 2005 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2004. In particular, WDFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

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:

WAC 220-33-01000V

Columbia River gillnet seasons below Bonneville. (04-46)

WSR 04-07-053

EMERGENCY RULES

PERSONNEL RESOURCES BOARD

[Filed March 11, 2004, 11:35 a.m.]

Date of Adoption: March 11, 2004.

Purpose: These modifications will support the implementation of the collective bargaining provision of the Personnel System Reform Act. The modifications add language to the rules to address general government employees being granted leave without pay for the purpose of formal bargaining sessions under RCW 41.80.010 or chapter 41.06 RCW. Under the proposed modifications employees would not be penalized with adjustment to seniority if employee took leave without pay for purposes of formal collective bargaining.

Citation of Existing Rules Affected by this Order: Amending WAC 356-18-140 and 356-18-220.

Statutory Authority for Adoption: RCW 41.06.150.

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: Without this proposal in place, general government state employees who are participating in

formal collective bargaining under RCW 41.80.010 or chapter 41.06 RCW will have their seniority date adjusted for the time on leave without pay.

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: Immediately.

March 11, 2004

E. C. Matt
Secretary

AMENDATORY SECTION (Amending WSR 01-07-057, filed 3/19/01, effective 5/1/01)

WAC 356-18-140 Leave without pay. (1) Leave without pay may be allowed when such leave will not operate to the detriment of the state service. Leave without pay shall not affect an employee's periodic increment date.

(2) Leave without pay may be authorized for any reasons applicable to:

(a) Leave with pay.

(b) Educational leave.

(c) Military and U.S. Public Health Service and Peace Corps leave.

(d) Specific leaves granted for government service in the public interest upon specific request of an employee, concurred in by the appointing authority.

(e) Leave taken voluntarily to reduce the effect of an agency reduction in force. Such leave shall not affect an employee's seniority.

(f) Leave that is authorized in advance by the appointing authority as part of a plan to reasonably accommodate a person of disability (as defined in WAC 356-05-260).

(g) Leave taken for the purpose of formal collective bargaining sessions under RCW 41.80.010 and Chapter 41.06 RCW.

(3) Authorized leave without pay shall be limited to not more than 12 months in any consecutive five-year period, except for:

(a) Leaves without pay for military, U.S. Public Health Service or Peace Corps;

(b) Authorized government leave not exceeding two years;

(c) Employees receiving time loss compensation;

(d) Educational leaves under provisions of WAC 356-39-120;

(e) Leave for serious health condition for an eligible employee or the employee's spouse, child or parent and newborn, adoptive or foster child care under provisions of WAC 356-18-150 and 356-18-145;

(f) Leave taken voluntarily to reduce the effect of an agency reduction in force under the provisions of WAC 356-30-335.

(g) Leave that is authorized in advance by the appointing authority as part of a plan to reasonably accommodate a person of disability (as defined in WAC 356-05-260).

(4) Leave without pay exceeding twelve months in a consecutive five-year period, not covered by the exceptions noted in subsection (3) of this section, shall be treated as unauthorized absence.

(5) Employees returning from authorized leave without pay shall be employed in the same position, or in another or similar position in the same class and in the same geographical area, provided that such return to employment is not in conflict with rules relating to reduction in force.

AMENDATORY SECTION (Amending WSR 02-15-055, filed 7/11/02, effective 9/1/02)

WAC 356-18-220 Leave without pay—Effect on anniversary date, periodic increment date, and seniority.

(1) Leave without pay of fifteen consecutive calendar days or less will not affect an employee's anniversary date.

(2) When an employee is on leave without pay for more than fifteen consecutive days, the employee's anniversary date will not be affected when the absence is due to any of the following reasons:

(a) Military or United States Public Health Service;

(b) Government service and leave to enter the Peace Corps, not to exceed two years and one month;

(c) Leave taken by employees receiving time loss compensation due to injuries sustained while performing the employee's state job;

(d) Educational leave in accordance with the provisions of WAC 356-39-120;

(e) Leave without pay taken voluntarily under the provisions of WAC 356-30-335 to reduce the effect of an agency reduction in force.

(f) As of February 24, 2004, leave taken for the purpose of formal collective bargaining sessions under RCW 41.80.010 and Chapter 41.06 RCW.

(3) When an employee is on leave without pay for more than fifteen consecutive calendar days and the absence is not due to one of the reasons listed in subsection (2) of this section, the employee's anniversary date shall be moved forward in an amount equal to the duration of the leave of absence.

(4) When an employee's position is assigned to a program or facility whose primary purpose is academic and/or vocational education, and the program or facility follows the customary public school practice of less than a twelve-month school year, the employing agency may place the employee on leave without pay while the program or facility is closed for customary school vacations without adjusting the employee's anniversary date.

(5) Leave without pay taken for any of the reasons listed in subsection (2) of this section shall not affect an employee's seniority.

(6) Employees who are on leave without pay for any reason other than subsection (2) of this section, shall have their seniority date extended by the number of calendar days they are on leave without pay including any intervening nonworking days.

(7) Leave without pay shall not affect an employee's periodic increment date.

WSR 04-07-057

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 11, 2004, 4:26 p.m., effective March 22, 2004]

Date of Adoption: March 9, 2004.

Purpose: The Division of Child Support (DCS) is adopting new rules and amending existing rules to establish the procedures for enforcing medical support obligations using the National Medical Support Notice. At the same time, DCS is beginning the regular rule-making process for these rules as well by filing a preproposal statement of inquiry.

AMENDED RULES: WAC 388-14A-1020 What definitions apply to the rules regarding child support enforcement?, 388-14A-4040 DCS can serve some collection actions by electronic service, 388-14A-4100 Can the division of child support make me provide health insurance for my children?, 388-14A-4110 If my support order requires me to provide health insurance for my children, what do I have to do?, 388-14A-4120 DCS (~~uses a~~) uses the National Medical Support Notice (of enrollment) to enforce an obligation to provide health insurance coverage and 388-14A-4130 What must (~~an employer or union who receives a notice of enrollment do~~) a plan administrator do after receiving a National Medical Support Notice from the division of child support?

NEW RULES: WAC 388-14A-4121 Can a Washington employer assume that every National Medical Support Notice that the employer receives is from the division of child support?, 388-14A-4122 What kind of information is included in the National Medical Support Notice?, 388-14A-4123 What can happen if the employer fails to comply with the terms of the National Medical Support Notice?, 388-14A-4124 Who are the parties involved with National Medical Support Notice?, 388-14A-4125 What must an employer do after receiving a National Medical Support Notice?, 388-14A-4126 What kind of help is available for an employer or plan administrator who has questions about the National Medical Support Notice?, 388-14A-4135 What must the plan administrator do when the noncustodial parent has health insurance but the children are not included in the coverage?, 388-14A-4140 What must the plan administrator do when the noncustodial parent is eligible for health insurance but is not yet enrolled?, 388-14A-4143 What must the plan administrator do when the employer provides health insurance but the noncustodial parent is not yet eligible for coverage?, 388-

14A-4145 What must the plan administrator do when the insurance plan in which the noncustodial parent is enrolled does not provide coverage which is accessible to the children?, 388-14A-4150 What must the plan administrator do when the noncustodial parent has more than one family?, 388-14A-4160 Are there any limits on the amount a noncustodial parent may be required to pay for health insurance premiums?, 388-14A-4165 What happens when a noncustodial parent does not earn enough to pay child support plus the health insurance premium?, 388-14A-4170 How long does a National Medical Support Notice or other notice of enrollment remain in effect?, and 388-14A-4175 Is an employer obligated to notify the division of child support when insurance coverage for the children ends?

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-1020, 388-14A-4040, 388-14A-4100, 388-14A-4110, 388-14A-4120, and 388-14A-4130.

Statutory Authority for Adoption: RCW 74.08.090 and 74.20A.310.

Other Authority: RCW 26.18.170, 42 U.S.C. 666(a)(19), 45 C.F.R. 303.31.

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: DCS is required to use the National Medical Support Notice to enforce medical support obligations under the Child Support Program Incentives Act of 1998 (42 U.S.C. 666(a)(19)); failure to do so would result in a state plan violation and could jeopardize federal funding for the Washington state child support program.

Number of Sections Adopted in Order to Comply with Federal Statute: New 15, Amended 6, 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 15, Amended 6, Repealed 0.

Effective Date of Rule: March 22, 2004.

March 9, 2004

Brian H. Lindgren, Manager

Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 04-08 issue of the Register.

WSR 04-07-058

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed March 11, 2004, 4:29 p.m.]

Date of Adoption: March 11, 2004.

Purpose: Repealing WAC 388-71-0531 How many hours can my individual provider, agency provider, or personal aide work if I am receiving COPES, Medicaid Personal Care, or Chore services? A CR-101 Preproposal statement of inquiry, is also being filed.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-71-0531.

Statutory Authority for Adoption: ESHB 2933.

Other Authority: RCW 74.08.090.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: ESHB 2933 has been signed by the governor and takes effect immediately. ESHB 2933 states that: "No agency or department of the state, other than the authority, may establish policies or rules governing the wages or hours of individual providers." "Authority" refers to the Home Care Quality Authority.

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 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 1.

Effective Date of Rule: Immediately.

March 11, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-71-0531

How many hours can my individual provider, agency provider, or personal aide work if I am receiving COPES, Medicaid Personal Care, or Chore services?

WSR 04-07-067

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 04-50—Filed March 11, 2004, 4:33 p.m.]

Date of Adoption: March 11, 2004.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900Q; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: A large return of hatchery steelhead has been predicted for the Columbia and Snake River basins. Only a relatively small number of returning hatchery steelhead are needed for hatchery production. These rules are interim until permanent rules take effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 11, 2004

J. P. Koenings

Director

NEW SECTION

WAC 232-28-61900Q Exceptions to statewide rules—Grande Ronde River, Mill Creek, Snake River, Touchet River, Tucannon River and Walla Walla River. Notwithstanding the provisions of WAC 232-28-619, special daily limit of three hatchery steelhead in the following waters:

(1) Grande Ronde River (Asotin Co.) Effective immediately through April 15, 2004, from County Road Bridge (about 2 1/2 miles upstream from the mouth) to Washington/Oregon state boundary. (CLOSED WATERS - all tributaries)

(2) Mill Creek (Walla Walla Co.) Effective immediately through April 15, 2004, from mouth to Roosevelt St. Bridge within city limits of Walla Walla. (CLOSED WATERS - from

concrete channel at 9th Ave. Bridge to Roosevelt St. Bridge, within city limits of Walla Walla).

(3) Snake River - Effective immediately through March 31, 2004, from the mouth upstream to Washington/Oregon boundary.

(4) Touchet River (Columbia/Walla Walla Co.) - Effective immediately through April 15, 2004, from mouth to the confluence of the North and South Forks.

(5) Tucannon River (Columbia/Garfield Co.) Effective immediately through April 15, 2004, from mouth to Cummings Bridge. (CLOSED WATERS - all tributaries).

(6) Walla Walla River (Walla Walla Co.)

(a) Effective immediately through March 31, 2004, mainstem from the mouth upstream to Touchet River.

(b) Effective immediately through April 15, 2004, from Touchet River upstream to the Washington/Oregon state boundary.

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 April 16, 2004:

WAC 232-28-61900Q Exceptions to statewide rules—Grande Ronde River, Mill Creek, Snake River, Touchet River, Tucannon River and Walla Walla River.

impacts between commercial and recreational fishers. Impacts in this fishery are consistent with the management agreement and the biological opinion provided by the National Marine Fisheries Service. This rule is consistent with actions of the Columbia River compact of March 15, 2004, and conforms Washington and Oregon state rules. 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 15, 2004

Evan Jacoby

for Jeff Koenings

Director

NEW SECTION

WAC 220-33-01000X Columbia River gillnet seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Blind Slough/Knappa Slough Select Area

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

a) Gear: 7 1/4 inch minimum mesh through March 14 and 8-inch maximum mesh thereafter. Mono-filament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on headline.

b) Dates:

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

**WSR 04-07-078
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-52—Filed March 15, 2004, 3:09 p.m.]

Date of Adoption: March 15, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000W; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Harvestable numbers of hatchery salmon are available and impacts to ESA listed fish are expected to be within the guidelines that have been established. The use of short soak times, and recovery boxes will aid in the survival of spring chinook and steelhead that are released. An interim management agreement signed in 2001 provides allocation of ESA impacts to upriver spring chinook to non-Indian fisheries, and Washington and Oregon Fish and Wildlife Commissions have provided guidance on sharing of

EMERGENCY

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

Both Blind Slough and Knappa Slough are open.

c) Allowable Sale: Salmon, sturgeon, shad.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2) Deep River Select Area

a) Area: Deep River boat launch upstream to the Highway 4 Bridge.

b) Dates:

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

c) Gear: 8-inch maximum mesh size.

d) Allowable sale: salmon, sturgeon, shad.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful unless by licensed buyer. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

f) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 3:00 p.m. March 15 through 6:00 a.m. March 16, 2004.

b) Gear: 9-inch minimum and 9 3/4 inch maximum mesh. Gill nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required. Net length not to exceed 150 fathoms.

c) Allowable Sale: Adipose fin-clipped salmon, sturgeon, and shad. An adipose fin-clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. A maximum of three white sturgeon may be possessed or sold by each participating vessel.

d) Sanctuaries: Grays River, Gnat Creek, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

4) Miscellaneous Regulations:

a) At least one fisher on each boat must possess a tangle net certificate issued by either WDFW or ODFW. The certificate must be displayed to WDFW or ODFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

b) Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

c) Red corks are required at 25 fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

d) Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery

box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is a least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

e) All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box.

f) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

h) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

5) Tangle net permit. Any individual meeting the qualifications of RCW 77.65.040(2) may obtain a tangle net certificate by attending and completing a WDFW- or ODFW sponsored workshop concerning live captive commercial fishing techniques. A tangle net certificate shall expire on December 31, 2004. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2004.

6) Nothing in this section sets any precedent for any fishery after the 2004 spring chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2004 does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in spring 2005 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2004. In particular, WDFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

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:

WAC 220-33-01000W

Columbia River gillnet seasons below Bonneville. (04-51)

WSR 04-07-090
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Management Services Administration)

[Filed March 16, 2004, 10:26 a.m.]

Date of Adoption: March 3, 2004.

Purpose: Amending WAC 388-02-0215 What is the authority of the ALJ?, the department is extending the current emergency rule (WSR 03-23-113) to permit the DSHS Board of Appeals to review initial orders entered by Office of Administrative Hearings administrative law judges in cases where an alleged perpetrator of abuse, abandonment, neglect or financial exploitation of a vulnerable adult, other than a personal aide, requested a hearing to challenge a substantiated adult protective services finding under emergency WAC 388-71-0116.

Citation of Existing Rules Affected by this Order: Amending WAC 388-02-0215.

Statutory Authority for Adoption: RCW 34.05.020.

Other Authority: Chapter 34.05 RCW, Parts IV and V.

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 recent extension of emergency WAC 388-71-0116 (filed as WSR 04-06-039) makes the adoption of this emergency rule necessary to preserve the due process rights of persons affected by WAC 388-71-0116. The department filed a preproposal statement of inquiry as WSR 03-21-149, and is taking the appropriate steps to adopt emergency WAC 388-02-0215 as a permanent rule. Stakeholders are currently reviewing the draft rule, and the department plans to file the proposed rule in April 2004 for formal public comment.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

March 3, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-13-046, filed 6/11/03, effective 7/12/03)

WAC 388-02-0215 What is the authority of the ALJ?

(1) The ALJ must hear and decide the issues de novo (anew) based on what is presented during the hearing.

(2) As needed, the ALJ may:

(a) Determine the order for presenting evidence;

(b) Issue subpoenas or orders directing witnesses to appear or bring documents;

(c) Rule on objections, motions, and other procedural matters;

(d) Rule on an offer of proof made to admit evidence;

(e) Admit relevant evidence;

(f) Impartially question witnesses to develop the record;

(g) Call additional witnesses and request exhibits to complete the record;

(h) Give the parties an opportunity to cross-examine witnesses or present more evidence against the witnesses or exhibits;

(i) Keep order during the hearing;

(j) Allow or require oral or written argument and set the deadlines for the parties to submit argument or evidence;

(k) Permit others to attend, photograph or electronically record hearings, but may place conditions to preserve confidentiality or prevent disruption;

(l) Allow a party to waive rights given by chapters 34.05 RCW or 388-02 WAC, unless another law prevents it;

(m) Decide whether a party has a right to a hearing;

(n) Issue protective orders;

(o) Consider granting a stay if authorized by law or DSHS rule; and

(p) Take any other action necessary and authorized under these or other rules.

(3) The ALJ administers oaths or affirmations and takes testimony.

(4) The ALJ enters an initial order in those cases where the parties may request review of an initial order by a review judge. Cases where the parties may request review of an initial order by a review judge are those relating to:

(a) Adult family home licenses under chapter 388-76 WAC;

(b) Boarding home licenses under chapter 388-78A WAC;

(c) Resident protection program findings under WAC 388-97-077;

(d) Nursing home licenses under WAC 388-97-550 through 388-97-695;

(e) Placement of personal aides providing self-directed care on a state registry under RCW 74.39A.050(9) and WAC 388-71-0150 and 388-71-0155, or where a hearing was requested under WAC 388-71-0116, findings of abuse, abandonment, neglect or financial exploitation of vulnerable adults by alleged perpetrators other than personal aides;

(f) Where the client has requested a hearing under WAC 388-71-0560, the termination of a provider for placing clients in imminent jeopardy under RCW 74.39A.095(7) and WAC 388-71-0551;

(g) Where the client has requested a hearing under WAC 388-71-0560, the termination of a provider due to inadequate

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performance or inability to deliver quality care under RCW 74.39A.095(7) and WAC 388-71-0540 and 388-71-0551;

(h) Where the client has requested a hearing under WAC 388-71-0560, the denial of a contract to a provider due to inability of the provider to appropriately meet the care needs of clients under RCW 74.39A.095(8) and WAC 388-71-0546;

(i) Where the client has requested a hearing under WAC 388-71-0560, the denial or termination of a contract and subsequent denial of payment to a provider due to a disqualifying crime or lack of character, competence, or suitability to maintain the health, safety, and well-being of clients under RCW 43.20A.710(5) and WAC 388-71-0540 (3) through (5);

(j) Social service eligibility under WAC 388-71-0400 through 388-71-0480, 388-71-0202, and 388-71-0203, and under chapter 388-72A WAC, except for WAC 388-72A-0055(2), 388-72A-0060(1), and 388-72A-0065 (4) through (6);

(k) Domestic violence perpetrator treatment program certification under chapter 388-60 WAC;

(l) Licensing or certification of child foster care homes, programs, facilities, and agencies under chapter 74.15 RCW and chapters 388-140, 388-145, 388-148 and 388-160 WAC;

(m) Child protective services findings of abuse and neglect under RCW 26.44.125 and chapter 388-15 WAC;

(n) Adoption support under WAC 388-27-0120 through 388-27-0390, for which a hearing has been held under WAC 388-27-0365;

(o) Child day care licenses under chapter 74.15 RCW and chapters 388-150, 388-151, and 388-155 WAC;

(p) Background checks of protective payees under WAC 388-460-0025, for which a hearing has been held under WAC 388-460-0070;

(q) Background checks of child care providers and other persons under WAC 388-290-0143, for which a hearing has been held under WAC 388-290-0260 as part of the working connections child care program;

(r) Background checks of persons acting in the place of a parent under WAC 388-454-0006, for which a hearing has been held under WAC 388-472-0005 (1)(j);

(s) Claims of good cause for not cooperating with the division of child support under WAC 388-422-0020;

(t) Parent address disclosure under WAC 388-14A-2114 through 388-14A-2140;

(u) Chemical dependency treatment provider certification under chapter 388-805 WAC;

(v) Community residential services and support certification, for which a hearing has been held under WAC 388-820-920;

(w) Denial or termination of eligibility for services under WAC 388-825-030 and 388-825-035, for which a hearing has been held under WAC 388-825-120 (1)(a);

(x) Development or modification of an individual service plan under WAC 388-825-050, for which a hearing has been held under WAC 388-825-120 (1)(b);

(y) Authorization, denial, reduction, or termination of services under WAC 388-825-055, for which a hearing has been held under WAC 388-825-120 (1)(c);

(z) Licensed community facilities under RCW 74.15.210 and WAC 388-730-0090;

(aa) Community mental health and involuntary treatment program licenses under WAC 388-865-0480;

(bb) Medical, dental, or transportation services, for which a hearing has been held under WAC 388-526-2610;

(cc) Medical provider overpayments, for which a hearing has been held under WAC 388-502-0230(5) or 388-502-0240(17); or

(dd) Background checks under WAC 388-06-0110 that result in denial of authorization for unsupervised access to children or to individuals with developmental disabilities, for which a hearing has been held under WAC 388-06-0240(1); or

(ee) Cases for which a right to a hearing existed, if the request for a hearing was received by OAH or DSHS on or before November 14, 2002, and WAC 388-740-0060 and WAC 388-891-0275 did not apply.

(5) The ALJ makes the final decision and enters the final order in all cases except those cases set forth in subsection (4) of this section.

(6) A review judge has the same authority as an ALJ when presiding at a hearing.

WSR 04-07-091

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed March 16, 2004, 10:26 a.m.]

Date of Adoption: March 12, 2004.

Purpose: The department is adopting a new subchapter in chapter 388-25 WAC that allows Children's Administration to participate in the state supplementary payment (SSP) program. Children's Administration began paying this income supplement to eligible foster children January 1, 2004.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: Chapter 371, Laws of 2002 (2001-03 Supplemental Budget - ESSB 6387), RCW 74.04.600 and 74.13.031.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; 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 state legislature in adopting ESSB 6387 (chapter 371, Laws of 2002), directed specific DSHS programs (ESA, DDD, MAA, ADSA) to begin paying an income supplement, called state supplementary payment.

The programs directed by the legislature to participate (ESA, DDD, MAA, ADSA) were not able to meet the federal requirement for maintenance of effort. On July 18, 2003, the Social Security Administration informed the state that it did

not satisfy requirements under section 1616(a) and 1618 of the Social Security Act ("the act"), 42 U.S.C. 1382(e)[a], 42 U.S.C. 1382(g) and regulations at 20 C.F.R. 416.2001 and 20 C.F.R. 416.2095-.2099. Failure to comply with these requirements jeopardizes the department's ability to receive federal financial participation under Title XIX of the act.

Immediate adoption is necessary to preserve the public health and general welfare by allowing the state to continue to receive federal financial participation (FFP) for its Medicaid program under Title XIX of the act. The loss of FFP would effectively terminate medical assistance under Title XIX for low-income families and individuals in the state of Washington. Children's Administration has elected to begin participation in the state supplementary payment as of January 1, 2004, to prevent the loss of FFP through contributing to Washington state's maintenance of effort requirement. This action will also directly benefit foster children served through this division.

Emergency adoption of these rules is necessary to implement ESSB 6387, to comply with the requirements of federal law cited above, and to implement the 2004 plan for Children's Administration to participate in disbursing state supplementary payments which was approved by the federal government on February 13.

Number of Sections Adopted in Order to Comply with Federal Statute: New 6, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 6, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 12, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

**STATE SUPPLEMENTARY
PAYMENT PROGRAM**

NEW SECTION

WAC 388-25-1000 What is the State Supplementary Payment (SSP) that is administered by the children's administration (CA)? The State Supplementary Payment (SSP) is a state-paid cash assistance program for specific eligible foster children with the children's administration.

NEW SECTION

WAC 388-25-1010 What are the eligibility requirements for the CA/SSP program? To be eligible to receive

CA/SSP, you must be a foster child eligible for and receiving Supplemental Security Income (SSI), receiving behavior rehabilitation services (BRS) for out-of-home placement services for all or part of a month, and not be eligible for foster care reimbursement under Title IV-E of the Social Security Act (42 U.S.C. 670).

NEW SECTION

WAC 388-25-1020 When will my eligibility for CA/SSP be determined? The SSP eligibility verification process is usually done during the month following your potential eligibility for an SSP payment. You will receive a monthly SSP payment when all of the eligibility criteria (WAC 388-25-1010) have been verified.

NEW SECTION

WAC 388-25-1030 How will I know if I am eligible to receive a CA/SSP payment? Once you have been identified as eligible for a CA/SSP payment, CA will send out written notification to representative payees, legal guardians, and children age eighteen and above.

NEW SECTION

WAC 388-25-1040 Can I apply for the CA/SSP program if I am not identified by CA as eligible for the CA/SSP program? You can apply through children's administration to determine your eligibility for CA/SSP, but eligibility is limited to those meeting the eligibility requirements in WAC 388-25-1010.

NEW SECTION

WAC 388-25-1050 What are my appeal rights if CA determines that I am not eligible for CA/SSP? You have the right to appeal children's administration's denial, termination, or reduction of eligibility for the CA/SSP under RCW 74.13.045 and WAC 388-02-0080.

WSR 04-07-097

**EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-53—Filed March 16, 2004, 4:46 p.m., effective March 18, 2004, 12:01 p.m.]

Date of Adoption: March 16, 2004.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000Y; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

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notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Survey results show that adequate clams are available for harvest [in] the portions of Razor Clam Area 3 opened by this emergency rule. Washington Department of Health has certified clams from this area to be safe for human consumption. 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: March 18, 2004, 12:01 p.m.

March 16, 2004

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-56-36000Y Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

1. Effective 12:01 p.m. March 18 through 11:59 p.m. March 20, 2004, razor clam digging is allowed in that portion of Razor Clam Area 3 that is between Olympic National Park South Beach Campground access road (Kalaloch area, Jefferson County) and Browns Point (Kalaloch area, Jefferson County). Digging is allowed from 12:01 p.m. to 11:59 p.m. each day.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. March 21, 2004:

WAC 220-56-36000Y Razor clams—Areas and seasons.

**WSR 04-07-116
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-56—Filed March 18, 2004, 4:43 p.m.]

Date of Adoption: March 18, 2004.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-27000R and 220-56-27000T; and amending WAC 220-56-270.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The Columbia River smelt run size has been downgraded from a Level 3 to 2. This modified smelt fishery regulation is consistent with Level 2 fisheries in the "Washington and Oregon eulachon management plan" for the Columbia River. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 18, 2004

Evan Jacoby

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-56-27000T Smelt—Areas and seasons Notwithstanding the provisions of WAC 220-56-270, WAC 220-56-240, WAC 220-56-275, effective 10:01 p.m., Friday, March 19, 2004 through March 31, 2004, it is unlawful to fish for or possess smelt in those waters of all Columbia River tributaries except under the following provisions:

Area: Washington Columbia River tributaries

Dates: Wednesdays and Saturdays

Hours: 6:00 a.m. to 10:00 p.m. daily

Daily limit: 20 pounds

Gear: Dipnets

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REPEALER

The following section of the Washington Administrative Code is repealed effective 10:01 p.m., Friday, March 19, 2004:

WAC 220-56-27000R Smelt—Areas and seasons.

The following section of the Washington Administrative Code is repealed 10:01 p.m., Wednesday, March 31:

WAC 220-56-27000T Smelt—Areas and seasons.

**WSR 04-07-117
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-57—Filed March 18, 2004, 4:44 p.m.]

Date of Adoption: March 18, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-04000U and 220-33-04000V; and amending WAC 220-33-040.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The Columbia River smelt run size has been downgraded from Level 3 to Level 2. This modified smelt fishery regulation is consistent with Level 2 fisheries in the "Washington and Oregon eulachon management plan" for the Columbia River. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 18, 2004
Evan Jacoby
for Jeff P. Koenings
Director

NEW SECTION

WAC 220-33-04000V Smelt—Areas and seasons. Notwithstanding the provisions of WAC 220-33-040, the Columbia River and Washington tributaries are closed to fishing for smelt except under the following provisions:

1) Area: Columbia River - below Bonneville Dam

Dates: Immediately through 9:00 p.m., Sunday March 21, 2004

Thursday, March 18, Friday, March 19, and Sunday, March 21

3:00 a.m. to 9:00 p.m. daily

9:01 p.m. Sunday, March 21 through 12:00 p.m. Wednesday, March 31, 2004

3:00 a.m. - 9:00 p.m. March 26, 2004

3:00 a.m. - 9:00 p.m. March 28, 2004

Gear: Gillnets, dipnets and trawl nets.

Allowable sales: Smelt.

Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

Miscellaneous: Notwithstanding the provisions of WAC 220-20-010, during open salmon and/or sturgeon seasons fishers may have stored onboard their boats, while fishing, smelt gill nets; and while smelt fishing, fishers may have stored onboard their boats, gill nets of a size that meets the commercial salmon/sturgeon mesh size, weight, and length restrictions for the open salmon/sturgeon season.

2) Area: Cowlitz River downstream of Peterson's Eddy
Kalama River downstream from Modrow Bridge

Lewis River mainstem and North Fork downstream from the overhead power lines near Eagle Island.

Dates: Immediately through 6:00 p.m. Thursday, March 18, 2004

6:00 p.m. Sunday, March 21 through 6:00 a.m. Monday, March 22

6:00 p.m. Wednesday, March 24 through 6:00 a.m. March 25

6:00 p.m. Sunday, March 28 through 6:00 a.m. Monday, March 29

6:00 p.m. through 12:00 p.m., Wednesday, March 31, 2004

Gear: Dipnets.

Allowable sales: Smelt.

Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-04000U Smelt—Areas and seasons.

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 1, 2004:

WAC 220-33-04000V Smelt—Areas and seasons.

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WSR 04-07-118
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-55—Filed March 18, 2004, 4:45 p.m.]

Date of Adoption: March 18, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-33-01000X; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Harvestable numbers of hatchery salmon are available and impacts to ESA listed fish are expected to be within the guidelines that have been established. The use of short soak times, and recovery boxes will aid in the survival of spring chinook and steelhead that are released. An interim management agreement signed in 2001 provides allocation of ESA impacts to upriver spring chinook to non-Indian fisheries, and Washington and Oregon Fish and Wildlife Commissions have provided guidance on sharing of impacts between commercial and recreational fishers. Impacts in this fishery are consistent with the management agreement and the biological opinion provided by the National Marine Fisheries Service. This rule is consistent with actions of the Columbia River compact of March 18, 2004, and conforms Washington and Oregon state rules. 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 18, 2004

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-33-01000Y Columbia River gillnet seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-

030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Blind Slough/Knappa Slough Select Area

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

a) Gear: 7 1/4 inch minimum mesh through March 31, 2004 and 8-inch maximum mesh thereafter. Mono-filament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on headline.

b) Dates:

7:00 p.m. Saturday March 20 through 7:00 a.m. Sunday March 21, 2004

Blind Slough is open.

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

Both Blind Slough and Knappa Slough are open.

c) Allowable Sale: Salmon, sturgeon, and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2) Deep River Select Area

a) Area: Deep River boat launch upstream to the Highway 4 Bridge.

b) Dates:

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

c) Gear: 8-inch maximum mesh size.

d) Allowable sale: salmon, sturgeon, shad.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful unless by licensed buyer. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

f) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 6:00 p.m. Thursday March 18 through 9:00 a.m. Friday March 19, 2004.

b) Gear: 9-inch minimum and 9 3/4 inch maximum mesh. Gill nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required. Net length not to exceed 150 fathoms.

c) Allowable Sale: Adipose fin-clipped salmon, and sturgeon. An adipose fin-clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. A maximum of three white sturgeon may be possessed or sold by each participating vessel.

d) Sanctuaries: Grays River, Gnat Creek, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

4) Miscellaneous Regulations:

a) At least one fisher on each boat must possess a tangle net certificate issued by either WDFW or ODFW. The certificate must be displayed to WDFW or ODFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

b) Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

c) Red corks are required at 25 fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

d) Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

e) All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box.

f) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

h) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

5) Tangle net permit. Any individual meeting the qualifications of RCW 77.65.040(2) may obtain a tangle net certificate by attending and completing a WDFW- or ODFW sponsored workshop concerning live captive commercial fishing techniques. A tangle net certificate shall expire on December 31, 2004. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2004.

6) Nothing in this section sets any precedent for any fishery after the 2004 spring chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2004 does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in spring 2005 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2004. In particular, WDFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

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

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:

WAC 220-33-0100X Columbia River gillnet seasons below Bonneville. (04-52)

**WSR 04-07-123
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-58—Filed March 19, 2004, 4:47 p.m.]

Date of Adoption: March 19, 2004.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-27000R, 220-56-27000T and 220-56-27000U; and amending WAC 220-56-270.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The Columbia River smelt run size has been downgraded from a Level 3 to 2. This modified smelt fishery regulation is consistent with Level 2 fisheries in the "Washington and Oregon eulachon management plan" for the Columbia River. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: Immediately.

March 19, 2004

J. P. Koenings

Director

by Larry Peck

**WSR 04-07-143
EMERGENCY RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed March 22, 2004, 4:31 p.m., effective April 1, 2004]

Date of Adoption: March 15, 2004.

Purpose: This rule increases the standards based on the federal poverty level (FPL) effective April 1, 2004, based on the standards published in the *Federal Register*, Vol. 69, No. 30.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0075.

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

Other Authority: Federal Register, Volume 69, Number 30; 42 U.S.C., Chapter 7.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The increase in the FPL must be effective by April 1, 2004, to comply with federal requirements. Federal statute (42 U.S.C., chapter 7) requires states to use the annually adjusted federal poverty level (FPL) guidelines as the basis for determining financial eligibility standards for certain medical assistance programs.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: April 1, 2004.

March 15, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 220-56-27000U Smelt—Areas and seasons

Notwithstanding the provisions of WAC 220-56-270, WAC 220-56-240, WAC 220-56-275, effective 10:00 p.m. March 19, 2004 through March 31, 2004, it is unlawful to fish for or possess smelt in those waters of the Columbia River and tributaries except under the following provisions:

1) Area: Mainstem Columbia River below Bonneville Dam

Dates: Open 7 days/week

Hours: 24 hours per day

Daily limit: 20 pounds

Gear: Dipnets

2) Area: Washington Columbia River tributaries

Dates: Open Wednesdays and Saturdays only

Hours: 6:00 a.m. to 10:00 p.m. daily

Daily limit: 20 pounds

Gear: Dipnets

REPEALER

The following section of the Washington Administrative Code is repealed effective 10:00 p.m. March 19, 2004:

WAC 220-56-27000R Smelt—Areas and seasons.
(03-316)

The following section of the Washington Administrative Code is repealed:

WAC 220-56-27000T Smelt—Areas and seasons.
(04-56)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 1, 2004:

WAC 220-56-27000U Smelt—Areas and seasons.

AMENDATORY SECTION (Amending WSR 03-15-088, filed 7/17/03, effective 7/17/03)

WAC 388-478-0075 Medical programs—Monthly income standards based on the federal poverty level (FPL). (1) The department bases the income standard upon the Federal Poverty Level (FPL) for the following medical programs:

- (a) Pregnant women's program up to one hundred eighty-five percent of FPL;
- (b) Children's categorically needy program up to two hundred percent of FPL;

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(c) Healthcare for workers with disabilities (HWD) up to two hundred twenty percent of FPL; and

(d) The state children's health insurance program (SCHIP) is over two hundred percent of FPL but under two hundred fifty percent of FPL.

(2) The department uses the FPL income standards to determine:

(a) The mandatory or optional Medicaid status of an individual; and

(b) Premium amount, if any, for a Medicaid child.

(3) There are no resource limits for the programs under this section.

(4) Beginning April 1, 2003, the monthly FPL standards are:

(FAMILY SIZE)	100% FPL	185% FPL	200% FPL	220% FPL	250% FPL
1	\$749	\$1385	\$1497	\$1647	\$1871
2	\$1010	\$1869	\$2020	\$2222	\$2525
3	\$1272	\$2353	\$2544	\$2798	\$3180
4	\$1534	\$2837	\$3067	\$3374	\$3834
5	\$1795	\$3321	\$3590	\$3949	\$4488
6	\$2057	\$3805	\$4114	\$4525	\$5142
7	\$2319	\$4289	\$4637	\$5101	\$5796
8	\$2580	\$4773	\$5160	\$5676	\$6450
9	\$2842	\$5258	\$5684	\$6252	\$7105
10	\$3104	\$5742	\$6207	\$6828	\$7759
Add to the ten person standard for each person over ten:					
	\$262	\$485	\$524	\$576	\$655)

FAMILY SIZE	100% FPL Benchmark	133% FPL	150% FPL	185% FPL	200% FPL	220% FPL	250% FPL
1	\$ 776	\$1032	\$1164	\$1436	\$1552	\$1707	\$1940
2	\$1041	\$1385	\$1562	\$1926	\$2082	\$2290	\$2603
3	\$1306	\$1737	\$1953	\$2416	\$2612	\$2873	\$3265
4	\$1571	\$2090	\$2357	\$2907	\$3142	\$3456	\$3928
5	\$1836	\$2442	\$2754	\$3397	\$3672	\$4039	\$4590
6	\$2101	\$2795	\$3152	\$3887	\$4202	\$4622	\$5253
7	\$2366	\$3147	\$3549	\$4377	\$4732	\$5205	\$5915
8	\$2631	\$3499	\$3947	\$4868	\$5262	\$5788	\$6578
9	\$2896	\$3852	\$4344	\$5358	\$5792	\$6371	\$7240
10	\$3161	\$4204	\$4742	\$5848	\$6322	\$6954	\$7903
Add to the ten person standard for each person over ten:							
	\$ 265	\$353	\$398	\$491	\$530	\$583	\$663

~~((3) There are no resource limits for the programs under this section.))~~

WSR 04-07-167
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Services Administration)

[Filed March 23, 2004, 3:44 p.m., effective April 1, 2004]

Date of Adoption: March 15, 2004.

Purpose: To update the Medicare savings program standards based on a change in federal rules to the federal poverty level (FPL) effective April 1, 2004.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0085 Medicare savings program—Monthly income and countable resources standards.

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

Other Authority: Federal Register, Volume 69, No. 30; 42 U.S.C., chapter 7.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The increase in the federal poverty level (FPL) must be effective as of April 1, 2004, in order to stay in compliance with federal Medicaid requirements. Federal statute (42 U.S.C., chapter 7) requires states

to use the annually adjusted federal poverty level (FPL) guidelines as the basis for determining financial eligibility standards for certain medical assistance programs.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: April 1, 2004.

March 15, 2004

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

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AMENDATORY SECTION (Amending WSR 01-18-056, filed 8/30/01, effective 9/30/01)

WAC 388-478-0085 Medicare ((~~cost-sharing~~) savings programs)—Monthly income and countable resources standards. (1) The qualified Medicare beneficiary (QMB) program income standard is up to one hundred percent of the Federal Poverty Level (FPL). Beginning April 1, ((2001)) 2004, the QMB program's income standards are:

- (a) One person \$((716)) 776
- (b) Two persons \$((968)) 1041

(2) The special low-income Medicare beneficiary (SLMB) program income standard is over one hundred percent of FPL, but under one hundred twenty percent of FPL. Beginning April 1, ((2001)) 2004, the SLMB program's income standards are:

	Minimum	Maximum
(a) One person	\$((716.01)) <u>776.01</u>	\$((859)) <u>931</u>
(b) Two persons	\$((968.01)) <u>1041.01</u>	\$((1161)) <u>1249</u>

(3) The ((~~expanded special low income Medicare beneficiary (ESLMB)~~) qualified individual (QI-1)) program income standard is over one hundred twenty percent of FPL, but under one hundred thirty-five percent of FPL. Beginning April 1, ((2001)) 2004, the ((~~ESLMB~~) QI-1) program's income standards are:

	Minimum	Maximum
(a) One person	\$((859.01)) <u>931.01</u>	\$((967)) <u>1048</u>
(b) Two persons	\$((1161.01)) <u>1249.01</u>	\$((1307)) <u>1406</u>

(4) The qualified disabled working individual (QDWI) program income standard is up to two hundred percent of FPL. Beginning April 1, ((2001)) 2004, the QDWI program's income standards are:

- (a) One person \$((1432)) 1552
- (b) Two persons \$((1935)) 2082

(5) ((~~The qualified individual (QI) program income standard is over one hundred thirty-five percent of FPL, but under one hundred seventy-five percent of FPL. Beginning April 1, 2001, the QI program's income standards are:~~

	Minimum	Maximum
(a) One person	\$967.01	\$1253
(b) Two persons	\$1307.01	\$1694

((6)) The resource standard for the Medicare ((~~cost-sharing~~) savings programs) in this section is:

- (a) One person \$4000
- (b) Two persons \$6000

WSR 04-07-169
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-59—Filed March 23, 2004, 4:09 p.m.]

Date of Adoption: March 23, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000Y; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Harvestable numbers of hatchery salmon are available and impacts to ESA listed fish are expected to be within the guidelines that have been established. The use of short soak times, and recovery boxes will aid in the survival of spring chinook and steelhead that are released. An interim management agreement signed in 2001 provides allocation of ESA impacts to upriver spring chinook to non-Indian fisheries, and Washington and Oregon Fish and Wildlife Commissions have provided guidance on sharing of impacts between commercial and recreational fishers. Impacts in this fishery are consistent with the management agreement and the biological opinion provided by the National Marine Fisheries Service. This rule is consistent with actions of the Columbia River compact of March 22, 2004, and conforms Washington and Oregon state rules. 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 23, 2004
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-33-01000Z Columbia River gillnet seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is

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unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Blind Slough/Knappa Slough Select Area

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

a) Gear: 7 1/4 inch minimum mesh through March 31, 2004 and 8-inch maximum mesh thereafter. Mono-filament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on leadline.

b) Dates:

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

Both Blind Slough and Knappa Slough are open.

c) Allowable Sale: Salmon, sturgeon, and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2) Deep River Select Area

a) Area: Deep River boat launch upstream to the Highway 4 Bridge.

b) Dates:

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

c) Gear: 8-inch maximum mesh size.

d) Allowable sale: salmon, sturgeon, shad.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful unless by licensed buyer. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

f) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 9:00 p.m. Tuesday March 23 through 5:00 a.m. Wednesday March 24, 2004.

b) Gear: 4 1/4 inch maximum mesh. Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one ver-

tical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact. Monofilament gill nets are not allowed for the 4 1/4 inch mesh. Gill nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required. There are no restrictions on the use of slackers or stringers to slacken the net vertically. There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline. Net length not to exceed 150 fathoms, except under the following exceptions: An optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4 1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel must be a minimum of 5 feet in depth and not exceed 10 feet in depth as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4 1/4 inch maximum mesh size tangle net. Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 175 fathoms. Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, must have two red corks at each end of the net, as well as the red corks under miscellaneous regulations.

c) Allowable Sale: Adipose fin-clipped salmon, and sturgeon. An adipose fin-clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. A maximum of three white sturgeon may be possessed or sold by each participating vessel.

d) Sanctuaries: Grays River, Gnat Creek, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

4) Miscellaneous Regulations:

a) At least one fisher on each boat must possess a tangle net certificate issued by either WDFW or ODFW. The certificate must be displayed to WDFW or ODFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

b) Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

c) Red corks are required at 25 fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

d) Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

e) All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box.

f) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

h) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

5) Tangle net permit. Any individual meeting the qualifications of RCW 77.65.040(2) may obtain a tangle net certificate by attending and completing a WDFW- or ODFW sponsored workshop concerning live captive commercial fishing techniques. A tangle net certificate shall expire on December 31, 2004. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2004.

6) Nothing in this section sets any precedent for any fishery after the 2004 spring chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2004 does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in spring 2005 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2004. In particular, WDFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

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:

WAC 220-33-01000Y Columbia River gillnet seasons below Bonneville. (04-55)

WSR 04-07-182

EMERGENCY RULES

DEPARTMENT OF FINANCIAL INSTITUTIONS

[Filed March 24, 2004, 9:33 a.m.]

Date of Adoption: March 24, 2004.

Purpose: To implement the Uniform Money Services Act, chapter 287, Laws of 2008 [2003], chapter 19.230 RCW; specifically to facilitate licensing, monitoring, investigation and examination of money services businesses as required by the act. This is an extension of the emergency rule filed as WSR 03-24-035, on November 25, 2003. The agency has filed a notice of intent to adopt this, or a substantially similar rule as a permanent rule. The CR-101 was filed on July 11, 2003, WSR 03-115-044. The agency is actively undertaking the appropriate procedures to adopt the rule as a permanent rule.

Statutory Authority for Adoption: RCW 43.320.040, chapter 19.230 RCW.

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: As of October 1, 2003, both new and existing money services businesses may not operate without a license issued by the Department of Financial Institutions. Periodic reporting to federal and state agencies is required, as well as procedures for investigations and examinations. To provide a framework for these various regulatory activities, an emergency rule is necessary.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 23, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 19, 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: Immediately.

March 22, 2004

Helen P. Howell

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 04-08 issue of the Register.

EMERGENCY

OFFICE OF THE CODE REVISER
Quarterly Rule-Making Report
Covering Registers 04-01 through 04-06

Type of Activity	New	Amended	Repealed
ACCOUNTANCY, BOARD OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	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	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	1	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
AGRICULTURE, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	56	10	47
Number of Rules Adopted as Emergency Rules	2	0	0
Number of Rules Proposed for Permanent Adoption	52	31	24
Number of Sections Adopted at Request of a Nongovernmental Entity	0	10	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	54	0	47
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	6	0	4
Number of Sections Adopted on the Agency's own Initiative	50	0	43
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	56	10	47
Number of Sections Adopted using Pilot Rule Making	0	0	0
BELLEVUE COMMUNITY COLLEGE			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	24	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	24	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	24	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	24	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
BUILDING CODE COUNCIL			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	95	42	149
Number of Rules Proposed for Permanent Adoption	0	9	0
Number of Sections Adopted at Request of a Nongovernmental Entity	2	3	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	15	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	93	2	148
Number of Sections Adopted on the Agency's own Initiative	91	27	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	93	44	148
Number of Sections Adopted using Pilot Rule Making	0	0	0

CENTRAL WASHINGTON UNIVERSITY

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	3	0	0

CODE REVISER'S OFFICE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	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	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

COMMUNITY AND TECHNICAL COLLEGES, STATE BOARD FOR

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	6	0

COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	32	0	0

CORRECTIONS, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	1	0

COUNTY ROAD ADMINISTRATION BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	4	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

CRIMINAL JUSTICE TRAINING COMMISSION

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	1	0

MISC.

Type of Activity	New	Amended	Repealed
DEAF, WASHINGTON STATE SCHOOL FOR THE			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	4	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	4	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 Permanent Rules Adopted	11	10	22
Number of Rules Proposed for Permanent Adoption	0	0	1
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	13	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	11	4	18
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	13	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
EDUCATION, STATE BOARD OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	22	1
Number of Rules Proposed for Permanent Adoption	1	6	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	18	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	2	18	1
Number of Sections Adopted using Negotiated Rule Making	2	17	1
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	1	0
EDUCATOR STANDARDS BOARD, PROFESSIONAL			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	2	0	0
EMPLOYMENT SECURITY DEPARTMENT			
Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	42	23	26
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	1	0	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	42	23	26
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	42	23	26
Number of Sections Adopted using Pilot Rule Making	0	0	0

ENERGY FACILITY SITE EVALUATION COUNCIL

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	6	1

ENVIRONMENTAL HEARINGS OFFICE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	1	0
Number of Rules Adopted as Emergency Rules	50	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	51	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	51	2	0
Number of Sections Adopted on the Agency's own Initiative	1	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

FINANCIAL INSTITUTIONS, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	4	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	4	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	4	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

FISH AND WILDLIFE, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	3	12	0
Number of Rules Adopted as Emergency Rules	55	0	50
Number of Rules Proposed for Permanent Adoption	12	46	1
Number of Rules Withdrawn	6	3	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	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	1	0
Number of Sections Adopted on the Agency's own Initiative	55	11	47
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

FOREST PRACTICES BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	8	6	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	10	4	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	10	4	0
Number of Sections Adopted using Negotiated Rule Making	0	2	0
Number of Sections Adopted using Other Alternative Rule Making	10	2	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

GAMBLING COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	2	0
Number of Rules Proposed for Permanent Adoption	0	1	2
Number of Rules Withdrawn	0	2	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	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	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	2	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 Rules Proposed for Permanent Adoption	0	1	0

GRAYS HARBOR COLLEGE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	14	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	14	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	14	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	14	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

HEALTH CARE AUTHORITY

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	8	1	0
Number of Rules Proposed for Permanent Adoption	8	0	0

MISC.

Type of Activity	New	Amended	Repealed
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	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	8	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	8	1	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	17	67	26
Number of Rules Adopted as Emergency Rules	0	12	1
Number of Rules Proposed for Permanent Adoption	6	16	0
Number of Rules Withdrawn	2	10	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	12	28	22
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	125	21	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	1
Number of Sections Adopted on the Agency's own Initiative	9	24	22
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	136	29	22
Number of Sections Adopted using Pilot Rule Making	0	0	0

HIGHER EDUCATION COORDINATING BOARD

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	1	0

HORSE RACING COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	9	4
Number of Rules Proposed for Permanent Adoption	2	17	4
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	8	4
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
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	9	4
Number of Sections Adopted using Negotiated Rule Making	2	9	4
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

INSURANCE COMMISSIONER, OFFICE OF THE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	7	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	7	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

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	7	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

INVESTMENT BOARD, STATE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	3	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	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

LABOR AND INDUSTRIES, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	95	20	27
Number of Rules Proposed for Permanent Adoption	326	56	148
Number of Rules Withdrawn	138	1	39
Number of Sections Adopted at Request of a Nongovernmental Entity	38	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	55	19	14
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	55	19	14
Number of Sections Adopted using Negotiated Rule Making	24	1	12
Number of Sections Adopted using Other Alternative Rule Making	69	19	2
Number of Sections Adopted using Pilot Rule Making	0	0	0

LICENSING, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	15	33	8
Number of Rules Proposed for Permanent Adoption	4	35	1
Number of Rules Withdrawn	1	2	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	15	32	8
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	3	5	0
Number of Sections Adopted on the Agency's own Initiative	12	22	8
Number of Sections Adopted using Negotiated Rule Making	0	8	0
Number of Sections Adopted using Other Alternative Rule Making	15	25	8
Number of Sections Adopted using Pilot Rule Making	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
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LIQUOR CONTROL BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Rules Proposed for Permanent Adoption	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	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	1	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

MILITARY DEPARTMENT

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	13	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	10	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	13	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

MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	4	20	0

NATURAL RESOURCES, DEPARTMENT OF

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	1	10	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	9	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	1	0
Number of Sections Adopted on the Agency's own Initiative	1	10	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

PERSONNEL, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	3	0	0

MISC.

Type of Activity	New	Amended	Repealed
PUBLIC DISCLOSURE COMMISSION			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	7	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	1	7	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	1	1
Number of Sections Adopted on the Agency's own Initiative	1	6	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	1	7	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
PUBLIC INSTRUCTION, SUPERINTENDENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	6	0	0
Number of Rules Proposed for Permanent Adoption	0	20	5
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	6	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	6	0	0
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	0	1	0
RETIREMENT SYSTEMS, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	4	9	0
Number of Rules Proposed for Permanent Adoption	4	11	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	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	2	9	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
REVENUE, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	6	4
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

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	2	2
Number of Sections Adopted on the Agency's own Initiative	0	5	4
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	6	4
Number of Sections Adopted using Pilot Rule Making	0	0	0

SECRETARY OF STATE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	26	16	35
Number of Rules Adopted as Emergency Rules	1	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	23	15	36
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	1	1	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	9	0	0
Number of Sections Adopted on the Agency's own Initiative	27	17	36
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

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	63	94	5
Number of Rules Adopted as Emergency Rules	181	99	13
Number of Rules Proposed for Permanent Adoption	60	245	24
Number of Rules Withdrawn	1	7	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	29	88	4
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	31	5
Number of Sections Adopted in Order to Comply with Federal Statute	0	10	2
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	89	62	5
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	1	0
Number of Sections Adopted using Other Alternative Rule Making	118	190	16
Number of Sections Adopted using Pilot Rule Making	0	0	0

TRANSPORTATION, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	0	0
Number of Rules Adopted as Emergency Rules	1	0	0
Number of Rules Proposed for Permanent Adoption	2	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	1	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	2	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	1	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

UTILITIES AND TRANSPORTATION COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	19	0
Number of Rules Proposed for Permanent Adoption	0	3	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	9	0
Number of Sections Adopted on the Agency's own Initiative	0	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

WASHINGTON STATE PATROL

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	1	0

WESTERN WASHINGTON UNIVERSITY

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	1	1	0

TOTALS FOR THE QUARTER:

Number of Permanent Rules Adopted	443	446	329
Number of Rules Adopted as Emergency Rules	332	136	90
Number of Rules Proposed for Permanent Adoption	522	538	211
Number of Rules Withdrawn	148	25	41
Number of Sections Adopted at Request of a Nongovernmental Entity	40	27	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	262	301	136
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	136	52	5
Number of Sections Adopted in Order to Comply with Federal Statute	1	11	2
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	330	146	187
Number of Sections Adopted on the Agency's own Initiative	339	235	197
Number of Sections Adopted using Negotiated Rule Making	34	40	17
Number of Sections Adopted using Other Alternative Rule Making	555	418	273
Number of Sections Adopted using Pilot Rule Making	0	1	0

MISC.

WSR 04-05-086
AGENDA
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 [Filed February 17, 2004, 4:50 p.m.]

Following is the Department of Social and Health Services' Semi-Annual Rule-Making Agenda for January 1, 2004, through June 30, 2004. This report will be published in the State Register pursuant to RCW 34.05.314 and distributed to interested parties, and is available online at <http://www1.dshs.wa.gov/msa/rpau/>.

This report represents DSHS rules under development at this time. There may be additional rule-making activity as DSHS responds to legislative actions, to comply with federal mandates, or to meet unforeseen circumstances.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Semi-Annual Rule-Making Agenda
January 1, 2004 through June 30, 2004

This report describes rules under development by DSHS administrations and divisions from January 1, 2004, through

June 30, 2004. DSHS publishes this rule-making agenda semi-annually to comply with RCW 34.05.314. There may be additional DSHS rule-making activity not included in this report, as DSHS responds to new state laws, to meet federal requirements, or to meet unforeseen circumstances.

If you have questions about this rule-making agenda or the DSHS rule-making process, please contact Andy Fernando, DSHS Rules Coordinator, at P.O. Box 45850, Olympia, WA 98504-5850, by phone at (360) 664-6094, or by e-mail at FernaAX@dshs.wa.gov [FernaAX@dshs.wa.gov]. If you are interested in receiving DSHS rule-making notices, please contact Fred Swenson at the DSHS Rules and Policies Assistance Unit by phone at (360) 664-6097 or by e-mail at SwensFH@dshs.wa.gov. This document is also available from the DSHS public website, at <http://www1.dshs.wa.gov/msa/rpau/>.

Following the tables are explanations of the terms "pre-proposal notice," "proposed rule," "expedited rule," "permanent rule," "emergency rule," and other selected terms used in this report.

WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
AGING AND DISABILITY SERVICES ADMINISTRATION (ADSA)							
ADSA - Division of Developmental Disabilities (DDD)							
Chapter 388-820 WAC	Community residential services and support	State supplemental payment program	Amending and clarifying language; adding contracted mental health crisis diversion bed services; amending and adopting new rules to implement 2002 legislation (SSB 6387) on the DDD state supplemental payment program; and revising eligibility rules. Contact Saif Hakim, ADSA-DDD.	WSR 04-01-143 Filed 12/16/03	WSR 02-17-068 and 03-02-063	WSR 03-21-033 Hearing 11/25/03	WSR 04-04-043 Effective 2/29/04
Chapter 388-820 WAC; Chapter 388-825 WAC; WAC 388-513-1301 and 388-513-1315; and WAC 388-515-1510	Community residential services and support; DDD services rules; Client not in own home—Institutional; Alternative living—Institutional	New home and community based services	Adopting rules to implement new home and community-based services (HCBS) waivers from the federal Centers for Medicare and Medicaid necessary to provide services for eligible persons with developmental disabilities. New waivers replace the department's current community alternatives program (CAP) waiver. Contact Steve Brink, ADSA-DDD.		WSR 03-20-103 Filed 9/30/03		
Chapter 388-825 WAC; and Chapter 388-850 WAC	DDD services rules County plan for developmental disabilities	State supplemental payment program	Amending rules and adopting new rules to implement ESSB 6387, and to comply with federal Social Security Administration requirements. Contact Steve Brink, ADSA-DDD.	WSR 04-01-144 Filed 12/19/03	WSR 03-18-028 Filed 8/25/03	WSR 03-21-156 Hearing 12/9/03	WSR 04-02-014 Effective 1/29/04
Chapter 388-825 WAC	DDD services rules	Eligibility for services	Amending and clarifying language regarding appeal processes.		Planned for future action		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
New chapter 388-827 WAC	DDD—State supplemental payment program	Same	Creating a new WAC chapter to replace WAC 388-825-500 through 388-825-600 adopted by emergency rule. Adopting new rules to implement 2002 legislation (ESSB 6387) on the DDD state supplemental payment program and requirements of the federal Social Security Administration. Contact Steve Brink, ADSA-DDD.	WSR 04-01-144 Filed 12/19/03	WSR 03-18-026 Filed 8/25/03	WSR 03-22-056 Hearing 12/9/03	WSR 04-02-015 Effective 1/29/04
Chapter 388-830 WAC	DDD program option rules	Same	Possible repeal of this WAC chapter.		Planned for future action		
Chapter 388-835 WAC and new chapter 388-837 WAC	ICF/MR program and reimbursement system	Residential habilitation centers	Adopting rules to implement the 2003-2005 state operating budget bill (section 205, chapter 25, Laws of 2003 1st sp.s.), concerning downsizing of the Fircrest School. Contact Jeannie Johnson, ADSA-DDD.	WSR 04-02-010 Filed 12/29/03	WSR 04-02-009 Filed 12/29/03		
Chapter 388-835 WAC	ICF/MR program and reimbursement system	Same	Amending language to reflect new rates.		Planned for future action		
Chapter 388-850 WAC	County plan for developmental disabilities	Same	Rewriting rules in clear rule format and clarifying language.		Planned for future action		
ASDA - Home and Community Services Division (HCS)							
Chapter 388-71 WAC; Chapter 388-72A WAC; and Chapter 388-515 WAC	Home and community services and programs; Comprehensive assessment, reporting and evaluation tool; Alternative living—Institutional medical	Medically needy (MN) in-home waiver program	The department will adopt rules to establish eligibility criteria, applicable income standards, specific waiver services, and amending other sections as needed to update program rules. Contact Tiffany Sevrak, ADSA-HCS.		WSR 04-01-192 Filed 12/23/03		
WAC 388-71-0100 through 388-71-0155	Home and community services and programs	Adult protective services	Adopting rules providing an alleged perpetrator in an adult protective services (APS) report the opportunity to request an administrative hearing. Contact Tiffany Sevrak, ADSA-HCS.	WSR 03-22-053 Filed 10/31/03	WSR 03-17-064 Filed 8/18/03		
WAC 388-71-0202 and 388-71-0531	Home and community services and programs	Individual provider hours	Clarifying maximum number of hours an individual provider or personal aide can be paid. Contact Sue McDonough, ADSA-HCS.		WSR 03-17-065 Filed 8/18/03	WSR 03-22-055 Hearing 12/9/03	WSR 04-04-042 Effective 2/29/04
WAC 388-71-0203 and 388-71-0205; and Chapter 388-72A WAC	Home and community services and programs; Comprehensive assessment reporting and evaluation tool	Children receiving Medicaid personal care—Assessment criteria	Amending rules to incorporate CARE assessment criteria for children receiving state plan Medicaid personal care (MPC) services and amending other sections as needed to implement this change. Contact Tiffany Sevrak, ADSA-HCS.		WSR 04-01-087 Filed 12/16/03		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
WAC 388-71-0465	Home and community services and programs (HCP)	Are there waiting lists for HCP?	Amending the rules is required by legislative mandate to control caseload growth. Contact Tiffany Sevruck, ADSA-HCS.		WSR 03-16-019 Filed 7/28/03	WSR 03-20-104 Hearing 11/4/03	WSR 04-01-090 Effective 1/16/04
WAC 388-71-0520; amending and renumbering other training WAC 388-71-0580 through 388-71-05952	Home and community services and programs	Individual providers; home care agency workers	Amending rules and adopting new rules to implement nurse delegations requirements of HB 1753 (chapter 140, Laws of 2003). Recodifying (renumbering) other training WAC to allow for future revisions. Contact Barbara Hanneman, ADSA-HCS.	WSR 03-20-105 Filed 9/30/03	WSR 03-19-117 Filed 9/16/03	WSR 03-22-091 Hearing 12/9/03	WSR 04-02-001 Effective 1/24/04
WAC 388-71-1065 through 388-71-1095	Home and community services and programs	Respite care—Family caregiver support program	Amending the respite care subchapter to include the family caregiver support program per state legislation. Contact Tiffany Sevruck, ADSA-HCS.		Planned for future action		
WAC 388-513-1350 and 388-513-1380	Client not in own home—Institutional medical	Maximum resources allowed and client participation for long-term care services	Amending the rules to comply with new state law (ESHB 2257) to reduce the maximum resource allocation for the community spouse effective August 1, 2003; and increase the community spouse standards for long-term care program to be consistent with federal standards effective April 1, 2003. Contact Mary Lou Percival, ADSA-HCS.		WSR 03-15-049 Filed 7/11/03	WSR 03-24-102 Hearing 1/27/04 (see WSR 04-02-056)	WSR 04-04-072 Effective 3/4/04
ADSA - Residential Care Services Division							
WAC 388-76-675	Adult family homes minimum licensing	Reporting requirements/prevention of abuse	To comply with the recently passed legislation ESHB 1904, relating to the reporting of incidents by mandated reporters. Contact Dahl Kim, ADSA-RCS.		WSR 03-12-055 Filed 5/30/03 D. Kim	WSR 03-21-123 Hearing 11/25/03	WSR 04-01-032 Effective 1/8/04
Chapter 388-78A WAC	Boarding home licensing	Same	To review and update rules to be consistent with current practices in residential care and to make it more applicable to today's boarding home residents. Current rules will be repealed and replaced with new rules in chapter 388-78A WAC. Rules effective September 1, 2004. Contact Denny McKee, ADSA-RCS.		WSR 00-15-014 Filed 7/10/00	WSR 03-03-018 Hearing 3/11/03	WSR 03-16-047 Effective 9/1/04
Chapter 388-110 WAC	Contracted residential care services; Assisted living services; Enhanced adult residential care	Same	To incorporate dementia care pilot project standards into rule for contracting with boarding homes to provide dementia care to department clients, and to make revisions necessary as a result of amendments to chapter 388-78A WAC. Contact Denny McKee, ADSA-RCS.		WSR 03-02-078 Filed 12/30/02		

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				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
ADSA - Rates Management Division							
Chapter 388-96 WAC	Nursing facility Medicaid payment	Same	Codifying current policies and practices; editing previous codifications for substance and form. Contact Patricia Hague, ADSA-Rates Management.		WSR 03-07-031 Filed 3/11/03 P. Hague		
WAC 388-105-0005, 388-105-0030, 388-105-0040, and new WAC 388-105-0045	Medicaid rates for contracted home and community residential care services	Bed hold process, rates	Adopt permanently the July 1, 2003 rate increases and to implement SSB 5579 (chapter 231, Laws of 2003) granting of payments to providers to hold a bed or unit when a Medicaid resident temporarily leaves the facility for a hospital or nursing home stay. Contact Patricia Hague, ADSA-Rates Management.	WSR 03-22-052 Filed 10/31/03	WSR 03-15-050 Filed 7/11/03	WSR 04-04-044 Hearing 3/9/04	
CHILDREN'S ADMINISTRATION							
WAC 388-27-0120, 388-27-0130, 388-27-0135, 388-27-0155, 388-27-0160, 388-27-0165, 388-27-0175, 388-27-0190, 388-27-0195, 388-27-0200, 388-27-0210, 388-27-0215, 388-27-0220, 388-27-0225, 388-27-0235, 388-27-0240, 388-27-0245, 388-27-0270, and related sections.	Child welfare services—Adoption services and adoption support	Adopting special needs children	Amending rules to comply with legislative directives to control rate and reimbursement decisions with families adopting special needs children by maximizing use of federal funds. Contact Lonnie Locke, Children's Administration.	WSR 04-03-018 Filed 1/12/04	WSR 03-11-090 Filed 5/21/03	WSR 04-01-088 and WSR 04-02-026 Hearing 1/27/04	
Chapter 388-61A WAC	Shelters for victims of family violence	Same	Revising the chapter to clarify confidentiality requirements, fire safety requirements for shelter homes and appeal rights. Contact Susan Hannibal, Children's Administration.		WSR 03-22-087 Filed 11/5/03		
Chapter 388-140 WAC	Licensing standards for group receiving centers	Same	Establishing licensing procedures and standards for group receiving center currently approved under waivers. Contact Jean Croisant, Children's Administration. Emergency rules only. Permanent rules to be incorporated into chapter 388-148 WAC (see below).	WSR 04-03-010D Filed 1/9/04	WSR 02-20-016 Filed 9/20/02	See WSR 04-03-116 Hearing 3/23/04	
New chapter 388-147 WAC	Licensing requirements for teen parent programs	Same	Creating new standards for programs assisting pregnant or new teen parents. Contact Jean Croisant, Children's Administration.		WSR 00-22-061 Filed 10/27/01		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
Chapter 388-148 WAC	Foster homes and facility licensing requirements	Licensing requirements for foster homes, staffed residential homes, group care facilities, and child-placing agencies	Revising rules to comply with federal funding statute and clarify language of the licensing requirements for homes, facilities, and child-placing agencies. The chapter incorporates a new set of licensing requirements for group receiving centers (see chapter 388-140 WAC above). Contact Jean Croisant, Children's Administration.	WSR 03-21-074 Filed 10/15/03	WSR 02-06-083 Filed 3/1/02	WSR 04-03-116 Hearing 3/23/04	
Chapter 388-149 WAC	Licensing standards for special model foster homes	Same	Developing consistent standards and providing regular monitoring. Contact Jean Croisant, Children's Administration.		WSR 01-15-080 Filed 7/17/01		
ECONOMIC SERVICES ADMINISTRATION (ESA)							
ESA - Community Services Division							
			No current rule-making activity				
ESA - Division of Child Care and Early Learning							
Chapter 388-151 WAC, moving to new chapter 388-297 WAC	Minimum requirements for child care centers	Moving entire chapter to new location	Repealing all sections of chapter 388-151 WAC and adopting new chapter 388-297 WAC to reorganize and clarify minimum requirements for child care centers caring exclusively for school age children. Contact Liz Egge, ESA.		WSR 03-20-025 Filed 9/23/03		
WAC 388-290-0075, 388-290-0085, 388-290-0190, and 388-290-0210	Working connections child care (WCCC)	Copayments	Increasing participant family copayment levels; eliminating unfunded portions of WCCC program to meet budget reductions. Contact Lisa Lind, ESA.	WSR 03-22-005 Filed 10/22/03	WSR 02-20-055 Filed 9/27/02	WSR 04-02-047 Hearing 3/9/04	
WAC 388-290-0130	Working connections child care (WCCC)	Background checks	Clarifying that an in-home/relative child care provider may be an eligible provider following results of a criminal background check. Contact Carla Gira, ESA.	WSR 03-20-050 Filed 9/25/03	WSR 02-20-055 Filed 9/27/02	WSR 04-02-047 Hearing 3/9/04	
WAC 388-295-0020, 388-295-0060, 388-295-0070, 388-295-0090, 388-295-0100, 388-295-0110, 388-295-1010, 388-295-1070, 388-295-1110, 388-295-2010, 388-295-2090, 388-295-2100, 388-295-3010, 388-295-4010, 388-295-4100, 388-295-5030, 388-295-5150, 388-295-7010, 388-295-7040, 388-295-7050, and other sections as appropriate	Minimum licensing requirements for child care centers	Same	Amending rules to add clarity and correct typographical and other inadvertent errors made during the last revision. Contact Carla Gira, ESA.		WSR 03-23-062 Filed 11/17/03		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
New chapter 388-296 WAC Repealing all rules in chapter 388-155 WAC	Child care business regulations for family home child care; Minimum licensing requirements for family child care homes	Licensing requirements for family child care homes	Revising this chapter to meet the governor's clear rule-writing mandate. Revisions will result in adopting a new chapter of Title 388 WAC. Contact Mary Oakden, ESA.		WSR 02-23-015 Filed 11/8/02		
ESA - Division of Child Support							
WAC 388-14A-2000, 388-14A-2025, 388-14A-2080, 388-14A-3800, 388-14A-3810, 388-14A-4000, 388-14A-4300, and 388-14A-4304	Division of child support rules	Modifying support obligations	Amending the rules to allow the Division of Child Support (DCS) to modify support obligations when both parties make informal arrangements and are unable to return to court to officially change the support order. Contact Nancy Koptur, ESA.		WSR 02-03-010 Filed 1/4/02		
WAC 388-14A-3300 through 388-14A-3320	Division of child support rules	Support debt and notice of support owed	Reviewing for clarification the rules regarding the notice of support debt and the notice of support owed. Contact Nancy Koptur, ESA.		WSR 03-23-107 Filed 11/18/03		
WAC 388-14A-3900 to 388-14A-3925	Division of child support rules	Modification of a support order	Revising rules on review and modification of support orders; rules and procedures regarding prospective modification of administrative support orders. Contact Nancy Koptur, ESA.		WSR 03-22-054 Filed 10/31/03		
WAC 388-14A-3900 to 388-14A-3925	Division of child support rules	Modification of a support order	Allowing for modification of a support order when it will not change by more than the current standard. Contact Nancy Koptur, ESA.		WSR 01-13-020 Filed 6/11/01		
WAC 388-14A-4000 and 388-14A-6300	Division of child support rules	Payments on child support arrearages	Amending or adopting new rules as necessary, dealing with payments on child support arrearages. Contact Nancy Koptur, ESA.		WSR 03-23-106 Filed 11/18/03		
WAC 388-14A-4100, 388-14A-4110, 388-14A-4120, and 388-14A-4130	Division of child support rules	Medical child support obligations	Developing new rules and procedures for enforcing medical child support obligations using the National Medical Support Notice. Contact Nancy Koptur, ESA.		WSR 02-02-021 Filed 12/21/01		
ESA - Division of Employment and Assistance Programs							
WAC 388-61-001	Family violence	Family violence—Temporary assistance to needy families (TANF)	Amending rules to align their intent with current practice. Contact June Hershey, ESA.		WSR 02-24-068 Filed 12/3/02		
WAC 388-273-0025, 388-273-0030, and 388-273-0035	Washington telephone assistance program (WTAP)	Same	Clarifying the payment limits for reimbursable services, and streamline the billing process. The amendment also adds community service voice mail as a WTAP benefit as provided for by chapter 134, Laws of 2003. Contact Steve Ebben, ESA.	WSR 04-03-097 Filed 1/20/04	WSR 03-13-044 Filed 6/11/03		

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				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
WAC 388-310-0350 and 388-484-0006	WorkFirst	Sixty-month time limit—Extensions	Amending rules to clarify under what conditions a client may receive an extension past the sixty-month limit and cross-references the time limit extensions. Contact Ian Horlor, ESA.		WSR 03-17-063 Filed 9/2/03	WSR 03-21-153 Hearing 11/25/03	WSR 03-24-057 Effective 1/1/04
WAC 388-310-1500, 388-310-2000, 388-410-0001, 388-436-0040, 388-440-0001, 388-444-0055, 388-450-0005, 388-450-0165, 388-466-0130, 388-478-0005, and 388-484-0005	Several chapters	Corrections	Amending rules to correct typographical errors and obsolete cross-references. Contact Patti Clark, ESA.		Exempt	WSR 03-23-112 and 04-02-055 Hearing 1/27/04	
WAC 388-310-1600 and 388-310-1650	WorkFirst	WorkFirst sanctions	Reducing the number of steps in sanction and require a case staffing before the sanction is imposed. The child safety-net change removes the additional time in sanction after complying and increases the time a client would be in child safety-net while complying before removing the child safety-net. Contact Brent Low, ESA.		WSR 01-23-02 Filed 11/20/01	WSR 04-03-095 Hearing 2/24/04	
WAC 388-408-0025	Assistance units	When can I choose who is in my TANF or SFA assistance unit?	Amending the rule to clarify that the child's caretaker relative may choose to include no one in the grant but the child in this circumstance. Contact Patti Clark.		WSR 03-19-032 Filed 9/9/03 P. Clark		
WAC 388-408-0034 and 388-408-0035	Assistance units	Same	Amending rules to update program language and clarify whom in a residence must be in a client's assistance unit to comply with federal regulations. Contact John Camp, ESA.		WSR 03-17-023 Filed 11/17/03	WSR 04-02-050 Hearing 2/10/04	
WAC 388-412-0005	Benefit issuances	General information about your basic food allotments	Amending the rule to clarify the rule regarding receiving duplicate assistance in two assistance units or two states in the same month. Contact Patti Clark, ESA.		WSR 03-23-108 Filed 11/18/03		
WAC 388-414-0001	Categorical eligibility for food assistance	Some food assistance units do not have to meet all eligibility requirements	Amendment will reflect changes in WorkFirst support services that impact which clients are categorically eligible for food assistance and do not have to meet certain requirements to get food assistance benefits. Contact John Camp, ESA.		WSR 02-09-074 Filed 4/16/02	WSR 04-04-076 Hearing 3/9/04	
Chapter 388-416 WAC; and Chapter 388-418 WAC; other sections as necessary	Certification periods; Change of circumstances	Reporting requirements for basic food and temporary assistance to needy families (TANF)	Amending rules to reduce client reporting requirements under the department's simplified reporting initiative. Contact John Camp, ESA.		WSR 03-17-085 Filed 8/19/03		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
WAC 388-418-0005	Change of circumstances	What types of changes must I report for cash, basic food, and medical assistance?	Amending the rule to comply with federal requirements for the food stamp program and to move portions of the text of the rule so program requirements will be more easily understood. Contact John Camp, ESA.	WSR 04-02-073 Filed 1/7/04	Exempt	WSR 04-02-072 Hearing 2/10/04	
WAC 388-424-0005, 388-424-0010, and 388-424-0015	Citizenship, alien status	Same	Amending the rules to incorporate changes from federal law, and to revise the rule for clarity. Contact Tom Berry, ESA.		WSR 03-03-007 Filed 1/6/03		
WAC 388-426-0005	Client complaints	Correction	Correcting incorrect WAC or RCW cross-references without changing the effect of the rule. Contact Patti Clark, ESA.		WSR 03-20-024 Filed 9/23/03	WSR 03-23-110 Hearing 12/23/03	WSR 04-03-050 Effective 2/15/04
WAC 388-434-0005	Eligibility review and recertification	Correction	Correcting an incorrect cross-reference without changing the effect of the rule. Contact Patti Clark, ESA.		WSR 03-19-031 Filed 9/9/03		
WAC 388-434-0005, 388-434-0010 and 388-452-0005	Eligibility review and recertification; Interview requirements	Same	Amending rules to clarify language and program requirements for the eligibility review process for cash and medical benefits, recertification process for basic food, and interview requirements for department programs. Contact John Camp, ESA.		WSR 03-23-061 Filed 11/17/03		
WAC 388-436-0002	Emergency cash assistance	Additional requirements for emergent needs (ARENS)	Reducing the maximum allowable payment to prevent overspending of state funds. Contact Amber Gillum, ESA.	WSR 04-03-098 Filed 1/20/04	WSR 03-11-089 Filed 5/21/03	WSR 04-02-049 Hearing 2/10/04	
WAC 388-436-0015	Emergency cash assistance	Corrections	Correcting incorrect WAC or RCW cross-references. Contact Patti Clark, ESA.		WSR 03-20-031 Filed 9/23/03	WSR 03-24-055 and 04-02-057 Hearing 1/27/04	
Chapter 388-444 WAC	Food stamp employment and training	Same	Simplifying and updating language so that the rules are easier to read and use.		Planned for future action		
Chapters 388-446 and 388-464 WAC	Fraud; Quality assurance	Fraudulent actions; failure to cooperate with process	Adopting rules to be consistent with federal requirements; updating program language and clarify the impact of fraudulent actions or failure to cooperate with the quality assurance process. Contact Amber Gillum, ESA.		WSR 03-24-100 Filed 12/3/03		
WAC 388-446-0005 and 388-446-0015	Fraud	Corrections	Correcting incorrect WAC or RCW cross-references. Contact Patti Clark, ESA.		WSR 03-20-032 Filed 9/23/03	WSR 04-03-094 Hearing 2/24/04	
Chapter 388-448 WAC	Incapacity	Individual responsibility plan requirements—General assistance	Developing new individual responsibility plan requirements for general assistance recipients enrolled in WorkPlus. Contact Steve Ebben, ESA.		WSR 01-23-065 Filed 11/20/01		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
WAC 388-448-0001, 388-448-0010, 388-448-0020, 388-448-0030, 388-448-0120, 388-448-0160, 388-448-0170, 388-448-0180, 388-448-0190, 388-448-0200, and 388-448-0210	Incapacity	General assistance—Unemployable (GAU)	Anticipating legislation governing eligibility for the GAU program that may require changes in administrative rules. Contact Doug Sevin, ESA.	WSR 04-03-010E Filed 1/9/04	WSR 03-13-033 Filed 6/10/03	WSR 04-02-048 Hearing 2/10/04	
WAC 388-448-0180	Incapacity	How and when we re-determine your eligibility if we decide you are eligible for GAX	Amending the rule to make reference to the correct type of hearing. "Administrative hearing" needs to be replaced by "appeals court review." Contact Glenda Lee, ESA.		WSR 02-11-125 Filed 5/21/02		
WAC 388-450-0015	Income	Eligibility—Counting veterans benefits	Amending the rule per federal regulations requiring that veteran's benefits paid to Vietnam veterans who have children with birth defects not be counted when the department determines eligibility for temporary assistance for needy families (TANF). Contact Patti Clark, ESA.		WSR 03-18-098 Filed 9/2/03		
WAC 388-450-0135	Income	Allocating income of an ineligible spouse to a GAU client	Simplifying how the department allocates income from an ineligible spouse to a general assistance recipient. Contact Veronica Barnes, ESA.		WSR 02-08-054 Filed 4/1/02		
WAC 388-450-0170	Income	Corrections	Correcting incorrect WAC or RCW cross-references. Contact Patti Clark, ESA.		WSR 03-18-100 Filed 9/2/03	WSR 03-23-111 Hearing 12/23/03	WSR 04-03-051 Effective 2/15/04
WAC 388-450-0190	Income	Excess shelter deduction	Amending the rule to be consistent with federal requirements.		Exempt	WSR 04-04-075 Hearing 3/9/04	
WAC 388-450-0200	Income	Medical expenses income deduction for households with an elderly or disabled household member	Adopting rules to be consistent with federal regulations for food stamps. This revision is intended to update program language, clarify when the department allows a medical expense as an income deduction, and correct references in the rule. Contact John Camp, ESA.		WSR 03-19-033 Filed 9/9/03	WSR 03-23-109 Hearing 12/23/03	WSR 04-02-025 Effective 2/1/04
WAC 388-450-0215	Income	Corrections	Correcting editing errors that occurred in recent amendments to the rule. Contact John Camp, ESA.		<i>Expedited rule</i> WSR 04-01-031 Filed 12/8/03	Objection period ends 2/23/04	

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
WAC 388-454-0006 and 388-454-0025	Living with a relative	Background checks	Revising rules on background checks on adults who are acting <i>in loco parentis</i> (in place of another) without court ordered custody. Contact Stephanie Del Camp, ESA.		WSR 02-11-061 Filed 5/10/02		
WAC 388-454-0010	Living with a relative	Corrections	Correcting information in the rule. Contact Patti Clark, ESA.		Exempt	WSR 03-24-056 and 04-03-010F Hearing 1/27/04	WSR 04-05-012 Effective 3/8/04
Chapter 388-460 WAC	Payees on benefit issuances	Protective payee policies	Proposing changes to protective payee policies. Contact Brent Low, ESA.		WSR 01-23-067 Filed 11/20/01		
WAC 388-468-0005	Residency	Same	Amending rules to prohibit the receipt of benefits from Washington state while receiving comparable benefits from another state. Contact Ken Adney, ESA.		WSR 03-14-080 Filed 6/27/03		
WAC 388-470-0040	Resources	Correction	Correcting incorrect WAC or RCW cross-references. Contact Patti Clark, ESA.		WSR 03-20-033 Filed 9/23/03		
WAC 388-472-0005	Rights and responsibilities	What are my rights and responsibilities?	Amending this rule to clarify information regarding requirements for receiving children's family medical, pregnancy medical, and SSI-related medical. Contact Patti Clark, ESA.		WSR 03-19-035 Filed 9/9/03		
WAC 388-472-0010	Rights and responsibilities	Correction	Correcting an obsolete WAC cross-reference. Contact Patti Clark, ESA.		Exempt	WSR 04-03-093 Hearing 2/24/04	
WAC 388-474-0010	Supplemental security income	Correction	Correcting incorrect WAC or RCW cross-references. Contact Patti Clark, ESA.		WSR 03-21-150 Filed 10/22/03		
WAC 388-478-0015	Standards for payments	Need standards for cash assistance	Amending the rule to reflect new standards based on actual living costs. Contact Patti Clark, ESA.		WSR 03-15-125 Filed 7/22/03	WSR 03-19-070 Hearing 10/21/03	WSR 03-23-116 and 03-24-059 Effective 1/1/04
WAC 388-478-0055	Standards for payments	State supplemental payment program (SSP)	Amending the rule adding the additional categories of Supplemental Security Income (SSI) recipients who get SSP and the payment amount. This change updates SSP payment amounts and includes payment amount information for calendar year 2004. Contact Carole McRae, ESA.	WSR 04-02-011 Filed 12/29/03	WSR 03-18-101 Filed 9/2/03	WSR 03-21-124 Hearing 11/25/03 Supplemental, WSR 04-03-096 Hearing 2/24/04	

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
Chapter 388-490 WAC	Verification	Proof of eligibility	Streamlining the application process by standardizing how the department requests proof of eligibility. Contact Veronica Barnes, ESA.		WSR 02-14-159 Filed 7/2/02		
Chapter 388-492 WAC	Washington combined application program (WASHCAP)	Same	Changing rules to comply with a revised federal waiver. The new rules will further define WASHCAP eligibility. Contact Carole McRae, ESA.	WSR 04-05-003 Filed 2/5/04	WSR 04-04-097 Filed 2/3/04		
WAC chapter not yet specified		Client reporting requirements	Implementing quarterly reporting for clients.		Planned for future action		
WAC chapter not yet specified		Overpayments to clients	Eliminating overpayments caused by agency error and amending all related rules. Contact Veronica Barnes, ESA.		WSR 00-09-036 Filed 4/14/00		
HEALTH AND REHABILITATIVE SERVICES ADMINISTRATION (HRSA)							
HRSA - Division of Alcohol and Substance Abuse (DASA)							
No current rule-making activity							
HRSA - Division of Vocational Rehabilitation (DVR)							
Chapter not specified	Background checks for DVR service providers	Background checks for DVR service providers	Adopting rules on background checks for Division of Vocational Rehabilitation (DVR) service providers who have unsupervised access to DVR clients. Contact Susan Hartman, HRSA-DVR.		WSR 03-24-101 Filed 12/3/03		
HRSA - Mental Health Division (MHD)							
WAC 388-865-0100 through 388-865-0484	Community mental health and involuntary treatment programs	Community support service providers	Revising rules to be consistent with the federal Balanced Budget Act, and for quality improvement. Contact Karie Castleberry, HRSA-MHD.		WSR 03-08-077 Filed 4/1/03		
WAC 388-865-0400 Series	Community mental health and involuntary treatment programs	Adult residential treatment facility certification	Revising the rules to be consistent with rules of the state Department of Health. Contact Kathy Burns Peterson, HRSA-MHD.		WSR 03-17-062 Filed 8/16/03		
WAC 388-865-0465 (new)	Community mental health and involuntary treatment programs	Adult residential treatment facility certification—Additional standards	A new rule developed to be consistent with the Residential Treatment Facilities rules of the Department of Health. Contact Kathy Burns Peterson, HRSA-MHD.		WSR 03-17-062 Filed 8/16/03	WSR 03-22-090 Hearing 12/9/03	WSR 04-01-091 Effective 1/16/04
WAC 388-865-0500 through 388-865-0565	Community mental health and involuntary treatment programs	Inpatient evaluation and treatment	Revising rules to be consistent with Department of Health rules on residential treatment facilities. Contact Kathy Burns Peterson, HRSA-MHD.		WSR 03-07-041 Filed 3/13/03 K. Burns Peterson	WSR 03-18-103 Hearing 10/21/03	
HRSA - Special Commitment Center							
No current rule-making activity							
HRSA - Office of Deaf and Hard of Hearing Services							
No current rule-making activity							

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
JUVENILE REHABILITATION ADMINISTRATION (JRA)							
Chapter 388-700 WAC	Juvenile rehabilitation administration—Practices and procedures	Background checks	Potential revisions due to changes in background check procedures. Contact Cheryl-Sullivan Colglazier, JRA.		Planned for future action		
Chapter 388-745 WAC	Transfer of juvenile offenders to the Department of Corrections (DOC)	Transfers to DOC	Potential revisions due to changes in transfer procedures. Contact Cheryl-Sullivan Colglazier, JRA.		Planned for future action		
Chapter 388-750 WAC	Impact account—Criminal justice cost reimbursement	Reimbursement rates and procedures for criminal justice impact	Potential rule changes to clarify reimbursement rates. Contact Cheryl-Sullivan Colglazier, JRA.		Planned for future action		
MANAGEMENT SERVICES ADMINISTRATION (MSA)							
Chapter 388-02 WAC	DSHS hearing rules	Same	Revising rules to clarify or modify the right to review by the DSHS Board of Appeals of interim and initial orders entered by Office of Administrative Hearings of certain cases; to clarify and simplify the rules, to make rules consistent with statutes and court decisions; and to update WAC and RCW references. Contact Brian Lindgren, MSA.	WSR 03-23-113 Filed 11/18/03	WSR 03-21-149 Filed 10/22/03		
Chapter 388-03 WAC	Certification of DSHS spoken language interpreters and translators	Same	Updating the chapter's references to units of DSHS (such as Language Interpreter Services and Translations, or LIST) that have been reorganized and renamed, to change timeframes for DSHS mailing of letters notifying applicants of their test dates, and other needed changes. Contact Brian Lindgren, MSA.		WSR 04-01-142 Filed 12/19/03		
MEDICAL ASSISTANCE ADMINISTRATION (MAA)							
WAC chapter not designated	Medical Nutrition Program	Possible new WAC chapter	Establishing the Medical Nutrition Program in rule; setting requirements, limitations and restrictions for the program. Contact Kathy Sayre, MAA.		WSR 03-18-102 Filed 9/2/03		
WAC 388-416-0005; WAC 388-418-0005 and 388-418-0025; WAC 388-434-0005	Certification periods; Change of circumstance; Eligibility review and recertifications	Children and family medical programs—Eligibility	Implementing legislation initiating a six-month eligibility review and eliminating continuous eligibility for children. Proposed WAC 388-418-0005 withdrawn, see WSR 04-02-052, filed 1/5/04. Contact Mary Wood, MAA.	WSR 03-21-004 Filed 10/22/03	WSR 03-14-077 Filed 6/27/03	WSR 03-19-068 Hearing 10/21/03	WSR 04-03-019 Effective 2/12/04
WAC 388-438-0100, 388-438-0110; and WAC 388-503-0505	Emergency assistance for medical needs; Persons eligible for medical assistance	Alien emergency medical	Amending the rule to eliminate coverage for organ transplants and related coverage. Contact Joanie Scotson, MAA.	WSR 03-22-027 Filed 10/28/03	WSR 03-10-088 Filed 5/6/03	(WAC 388-438-0110 only) WSR 03-20-074 Hearing 11/4/03	WSR 03-24-058 Effective 1/1/04

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
Chapter 388-450 WAC; Chapter 388-475 WAC; and Chapter 388-511 WAC	Income; Healthcare for workers with disabilities program; SSI-related medical eligibility	Supplemental security income (SSI)	Combining SSI-related medical eligibility rules into chapter 388-475 WAC for easier reference and to revise the rules for clarity. Contact Mary Beth Ingram, MAA.		WSR 00-12-079 Filed 6/6/00	WSR 03-20-076, 03-20-077, 03-20-078, and 03-20-079 Hearing 11/4/03	
WAC 388-478-0080	Standards for payments	Supplemental Security Income (SSI) - categorically needy income level and countable resource standards	Revising the rule to qualify for continued federal financial participation. Contact Wendy Forslin, MAA.	WSR 04-02-012 Filed 12/29/03	WSR 03-08-085 Filed 4/1/03		
WAC 388-478-0085	Standards for payments	Medicare savings program	Amending the rule to adopt new federal poverty level standards effective April 1, 2003. Contact Wendy Forslin, MAA.	WSR 03-24-029 Filed 11/24/03	WSR 03-08-081 Filed 4/1/03		
WAC 388-500-0005; and	Medical definitions;	"Medically necessary" definition	Amending the definition of "medically necessary" to incorporate the use of medical information that is supported by scientific evidence in its determination of services. Amending WAC 388-501-0165 to be consistent with the medically necessary definition. Contact Ann Myers, MAA.		WSR 02-24-010 Filed 11/22/02	WSR 03-22-088 and 03-22-089 Hearing 12/9/03 Continuance filed WSR 04-01-043 and 04-01-044	
WAC 388-501-0165	Administration of medical programs—General						
WAC 388-501-0135	Administration of medical programs	Patients requiring regulation	Amending policy to improve medical supervision of patients who inappropriately overuse medical and pharmaceutical services. Contact Wendy Boedigheimer, MAA.		WSR 03-20-058 Filed 12/27/02	WSR 03-20-073 Hearing 11/4/03	WSR 04-01-099 Effective 1/16/04
WAC 388-502-0220, 388-502-0230, and 388-502-0260	Administration of medical programs—Providers	Vendor dispute resolution	Updating the vendor dispute resolution process. Contact Kevin Sullivan, MAA.		WSR 01-16-135 Filed 7/31/01		
WAC 388-505-0211	Premiums—Children's medical	Same	Adopting language required to implement the premium requirement for optional children as allowed by HB 2285 (chapter 14, Laws of 2003). Contact Joanie Scotson, MAA.		WSR 03-14-079 Filed 6/27/03	WSR 03-21-152 Hearing 11/25/03	
WAC 388-513-1325	Client not in own home—Institutional medical	Income of a single client for long-term care services	Adding income requirements currently found in other rules; correcting incorrect WAC cross-references. Contact Mary Beth Ingram, MAA.		WSR 02-24-070 Filed 12/3/02		
WAC 388-513-1340; and WAC 388-450-0020	Client not in own home—Institutional medical; Income	Income exclusions	Clarifying that veterans aid and attendance and unusual medical expense can be considered third-party resources. Contact Mary Beth Ingram, MAA.		WSR 03-08-086 Filed 4/1/03		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
WAC 388-513-1350 and 388-513-1380	Client not in own home—Institutional medical	Maximum resources allowed and client participation for long-term care services	Amending the rules to reduce the maximum resource allocation for the community spouse; and increase the community spouse standards for long-term care program to be consistent with federal standards effective April 1, 2003. Contact Mary Beth Ingram, MAA. See also ADSA-HCS rules.	WSR 04-02-013 Filed 12/29/03	WSR 03-15-049 Filed 7/11/03	WSR 03-24-102 and 04-02-056 Hearing 1/27/04	WSR 04-04-072 Effective 3/4/04
Chapter 388-526 WAC	MAA administrative hearings	Same	Amending this WAC chapter to better define the scope of this rule and to add procedural requirements to MAA's client hearing process. Contact Kevin Sullivan, MAA.		WSR 04-04-096 Filed 2/3/04		
WAC 388-527-2700	Estate recovery	Same	Implementing changes from new federal guidelines and chapter 7, Laws of 2001 on estate recovery. Contact Wendy Boedigheimer, MAA.		WSR 02-02-052 Filed 12/27/01		
WAC 388-530-1300	Prescription drugs	Same	Amending rules requiring pharmacies to dispense the most "cost-effective" form of a drug. Contact Wendy Boedigheimer, MAA.		WSR 03-11-086 Filed 5/20/03	WSR 03-20-075 Hearing 11/4/03	WSR 04-01-089 Effective 1/16/04
WAC 388-530-1850	Prescription drugs	Drug Utilization and Education (DUE) Council	Renaming the Drug Utilization and Education Council to the Pharmacy and Therapeutics Committee per chapter 29, Laws of 2003. Contact Wendy Boedigheimer, MAA.		WSR 04-03-089 Filed 1/20/04		
WAC 388-531-0275	Physician-related services	Medical teaching and residency	Revising rules to remain current with medical teaching and residency programs. Contact Wendy Boedigheimer, MAA.		WSR 03-08-084 Filed 4/1/03		
Chapter 388-532 WAC	Family planning services	Same	Revising rules to better identify persons eligible for family planning services. Second public hearing held October 7, 2003. Contact Wendy Boedigheimer, MAA.		WSR 02-09-048 Filed 4/12/02	Original: WSR 03-12-067 Supplemental: WSR 03-18-108 Hearing 10/7/03	
Chapter 388-533 WAC	Maternity-related services	Maternity services and First Steps	Changing eligibility criteria for infant case management, defining core services, changing codes and time limits for billing, integrating maternity case management with maternity support services, and creating a separate rule for childbirth education. Contact Wendy Boedigheimer, MAA.		WSR 03-15-124 Filed 7/11/03		
Chapter 388-533 WAC	Maternity-related services	Same	Adopting rules on the chemical-using pregnant (CUP) women program, which assists pregnant women in maintaining sobriety to ensure healthier birth outcomes. Contact Kevin Sullivan, MAA.		WSR 03-11-085 Filed 2/50/03 [5/20/03]		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
Chapter 388-535A WAC	Orthodontic services	Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA)	Revising rules to update and clarify existing policy regarding orthodontic services, including program definitions, provider requirements, expedited prior authorization, and reimbursement; and to incorporate federal HIPAA requirements into permanent rule. Contact Kathy Sayre, MAA.	WSR 04-04-073 Filed 2/2/04	WSR 03-20-103 Filed 9/30/03		
Chapter 388-536 WAC	Federally qualified health centers and rural health centers	Same	Adopting a new WAC chapter will comply with federal financial changes, section 702 of BIPA 2000, and legislative directive to implement prospective payment system. Contact Wendy Boedigheimer, MAA.		WSR 02-06-088 Filed 3/1/02		
WAC 388-538-060	Managed care	Managed care and choice	Amending the rule to make the process of enrolling for Medicaid managed care more efficient and to simplify the administrative process. Contact Ann Myers, MAA.		WSR 03-16-020 Filed 7/28/03		
WAC 388-538-063; and WAC 388-505-0110	Managed care Premiums— Children's medical	Medical care services management pilot project	Implementing a medical care services management pilot project for clients who receive general assistance (GAU) benefits, designed to maximize care coordination, high-risk medical management, and chronic care management to achieve better health outcomes. The pilot project to be operated in King and Pierce counties. Contact Wendy Boedigheimer, MAA.		WSR 04-04-095 Filed 2/3/04		
WAC 388-538-112	Managed care	MAA fair hearing process for enrollee appeals of managed care organization (MCO) actions	Amending the rule to include DSHS as party to hearings - language inadvertently left out of previous adoption. Contact Ann Myers, MAA.		WSR 03-21-151 Filed 10/22/03		
WAC 388-542-0100, 388-542-0125, 388-542-0500	Children's health insurance program (CHIP)	Corrections	Correcting incorrect WAC cross-references. Contact Ann Myers, MAA.		<i>Expedited Rule</i> WSR 03-19-067 Filed 9/12/03	Objection period ended 11/17/03	
Chapter 388-546 WAC	Nonemergency medical transportation	Same	Clarifying language and current policy for nonemergent medical transportation services. Contact Allen Richards, MAA.		WSR 03-08-023 Filed 3/26/03		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
Chapter 388-546 WAC	Nonemergency medical transportation	Same	Updating and clarifying existing policy regarding emergency transportation services; aligning policy with Medicare policy and adding new sections on trauma supplemental payment, and other revisions. Contact Wendy Boedigheimer, MAA.		WSR 04-02-060 Filed 1/6/04		
Chapter 388-550 WAC	Hospital services	Outpatient hospital services—Payment methods	Implementing a new Medicaid payment method for outpatient hospital services provided to Medicaid clients. The outpatient prospective payment system (OPPS) uses claims and cost data to calculate payments for outpatient hospital services provided to eligible medical assistance clients. Contact Kathy Sayre, MAA.		WSR 04-03-092 Filed 1/20/04		
WAC 388-550-1900	Hospital services	Interns, residents, teaching physicians and physician preceptorships	Amending rules to be consistent with industry standards; establishing MAA standards for supervising interns and residents in no-hospital settings; and expanding definition of "under primary care" exception. Contact Wendy Boedigheimer, MAA.		WSR 02-06-084 Filed 3/1/02		
WAC 388-550-2598	Hospital services	Critical access hospitals	Revising the method for cost settlement for services provided to clients eligible under the department's managed care programs to ensure that critical access hospitals receive the correct level of reimbursement. Contact Kathy Sayre, MAA.		WSR 04-01-141 Filed 12/19/03		
WAC 388-550-2800, 388-550-4800, 388-550-5450 (new) and 388-550-6000; Chapter 388-531 WAC; and Chapter 388-546 WAC	Hospital services; Physician-related services; and Medical transportation	Trauma services network	Adopting rules to encourage participation in the trauma services network. Contact Kathy Sayre, MAA.		WSR 03-04-087 Filed 2/2/03		
WAC 388-550-2800 and 388-550-2900	Hospital services	Newborn infant screening	Incorporating into rule certain newborn screening tests to the newborn metabolic screening panel and lists the specific disorders the screening tests can detect. Tests were approved through legislative direction and are to be performed for medical assistance clients in conjunction with the Department of Health (DOH). Contact Kathy Sayre, MAA.		WSR 04-03-091 Filed 1/20/04		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
WAC 388-550-4800	Hospital services	Diagnosis-related group (DRG) high-cost outliers; Medically indigent program; General assistance-unemployable program	Clarifying how MAA determines payments for state-administered program claims that qualify as diagnosis-related group (DRG) high-cost outliers; removing language regarding enhanced payments for trauma care provided to a client eligible under the medically indigent (MI) program or general assistance-unemployable (GAU) program; adding a table that shows high-cost outlier calculations for qualifying claims for state-administered programs. Contact Kathy Sayre, MAA.		WSR 03-13-089 Filed 6/16/03		
WAC 388-550-4900, 388-550-5000, 388-550-5100, and 388-550-5200; possible new sections in this chapter	Hospital services	Disproportionate share hospital (DSH) programs	Adopting and amending rules to incorporate small rural indigent DSH and nonrural indigent DSH programs and establish payment calculation methods for these programs; clarifying and updating payment methods for other DSH programs; adopting a new section on an administrative appeal process for DSH program participants. Contact Kathy Sayre, MAA.		WSR 04-03-090 Filed 1/20/04		
Chapter 388-551 WAC	Alternatives to hospital services	Home health services	Updating and clarifying current program policy and to establish a tiered health care plan that includes a continuum of home health care. Contact Kathy Sayre, MAA.		WSR 04-02-061 Filed 1/7/04		
WAC 388-551-1000, 388-551-1010, 388-551-1200, 388-551-1210, 388-551-1300, 388-551-1310, 388-551-1315, 388-551-1320, 388-551-1330, 388-551-1340, 388-551-1350, 388-551-1360, 388-551-1400, 388-551-1410, 388-551-1500, 388-551-1510, 388-551-1520, and 388-551-1530	Alternatives to hospital services	Hospice care program	Incorporating language from current agreements with hospice care centers into rule, and to update and clarify language. Contact Kathy Sayre, MAA.		WSR 01-03-095 Filed 1/18/01		
Chapter 388-553 WAC (new)	Home infusion therapy/parenteral nutrition program	Eligibility and coverage standards	New rule to establish standards of eligibility and coverage for home infusion therapy and parenteral nutrition that will provide eligible clients access to these services. Contact Kathy Sayre, MAA.		WSR 03-10-049 Filed 5/1/03	WSR 03-24-103 and 04-02-055 Hearing 1/27/04	

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description And Program Contact Person	Current and Pending Activity			
				Emergency rules	Preproposal Notice	Proposed Rule	Permanent Rule
Chapter 388-554 WAC (new)	Medical nutrition program	Same	Establishing the Medical Nutrition Program in rule; setting requirements, limitations and restrictions for the program		WSR 03-18-102 Filed 9/2/03		
Chapter 388-555 WAC	Interpreter services	Purchase and service delivery	Changing how interpreter services are purchased and delivered. Implements 2002 legislative directives in SB 6832. Contact Myra Davis, MAA.		WSR 02-11-027 Filed 5/21/02		
Chapter 388-01 WAC	DSHS organization/disclosure of public records	Same	Updating and clarifying current rules to reflect changes and improvements in procedures for responding to public requests for disclosure of records. Contact Kristal Wiitala Knutson, Office of the Secretary.		WSR 02-01-007 Filed 12/7/01		
Chapter 388-06 WAC	Background checks	Same	Revising background check rules to incorporate additional DSHS programs. Contact Jackie Beery, Background Check Central Unit.		Planned for future filing		
WAC 388-720-0020	Collection of costs of support, treatment and confinement of juveniles in custody	Cost reimbursement schedule	Amending the rule to clarify "ability to pay" to help determine a responsible party's cost of support, treatment or confinement of a juvenile in custody. Contact Bill Stoner, Financial Services.		WSR 03-18-099 Filed 9/2/03	WSR 03-23-020 and 04-02-059 Hearing 1/27/04	

Explanation of selected terms used in these tables:

A **"Preproposal Notice"** is a **CR-101 Preproposal Statement of Inquiry**, filed under RCW 34.05.310. This is a preliminary notice to the public that the agency is in the planning stages to adopt, amend or repeal rules on a particular subject, and the laws authorizing the agency's action. The notice also lets the public know how to participate in the development of the agency rule, and identifies the agency's contact person. "CR" stands for Code Reviser.

A **"Proposed Rule"** is a **CR-102 Proposed Rule-Making notice**, filed under RCW 34.05.320. The proposed rule notice is an announcement that includes: (1) A general description of the rules that the agency proposes to adopt, amend or repeal; (2) the laws authorizing the agency action; (3) the complete text of proposed rules; (4) if applicable, a small business economic impact statement; and (5) agency staff that the public may contact about the proposed rules. A proposed rule notice also includes the date and location of a **public hearing** to take formal comments about the proposed rules, the deadline for written comments, and where written comments may be sent.

An **"Expedited Rule"** is a **CR-105 Expedited Rule-Making notice**, filed per RCW 34.05.353. An agency may use this process to notify the public that it intends to adopt, amend or repeal very limited types of rules without accepting public comments or holding a public hearing. An expedited rule notice contains a description of the rule, the laws authorizing the agency's action, and the complete text of the proposed new or amended rule, or the citation and caption of rules being repealed. Within 45 days after the expedited rule

notice is published in the State Register, anyone may file a written objection to the agency using the expedited rule-making process to adopt the rule. If a written objection is received, the agency must file a CR-102 proposed rule-making notice, invite public comments and hold a public hearing on the proposed rule before adopting it as permanent. If no objection is received by the deadline, the agency may adopt the rule as permanent by filing a CR-103 permanent rule-making order.

A **"Permanent Rule"** is a **CR-103 Rule-Making Order**, filed under RCW 34.05.360 and 34.05.380. A permanent rule is the official notice that an agency is adopting as final new, amended or repealed rules, completing the rule-making process. A permanent rule order includes the purpose of the rule-making order, the laws authorizing the agency's action, and when the permanent rules will take effect. The permanent rule includes the complete text of the new or amended rules, or the citation and caption of rules being repealed. Agencies also may use a CR-103 notice form to adopt temporary *emergency* rules (see below).

An **"Emergency Rule"** is also a **CR-103 Rule-Making Order**, filed under RCW 34.05.350 and 34.05.380. An emergency rule may be used to meet an urgent public health, safety or welfare need, or if the rule is immediately to meet a requirement of a federal or state law, or a deadline for receiving federal funds. Emergency rules take effect as soon as they are filed with state Code Reviser, or a later date if appropriate, and are effective for 120 days. Emergency rules may be extended in certain circumstances. Emergency rules may not become permanent rules unless the agency files a prepro-

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positional notice and/or a proposed rule notice as applicable, invites public comment on the proposed rules, conducts a public hearing, and complies with other applicable rule-making statutes.

"Rules" as used generally in this document are the Washington Administrative Code, also known as WAC or regulations, and are adopted by state agencies according to the Administrative Procedure Act, chapter 34.05 RCW. References to "federal rules" are United States government regulations, also known as the Code of Federal Regulations, or C.F.R.

State "Statutes" are laws adopted by the Legislature and signed by the Governor, or may be initiatives adopted by the state's voters, and are codified as the Revised Code of Washington (RCW). Recent state laws may also be identified as "session laws," for example: "chapter 140, Laws of 2003," or by legislative bill numbers, such as "ESSB 6387."

All DSHS rule-making notices and adoption orders are filed with the state Office of the Code Reviser for legal publication in the Washington State Register, and are available to the public. Interested persons, businesses, organizations, local governments and agencies may receive copies of DSHS rule-making notices by postal mail or e-mail by contacting Fred Swenson at the DSHS Rules and Policies Assistance Unit, (360) 664-6097, or at SwensFH@dshs.wa.gov. This document is also available from the DSHS public website, at <http://www1.dshs.wa.gov/msa/rpau/>.

Andy Fernando
Rules Coordinator

- Mary Safioles, guardian of Stella Safioles who resides at Fircrest
- Patty Ward, guardian of Nancy Berg who resides at Fircrest
- Edwin Southwick, guardian of Vernon Southwick who resides at Fircrest
- Frank Scheberle, guardian/parent of Sindy Scheberle who resides at Fircrest
- George T. Karas, guardian of Anne Karas who resides at Fircrest
- Betty Proctor, guardian/parent of Jeffrey C. Proctor who resides at Fircrest
- Wayne Shelley, parent of Linda Shelly who resides at Fircrest
- Dana Thompson, advocate for Sandra Lamb who resides at Fircrest
- Charles L. Rowland, parent of Michael Rowland who resides at Birch Hall
- David A. Knutson, guardian of Janett R. Knutson who resides at Fircrest
- Pauline Guppy, guardian/parent of Mary Guppy who resides at Fircrest
- Rose Nakamura, guardian of Scott Nakamura who resides at Fircrest
- Melisa Motor, guardian of Kristi Motor who resides at Fircrest
- Sandra Hansen, guardian of John Burke who resides at Fircrest

DATE: March 1, 2004

Jennifer Joly
General Counsel to the Governor

March 1, 2004

Patricia Neiffer
13803-343 Rd SE
Sultan, WA 98294

Dear Mrs. Neiffer:

On Monday, February 23, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

The statute under which you seek relief, RCW 34.05.350(3), provides, in relevant part, that "within seven days after the rule is adopted, any person may petition the governor requesting immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010." Given that the rule was adopted on December 24, 2003, your petition is untimely and thus is no longer ripe for review by Governor.

WSR 04-06-086
OFFICE OF THE GOVERNOR

[Filed March 3, 2004, 11:42 a.m.]

NOTICE OF APPEAL
RCW 34.05.330(3)

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

From February 23, 2004 through February 27, 2004, the Governor received miscellaneous petitions from the guardians listed below. The persons listed are guardians of individuals who are residents of Rainier, Birch Hall or Fircrest School, and are asking for the repeal of emergency rules contained in WSR 04-02-010, and adopted by the Department of Social and Health Services on December 24, 2003.

- Patricia Neiffer, guardian of Darrell Neiffer who resides at Fircrest
- Nicholas Pacatte, guardian of Garry Joe Pacatte who resides at Fircrest
- John and Helen Nychay, guardian of Terrance Roy Nychay who resides at Rainier School
- Mary Anne Norton, guardian of John Gregory Norton who resides at Fircrest
- David Powell, guardian of Dennis Powell who resides at Fircrest

Sincerely,

Jennifer Joly
General Counsel

March 1, 2004

Nicholas Pacatte
12026 17th NE
Seattle, WA 98125

Dear Mr. Pacatte:

On Monday, February 23, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

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Sincerely,

Jennifer Joly
General Counsel

March 1, 2004

John and Helen Nychay
3221 198th Place SE
Sammamish, WA 98075-9651

Dear Mr. and Mrs. Nychay:

On Monday, February 23, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

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gency basis by any department listed in RCW 43.17.010." Given that the rule was adopted on December 24, 2003, your petition is untimely and thus is no longer ripe for review by Governor.

Sincerely,

Jennifer Joly
General Counsel

March 1, 2004

Mary Anne Norton
3222 NE 104
Seattle, WA 98125

Dear Ms. Norton:

On Monday, February 23, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

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Sincerely,

Jennifer Joly
General Counsel

March 1, 2004

Frank Scheberle
120 Heritage Drive
Elma, WA 98541

Dear Mr. Scheberle:

On Thursday, February 26, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

MISC.

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Sincerely,

Jennifer Joly
General Counsel

March 1, 2004

George T. Karas
2811 19th Street
Everett, WA 98201-2515

Dear Mr. Karas:

On Thursday, February 26, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

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Sincerely,

Jennifer Joly
General Counsel

March 1, 2004

Betty Proctor
10901 176th Circle NE, #2328
Redmond, WA 98052

Dear Mrs. Proctor:

On Thursday, February 26, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a

section and amend several sections in 388-835 of the Washington Administrative Code.

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Sincerely,

Jennifer Joly
General Counsel

March 1, 2004

Wayne Shelley
1112 N 199th Street,
Shoreline, WA 98133-3607

Dear Mr. Shelley:

On Thursday, February 26, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

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Sincerely,

Jennifer Joly
General Counsel

March 1, 2004

Dana Thompson
5007 236th St. SW
Mountlake Terrace, WA 98043

Dear Ms. Thompson:

On Thursday, February 26, 2004, the Office of the Governor received your petition seeking repeal of the Department of

MISC.

Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

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Sincerely,

Jennifer Joly
General Counsel

March 1, 2004

Charles Rowland
PO Box 504
Grapeview, WA 98546-0504

Dear Mr. Rowland:

On Thursday, February 26, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

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Sincerely,

Jennifer Joly
General Counsel

March 1, 2004

David Knutson
11835 9th Avenue SW
Seattle, WA 98146

Dear Mr. Knutson:

On Thursday, February 26, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

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Sincerely,

Jennifer Joly
General Counsel

March 1, 2004

Pauline Guppy
955 16th Avenue E
Seattle, WA 98112

Dear Mrs. Guppy:

On Thursday, February 26, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

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Sincerely,

Jennifer Joly
General Counsel

MISC.

March 1, 2004

Melisa Motor
4315 Terrace Drive
Everett, WA 98203-2205

Dear Ms. Motor:

On Friday, February 27, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

The statute under which you seek relief, RCW 34.05.350(3), provides, in relevant part, that "within seven days after the rule is adopted, any person may petition the governor requesting immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010." Given that the rule was adopted on December 24, 2003, your petition is untimely and thus is longer ripe for review by Governor.

Sincerely,

Jennifer Joly
General Counsel

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The statute under which you seek relief, RCW 34.05.350(3), provides, in relevant part, that "within seven days after the rule is adopted, any person may petition the governor requesting immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010." Given that the rule was adopted on December 24, 2003, your petition is untimely and thus is no longer ripe for review by Governor.

Sincerely,

Jennifer Joly
General Counsel

WSR 04-07-011

AGENDA

**DEPARTMENT OF HEALTH
STATE BOARD OF HEALTH**

[Filed March 4, 2004, 2:26 p.m.]

**State Board of Health and Department of Health
January 2004 Rules Agenda**

This report details the anticipated rule-making activities of the State Board of Health and the Department of Health for the next six months. If you have any questions regarding this report or Department of Health rule-making activities, please contact Michelle Davis at (360) 236-4044. If you have any questions regarding State Board of Health rule-making activities please contact Craig McLaughlin at (360) 236-4106.

State Board of Health Rules

WAC	RCW	Authority	Subject	SBOH Staff and DOH Program Contact	WSR/Date
246-217-010	69.06	State Board of Health	Food worker cards	Marianne Seifert, (360) 236-4103, State Board of Health Michelle Davis, (360) 236-4044	Anticipate CR-102 by April 4
CR-101 Filed (State Board of Health Rules)					
246-xxx	70.83 43.20	State Board of Health/Department of Health joint rules	Storage, retention and use of specimens in public health lab	Craig McLaughlin, (360) 236-4106, State Board of Health Michelle Davis, (360) 236-4044, Department of Health	03-02-101 1/2/03
246-100	70.24.13 [70.24.130] 43.20.050	State Board of Health	HIV counseling/ testing and partner notification	Craig McLaughlin, (360) 236-4106, State Board of Health Michelle Davis, (360) 236-4044, Department of Health	03-20-043 9/24/03
246-100-166	28A.210.140	State Board of Health	Immunization of child care and school children	Craig McLaughlin, (360) 236-4106, State Board of Health Michelle Davis, (360) 236-4044, Department of Health	03-09-126 4/23/03

MISC.

March 1, 2004

Sandra Hansen
2002 W. 14th Street
Port Angeles, WA 98363-5102

Dear Ms. Hansen:

On Friday, February 27, 2004, the Office of the Governor received your petition seeking repeal of the Department of

WAC	RCW	Authority	Subject	SBOH Staff and DOH Program Contact	WSR/Date
246-215	43.20.050	State Board of Health	Food service	Marianne Seifert, (360) 236-4103, State Board of Health Michelle Davis, (360) 236-4044, Department of Health	01-23-096 11/21/01
246-217-010 246-217-015	69.06	State Board of Health	Food worker cards	Marianne Seifert, (360) 236-4103, State Board of Health Michelle Davis, (360) 236-4044, Department of Health	02-20-075 9/30/02
246-260	70.90.120 70.90.150 43.20.050	State Board of Health	Water recreation facilities	Marianne Seifert, (360) 236-4103, State Board of Health Michelle Davis, (360) 236-4044, Department of Health	00-22-112 11/1/00
246-272	43.20.050	State Board of Health	On-site wastewater sewage systems	Marianne Seifert, (360) 236-4103, State Board of Health Michelle Davis, (360) 236-4044, Department of Health	02-03-137 1/23/02
246-272B 246-272C	43.20.050	State Board of Health	Large onsite sewage systems and sewage tank standards	Marianne Seifert, (360) 236-4103, State Board of Health Michelle Davis, (360) 236-4044, Department of Health	04-03-010 1/9/04
246-291	43.20.050	State Board of Health	Group B public water system	Marianne Seifert, (360) 236-4103, State Board of Health Michelle Davis, (360) 236-4044, Department of Health	02-19-060 9/12/02

Department of Health Rules

Pre CR-101					
WAC	RCW	Authority	Subject	Program/Contact	WSR/Date
246-01 246-08	RCW 34.05.220 42.17.250 43.70 70.02	Secretary	Description and organization, practice and procedure	Michelle Davis, Department of Health, (360) 236-4044	Anticipate CR-101 by 3/04
246-220 246-221 246-235 246-239 246-240 246-292	43.70.980.40	Secretary	Radiation protection— Medical uses/risk information water operation certification	Environmental Health Programs, Jan Haywood, (360) 236-3011	Anticipate CR-101 by summer 2004
246-220 246-221	70.98	Secretary	Radiation protection— Calculation of skin dose	Environmental Health, Jan Haywood, (360) 236-3011	Anticipate Pre CR-101 by summer 2004
246-290	43.70.040	Secretary	Water operator efficiency	Environmental Health, Jan Haywood, (360) 236-3011	Anticipate CR-101 by 3/04
246-817-130 246-817-135 246-817-140 246-817-186	Chapter 57, Laws of 2003	Dental Commission	Increasing the supply of dentists	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	Anticipate CR-101 by 4/04
246-817-560	Chapter 257, Laws of 2003	Dental Commission	Dental hygienists placing anti-microbial	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	Anticipate CR-102 by 4/04
246-840-700 246-840-910 246-840-930 246-840-940	Chapter 140, Laws of 2003	Nursing Commission	Nurse delegation in the in-home care setting	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	Anticipate CR-102 by 4/04 exception
246-841-405	Chapter 140, Laws of 2003	Nursing Commission	Allowing nursing assistants to accept nurse delegation in the in-home care setting	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	Anticipate CR-102 by 4/04 exception
246-887	18.64.005 69.50	Pharmacy Board	Updating Controlled Substances Act	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	Anticipate CR-102 by 4/04

MISC.

246-888	HB 1753 18.64.005	Pharmacy Board	Amending medication assistance rules	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	Anticipate CR-102 by 4/04
246-915-040	18.74.023	Physical Therapy Board	Licensure by endorsement—Applicants from approved schools	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	Anticipate CR-101 by 3/04
246-915-050	18.74.023	Physical Therapy Board	Reinstatement	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	Anticipate CR-101 by 3/04
246-915-100	18.74.023	Physical Therapy Board	Approved physical therapy schools	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	Anticipate CR-101 by 3/04
246-915-105	18.74.023	Physical Therapy Board	Approved physical therapist assistant programs	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	Anticipate CR-101 by 3/04
246-915-120	18.74.023	Physical Therapy Board	Applicants from unapproved schools	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	Anticipate CR-101 by 3/04
246-915-180	18.74.023	Physical Therapy Board	Professional conduct principles	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	Anticipate CR-101 by 3/04
246-976-010	18.71 18.73 70.168	Secretary	EMS and trauma WAC definition section	EMS and Trauma System, Tami Scheweppe, (360) 236-2859	Anticipate CR-101 by 4/04
CR-101 Filed					
WAC	RCW	Authority	Subject	Program/Contact	WSR/Date
246-224 246-225 246-227 246-228	70.98	Secretary	Radiation protection x-ray	Environmental Health Programs, Jan Haywood, (360) 236-3011	00-16-106 8/2/03
246-247	43.70.040 43.70.080	Secretary	Radiation protection air emissions	Environmental Health Programs, Jan Haywood, (360) 236-3011	03-10-016 4/28/03
246-310	70.38	Secretary	Certificate of need-cardiac methodologies	Facilities and Services Licensing, Yvette Harrison, (360) 236-2928	Withdrawn original proposal Anticipate new CR-102 4/04
246-249-080	70.98.050 70.98.080	Secretary	Naturally occurring radioactive materials	Environmental Health Programs, Jan Haywood, (360) 236-3011	96-11-129 5/22/96
246-314-990	43.70.250 43.20B.020	Secretary	Construction review fees	Facilities and Services Licensing, Yvette Harrison, (360) 236-2928	01-10-123 5/2/01
246-323 246-325 246-326	71.12	Secretary	Residential treatment facilities	Facilities and Services Licensing, Yvette Harrison, (360) 236-2928	00-05-097 2/16/00
246-380	43.70.040 43.70.130	Secretary	Sanitation and health care standards for state institutions	Facilities and Services Licensing, Yvette Harrison, (360) 236-2928	98-15-085 7/16/98
246-808	18.130.050	Chiropractic Commission	Independent chiropractic exams	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	00-22-123 11/1/00
246-808-135	18.25.0171 18.25.040	Chiropractic Commission	Licensure by endorsement	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	04-01-199 12/24/03
246-808-150 246-808-155 246-808-165 246-808-170	18.25.0171 18.25.070	Chiropractic Commission	Chiropractic continuing education requirements	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	04-01-198 12/24/03
246-808-190 246-808-535	18.25.0171	Chiropractic Commission	Chiropractic program preceptor and delegation	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	04-02-064 1/7/03

MISC.

246-809	18.225	Secretary	Boundary requirements for counselors	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	02-04-042 1/29/02
246-809	18.225 Chapter 251, Laws of 2001	Secretary	Licensed counselor—Experience requirements	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	01-22-068 11/1/01
246-815-020 246-815-050 246-815-100 246-815-110 246-815-115	18.29.120	Secretary	Dental hygiene, exam, application, licensure	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	02/19/083 9/16/02
246-817-110 246-817-120	18.32.0365 18.32.040	Dental Commission	Dental licensure—Initial eligibility and application requirements	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	02-15-160 7/23/02
246-828-5	18.35.40 [18.35.040]	Hearing and Speech Board	Fitter/dispenser program	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	02-02-043 12/27/01
246-834	18.130.050(12)	Secretary	Midwifery standards of practice	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	02-17-052 8/18/02
246-834-220 246-834-230 246-834-240	18.50.040	Secretary	Educational requirements for nonlicensed midwives	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	97-22-024 10/29/97
246-834-250	18.50.115	Secretary	Legend drugs and devices	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	02-17-053 8/15/02
246-834-990	18.50.135	Secretary	Midwifery fees	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	03-13-126 6/18/03
246-840-010 246-840-840 246-840-850 through 246-840-900	Chapter 246, Laws of 2003	Nursing Commission	Nursing technician registration	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	03-12-087 6/4/03
246-840-500 to 246-840-575	18.70.110	Nursing Commission	Approval of RN and PN education	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	00-11-163 5/24/00
246-840-700 246-840-910 246-840-930 246-840-940	Chapter 140, Laws of 2003	Nursing Commission	Nurse delegation in the in-home care setting	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	Anticipate CR-102 exception by 4/04
246-841-400 through 246-841-510	18.88A	Secretary	Nursing assistants	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	00-03-072 1/19/00
246-847-010	18.59.130	Occupational Therapy	Occupational therapy definitions	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	03-08-031 3/27/03
246-847-065	18.59.130	Occupational Therapy	Occupational therapy competency	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	03-08-029 3/27/03
246-847-120	18.59.130	Occupational Therapy	Foreign trained applicants	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	03-08-092 4/2/03
246-847-170	18.59.130	Occupational Therapy	Occupational therapy code of ethics	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	03-08-030 3/27/03
246-851	18.54.070	Optometry Board	Optometry—Schedule III-V	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	03-12-124 6/18/03
246-851-160 246-851-170	18.54.070	Optometry Board	Optometry—Continue education	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	03-04-043 1/28/03
246-853	18.57.080 18.57.005 18.130.050	Osteopathic Board	COMSPEX—USA exam	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	99-11-035 5/13/99

MISC.

246-853	18.57.005 18.57.020	Osteopathic Board	Approved schools of osteopathic medicine	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	99-13-020 6/7/99
246-853-225	18.57.005 18.57.020	Osteopathic Board	Osteopathic pain management guidelines	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	98-22-086 11/3/98
246-854	18.57A.020	Osteopathic Board	Review of controlled substances issued by physician assistants	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	98-02-078 3/17/98
246-887	18.64.005	Pharmacy Board	Adding SOMA to Schedule IV	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	03-09-124 4/23/03
246-887-220 through 246-887-280	Chapter 175, Laws of 2003 18.64.005	Pharmacy Board	Chemical capture programs	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	03-15-103 7/21/03
246-915-010 246-915-140 246-915-170 Note: WAC 246-915-078 will be done separately	18.74.023	Physical Therapy Board	Defining professional responsibilities—Physical therapists	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	98-13-104 6/17/02 Anticipate Filing CR-102
246-919	18.71.017	Medical Commission	Oversight of office-based surgery	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	03-08-032 3/27/03
246-922-195	18.22.015	Podiatry Board	Podiatry pain management	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	98-22-084 11/3/98
246-924-354	18.83	Psychology Board	Maintenance and retention of records	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	03-05-020 2/10/03 Anticipate CR-102 in March
246-924-370	18.83.050 18.83.121	Psychology Board	Child custody evaluations	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	98-22-087 11/3/98
246-926	18.84.040	Secretary	Radiologic technologist—General	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	03-14-144 7/2/03
246-926-020 246-926-140 246-926-180 246-926-190	18.84.040	Secretary	Radiologic technologist—Training	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	03-14-032 6/23/03
246-930-010 246-930-030 246-930-040 246-930-200 246-930-410	18.155.040	Secretary	Education and exams requirements for sex offender treatment provider program	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	00-08-099 4/5/00
246-930-050	18.155.040	Secretary	Sex offender treatment provider	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	01-24-103 12/5/01
246-930-330	18.155.040 18.13.050	Secretary	Standards for treatment sexual offender treatment providers	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	99-14-001 6/23/99
246-976-161 246-976-171	18.71.205	Secretary	CE, skills maintenance, and ongoing training and evaluation	Emergency Medical and Trauma Prevention, Tami Scheweppe, (360) 236-2859	02-11-077 5/13/02
Pending Hearing, CR-102 Filed					
WAC	RCW	Authority	Subject	Program/Contact	WSR/Date
246-918-120	18.71A	Medical Commission	Physician assistant remote site criteria	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	04-05-044 2/12/04
246-915-085	18.74.023	Physical Therapy Board	Continuing competency—Physical therapists	Health Professions Quality Assurance, Pam Lovinger, (360) 236-4984	04-03-104 1/21/04

MISC.

246-915-020 246-915-030 246-915-120	18.74.023 18.74.035	Physical Therapy Board	Application require- ments—Physical thera- pists	Health Professions Qual- ity Assurance, Pam Lov- inger, (360) 236-4984	98-13-107 6/17/98
246-915-150	18.74.023 18.74.010	Physical Therapy Board	Physical therapy super- vision ratio	Health Professions Qual- ity Assurance, Pam Lov- inger, (360) 236-4984	98-13-105 6/17/98
246-915-210 to 246- 915-280	18.74.023 18.130.070	Physical Therapy Board	Mandatory reporting— Physical therapists	Health Professions Qual- ity Assurance, Pam Lov- inger, (360) 236-4984	04-03-107 1/21/04
246-915-182	18.74.023	Physical Therapy Board	Sexual misconduct— Physical therapist	Health Professions Qual- ity Assurance, Pam Lov- inger, (360) 236-4984	04-03-119 1/21/04

Pending Adoption

WAC	RCW	Authority	Subject	Program/Contact	WSR/Date
246-294	70.119	Secretary	Drinking water operat- ing permits	Environmental Health Programs, Jan Haywood, (360) 236-3011	03-23-134 11/19/03 Anticipate CR-103 3/04
246-976-935	70.168	Secretary	EMS and trauma care system account	Emergency Medical and Trauma Prevention, Tami Schweppe, (360) 236-2859	03-21-117 10/20/03 Anticipate filing CR- 102 3/24/04
246-976-161 246-976-171	18.71.205	Secretary	CE, skills maintenance, and ongoing training and evaluation	Emergency Medical and Trauma Prevention, Tami Schweppe, (360) 236-2859	02-11-077 5/13/02 Anticipate filing CR- 103 3/04
246-887-160	18.64.005 69.50.201	Pharmacy Board	Adding buprenorphine to Schedule III of UCSA	Lisa Salmi, contact Board of Pharmacy, (360) 236-4828	(CR-105) 04-03-105 1/21/04

Emergency

246-840-700 246-840-910 246-840-930 246-840-940	Chapter 140, Laws of 2003	Nursing Commission	Nurse delegation in the in-home care setting	Health Professions Qual- ity Assurance, Pam Lov- inger, (360) 236-4984	04-06-009 2/20/04 Expires 7/2/04
246-840-010 246-840-840 246-840-850 246-840-900	18.79 Chapter 258	Nursing Commission	Registration of nursing technicians	Health Professions Qual- ity Assurance, Pam Lov- inger, (360) 236-4984	04-05-043 2/12/04
246-841-405	Chapter 140, Laws of 2003	Nursing Commission	Allowing nursing assis- tants to accept nurse delegation in the in- home care setting	Health Professions Qual- ity Assurance, Pam Lov- inger, (360) 236-4984	04-06-008 Expires 7/2/04

KEY: CR-101 Filed: The statement of inquiry has been filed with the Code Reviser's Office.
 Pending Hearing: The CR-102 has been filed but the hearing has not been held yet.
 Pending Adoption: The hearing has been held OR the rule qualifies under the Expedited Repeal or Adoption processes (RCW 34.05.354 and 34.05.356), but the CR-103 has not been filed.

MISC.

WSR 04-07-016
NOTICE OF PUBLIC MEETINGS
STATE BOARD OF EDUCATION

[Memorandum—March 3, 2004]

State Board of Education Meeting Schedule for 2004

The State Board of Education will meet for regular business at the locations listed on the following dates:

January 14-16, 2004

Board Room
Olympia School District
1113 Legion Way S.E.
Olympia, WA 98501
(360) 596-6100

March 17-19, 2004

Board Room
Olympia School District
1113 Legion Way S.E.
Olympia, WA 98501
(360) 596-6100

May 12-14, 2004

ESD 101 Administrative Center
4202 South Regal Street
Spokane, WA 98223-7764
(509) 789-3800

June 17-18, 2004

Administration Center
Seattle School District
2445 3rd Avenue South
Seattle, WA 98134
(206) 252-0000

August 25-27, 2004

Hockinson High School
Hockinson School District
16819 N.E. 159th Street
Brush Prairie, WA 98606
(360) 448-6450

October 20-22, 2004

Reid Harbor Room
Northwest ESD 189
1601 R Avenue
Anacortes, WA 98221
(360) 299-4000

WSR 04-07-017
OFFICE OF THE GOVERNOR

[Filed March 5, 2004, 2:57 p.m.]

NOTICE OF APPEAL
RCW 34.05.330(3)

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

From March 1, 2004 through March 3, 2004, the Governor received miscellaneous petitions from the guardians listed below. The persons listed are guardians of individuals who are residents of Fircrest School, and are asking for the repeal of emergency rules contained in WSR 04-02-010, and adopted by the Department of Social and Health Services on December 24, 2003.

- Adella Heutmaker, guardian of Steven Dickinson who resides at Fircrest
- Barbara Leith, guardian of Robert Wescott who resides at Fircrest
- Betty Sinclair Gillett, guardian of Brian K. Larson who resides at Fircrest

DATE: March 3, 2004

Jennifer Joly
General Counsel to the Governor

March 3, 2004

Betty Sinclair Gillett
7606 Illahee Rd NE
Bremerton, WA 98311

Dear Ms. Gillett:

On Wednesday, March 3, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

The statute under which you seek relief, RCW 34.05.350(3), provides, in relevant part, that "within seven days after the rule is adopted, any person may petition the governor requesting immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010." Given that the rule was adopted on December 24, 2003, your petition is untimely and thus is no longer ripe for review by Governor.

Sincerely,

Jennifer Joly
General Counsel

March 3, 2004

Adella M. Heutmaker
PO Box 1421
Coupeville, WA 98239

Dear Ms. Heutmaker:

MISC.

On Monday, March 1, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

The statute under which you seek relief, RCW 34.05.350(3), provides, in relevant part, that "within seven days after the rule is adopted, any person may petition the governor requesting immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010." Given that the rule was adopted on December 24, 2003, your petition is untimely and thus is no longer ripe for review by Governor.

Sincerely,

Jennifer Joly
General Counsel

March 3, 2004

Barbara Leith
1915 151st SE
Mill Creek, WA 98012

Dear Ms. Leith:

On Wednesday, March 3, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

The statute under which you seek relief, RCW 34.05.350(3), provides, in relevant part, that "within seven days after the rule is adopted, any person may petition the governor requesting immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010." Given that the rule was adopted on December 24, 2003, your petition is untimely and thus is no longer ripe for review by Governor.

Sincerely,

Jennifer Joly
General Counsel

WSR 04-07-030
NOTICE OF PUBLIC MEETINGS
EXECUTIVE ETHICS BOARD

[Memorandum—March 8, 2004]

NOTICE OF MEETING CANCELLATION

This is to notify all interested persons, that the Executive Ethics Board's regular meeting, scheduled for March 12, 2004, has been canceled.

If you have any questions, please contact Executive Director, Brian Malarky at (360) 586-6759.

WSR 04-07-033
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE

[Memorandum—March 9, 2004]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, March 18, 2004, 9:00 - 11:00 a.m., in the College Services Board Room on the Bellingham Technical College campus. Call 738-3105 ext. 334 for information.

WSR 04-07-034
NOTICE OF PUBLIC MEETINGS
SKAGIT VALLEY COLLEGE

[Memorandum—March 9, 2004]

NOTICE OF SPECIAL MEETING

BOARD OF TRUSTEES
COMMUNITY COLLEGE DISTRICT NO. 4
SKAGIT VALLEY COLLEGE

2405 East College Way
Mount Vernon, WA 98273

Tuesday, March 9, 2004
4:00 p.m.

Skagit Valley College - Board Room

Chairperson, Jess del Bosque, has called a special meeting of the board of trustees for **Tuesday, March 9, 2004, 4:00 p.m.**, Board Room, 2405 East College Way, Mount Vernon, WA. This meeting is being held as a work session for the board of trustees to discuss the Cardinal Cove property located at Big Lake.

MISC.

WSR 04-07-037
RULES OF COURT
STATE SUPREME COURT

[March 8, 2004]

IN THE MATTER OF THE ADOPTION)
OF THE AMENDMENTS TO APR 11,) ORDER
REGULATIONS 103 AND 104) NO. 25700-A-787

The Washington State Bar Association having recom-
mended the adoption of the proposed amendments to Regula-
tions 103 and 104 to APR 11, and the Court having deter-
mined that the proposed amendments will aid in the prompt
and orderly administration of justice and further determined
that an emergency exists which necessitates an early adop-
tion;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.

(b) That pursuant to the emergency provisions of GR
9(i), the amendments to Regulations 103 and 104 of APR 11,
will be published in the Washington Register, Washington
State Bar Association and Administrative Office of the
Court's websites and, in addition to the above, the amend-
ments will also be published in the Washington Reports and
will become effective immediately.

DATED at Olympia, Washington this 8th day of March,
2004.

Alexander, C. J.
Johnson, J. Bridge, J.
Madsen, J. Chambers, J.
Owens, J.
Ireland, J. Fairhurst, J.

PROPOSED AMENDMENTS

REGULATIONS OF THE WASHINGTON STATE BOARD OF
CONTINUING LEGAL EDUCATION

Regulation 103. Credits: Computation

- (a) [No change].
(b) [No change].
(c) Meals and Banquets. [No change].
(d) Teaching or participating. [No change].
(e) Law School Courses. [No change].
(f) [No change].
(g) Pro Bono Legal Services. [No change].

(h) Law Competitions. Credit may be earned for pre-
paring Law School students for and judging law competi-
tions, mock trials and moot court arguments. Ethics and pro-
fessionalism credit hours are not available for participation in
this type of CLE activity. CLE credit hours are not available
for grading written briefs or other written papers in connec-
tion with this type of CLE activity. No additional credit may
be earned for preparation time. The sponsor of the CLE

activity is responsible for issuing appropriate certification
documenting the name of the attorney, name, date and loca-
tion of the course or program and the number of CLE credit
hours earned.

(1) Law School Competitions: One (1) credit hour may
be earned for each sixty (60) minutes of participation in an
ABA accredited law school competition provided that the
law school training activity is structured to require that the
"judge" provide specific performance review feedback to
each student participant. The performance review must con-
form to a predetermined "feedback process" to be established
and agreed upon by the Law School and the participating
attorney through a prior-to-the-activity communication (e.g.
watching a videotape, reviewing a written outline for points
to be covered by the "judge", etc.). The educational elements
must be structured into the competition and must be consis-
tent with Regulation 104.

(2) A maximum of six (6) CLE credit hours may be
earned for participation in this type of CLE activity during
any one reporting cycle.

Regulation 104. Standards for Approval

- (a) Basis for approval of courses. [No change].
(b) Basis for approval of activities. [No change].
(c) Examples of courses or activities that may qualify
for credit. [No change].
(d) The following activities will not qualify for credit:
(1) Teaching a legal subject to non-lawyers in an activity
or course that would not qualify those attending for CLE
credit.

(2) Programs that are primarily designed to teach attor-
neys how to improve market share, attract clients or increase
profits will not be approved, nor will programs primarily
designed to be a sales vehicle for a service or product. While
a company which provides services or products to the legal
community may wish to participate in or sponsor law office
management seminars, those courses will be approved for
credit only if there is no discussion or literature promoting
that company, other than the biographical material about the
speakers, or there is equal treatment in discussion and written
materials of alternate vendors of the particular product or ser-
vice, and the written material does not include prepared pro-
motional literature.

- (3) Writing for or on behalf of a client, or for the regular
practice of law.
(4) As a reward for meritorious legal work, such as pro
bono work, except as provided in Reg. 103(g).
(5) Jury duty.
(6) Programs to enhance a person's ability to present or
prepare a continuing education program will not be approved.
(7) Judging or participating in law school competitions.
(e) Private law firm education. [No change].
(f) Governmental Agencies. [No change].

Reviser's note: The typographical error in the above material
occurred in the copy filed by the State Supreme Court and appears in the
Register pursuant to the requirements of RCW 34.08.040.

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

MISC.

WSR 04-07-038
RULES OF COURT
STATE SUPREME COURT
[March 8, 2004]

IN THE MATTER OF THE ADOPTION) ORDER
OF PROPOSED NEW GR 32) NO. 25700-A-788

The Board for Judicial Administration having recommended the adoption of proposed new GR 32, and the Court having determined that the proposed new rule will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the new rule as attached hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendment will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 8th day of March, 2004.

Alexander, C. J.

Johnson, J.

Bridge, J.

Madsen, J.

Chambers, J.

Sanders, J.

Owens, J.

Ireland, J.

Fairhurst, J.

Court Performance Audits, Proposed General Rule 32.

Pursuant to the provision of RCW Chapter 2.56 and to ensure that minimum service levels for the administration of justice are in place, the Administrative Office of the Courts (AOC) is directed to conduct performance audits of courts under the authority of the Supreme Court, in conformity with criteria and methods developed by the Board for Judicial Administration which have been approved by the Supreme Court.

WSR 04-07-039
RULES OF COURT
STATE SUPREME COURT
[March 8, 2004]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE PROPOSED AMENDMENT TO) NO. 25700-A-789
GR 16)

The Bench-Bar-Press Committee having recommended the adoption of the proposed amendment to GR 16, and the Court having approved the proposed amendment for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(f), the proposed amendment as attached hereto is to be published expeditiously for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites.

(b) The purpose statement as required by GR 9(d), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than 60 days from the published date in the Washington Reports. Comments may be sent to the following addresses: Supreme Court Clerk's Office, P.O. Box 40929, Olympia, Washington 98504-0929, or Lisa.Bausch@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 8th day of March, 2004.

For the Court

Gerry L. Alexander
CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendment

CAMERAS IN THE COURTROOM (GR 16)
COURTROOM PHOTOGRAPHY AND RECORDING

Purpose: Before 1991 when GR 16 "Cameras in the Courtroom" was first adopted, the subject had only been addressed in the Code of Judicial Conduct's Canon 3 (A)(7). The intent of the 1991 change was to make clear both that cameras were fully accepted in Washington courtrooms and also that broad discretion was vested in the court to decide what, if any, limitations should be imposed. In subsequent experience, both judges and the media have perceived a need for greater guidance as to how that judicial discretion should be exercised in a particular case. This 2003 amendment to GR 16 is intended to fill that practical need, helping judges a day-to-day basis properly comply with the requirements of the rule.

GR 16 CAMERAS IN THE COURTROOM
COURTROOM PHOTOGRAPHY AND RECORDING

(a) ~~Broadcasting, televising, recording, and taking photographs in the courtroom is authorized during sessions of the court, including recesses between sessions, under the following conditions: Video and audio recording and still photography are allowed in the courtroom during and between sessions, provided~~

(1) ~~that~~ permission shall have first been expressly granted by the judge ~~under such conditions as the judge may prescribe; and~~

(2) ~~The~~ that media personnel will not, by their appearance or conduct, distract participants or impair the dignity of the proceedings in the proceedings or otherwise adversely affect the dignity and fairness of the proceedings.

MISC.

(b) The judge shall exercise reasonable discretion in prescribing conditions and limitations with which media personnel shall comply.

(c) If the judge finds that sufficient reasons exist to warrant limitations on courtroom photography or recording, the judge shall make particularized findings on the record at the time of announcing the limitations. In determining what, if any, limitations should be imposed, the judge shall be guided by the following principles:

(1) Open access is presumed; limitations on access must be supported by reasons found by the judge to be sufficiently compelling to outweigh that presumption;

(2) Prior to imposing any limitations on courtroom photography or recording, the judge shall hear from any party and from any other person or entity deemed appropriate by the judge; and

(3) Any reasons found sufficient to support limitations on courtroom photography or recording shall be specific to the circumstances of the case before the court rather than reflecting merely general concerns.

Comment

While the Illustrative Broadcast Guidelines and Illustrative Print Media Guidelines formerly contained in Code of Judicial Conduct Canon 3 (A)(7) are not adopted as a part of this rule, they may continue to serve the bench, bar and press as examples of how cameras in the courtroom may be addressed:

Comment

Before 1991 when GR 16 on "Cameras in the Courtroom" was first adopted, the subject had only been addressed in the Code of Judicial Conduct's Canon 3 (A)(7). The intent of the 1991 change was to make clear both that cameras were fully accepted in Washington courtrooms and also that broad discretion was vested in the court to decide what, if any, limitations should be imposed. In subsequent experience, both judges and the media have perceived a need for greater guidance as to how that judicial discretion should be exercised in a particular case. This 2003 amendment to GR 16 is intended to fill that practical need.

While not providing much guidance for the court's exercise of discretion, the Canon did contain some "illustrative guidelines" on how media personnel should conduct themselves while covering the courts. Although these guidelines were no longer a part of the rule once GR 16 was adopted, they continued to be published in the accompanying Comment. Some portions of those guidelines have now become outdated and others are superseded by language in the new GR 16. Because there continues to be potential value in some of the remaining guidelines, they will be here set out in redacted form:

ILLUSTRATIVE BROADCAST GUIDELINES

1. Officers of Court. The judge has the authority to direct whether broadcast equipment may be taken within the courtroom. Broadcast newsmen should advise the bailiff prior to the start of a court session that they desire to electronically record and/or broadcast live from within the courtroom. The bailiff may have prior instructions from the judge as to where the broadcast reporter and/or camera operator may position themselves. In the absence of any directions

from the judge or bailiff, the position should be behind the front row of spectator seats by the least used aisleway or other unobtrusive but viable location.

2. Pooling. Unless the judge directs otherwise, no more than one television camera should be taking pictures in the courtroom (as presently constructed) at any one time. Where coverage is by both radio and television, the microphones used by television should also serve for radio and radio should be permitted to feed from the television sound system. Multiple radio feeds, if any, should be provided by a junction box. It should be the responsibility of each broadcast news representative present at the opening of each session of court to achieve an understanding with all other broadcast representatives as to who will function at any given time, or, in the alternative, how they will pool their photographic coverage. This understanding should be reached outside the courtroom and without imposing on the judge or court personnel.

Broadcast coverage outside the courtroom should be handled with care and discretion, but need not be pooled.

3. Broadcast Equipment. All running wires used should be securely taped to the floor. All broadcast equipment should be handled as inconspicuously and quietly as reasonably possible. Sufficient film and/or tape capacities should be provided to obviate film and/or tape changes except during court recess. No camera should give any indication of whether it is or is not operating such as a red light on some studio cameras. No additional lights should be used without the specific approval of the presiding judge and then only as the judge may specifically approve as may be needed in the case of appellate hearings.

4. Decorum. Broadcast representatives' dress should not set them apart unduly from other trial spectators. Camera operators should not move tripod-mounted cameras except during court recesses. All broadcast equipment should be in place and ready to function no less than 15 minutes before the beginning of each session of court.

ILLUSTRATIVE PRINT MEDIA GUIDELINES

1. The judge has authority to direct whether photographs may be taken within the courtroom. The photographer should advise the bailiff, prior to the start of a court session, that photographs are desired. The bailiff may have prior instructions from the judge as to where the photographer may be positioned. In the absence of any directions from the judge or bailiff, the photographer should remain behind the front row of spectator seats.

2. Unless the judge directs otherwise, no more than one still picture photographer is to be taking pictures in the courtroom at any one time. It is the responsibility of each photographer present at the opening of each session of court to achieve an understanding with all other photographers present as to which will function at any given time, or, in the alternative, how they will pool their photographic coverage. This understanding must be reached outside the courtroom and without imposing on the judge or court personnel.

3. The photographers' dress and equipment should not set them apart unduly from other trial spectators. Cameras which operate without flash and with a minimum of noise should be utilized.

MISC.

4. ~~The photographer's movements in and out of the courtroom and while taking pictures should be unobtrusive. The photographer should not, for example, assume body positions inappropriate for spectators.~~

ILLUSTRATIVE BROADCAST GUIDELINES

(1) Officers of Court. Broadcast newsmen should advise the bailiff prior to the start of a court session that they desire to electronically record and/or broadcast live from within the courtroom. The bailiff may have prior instructions from the judge as to where the broadcast reporter and/or camera operator may position themselves. In the absence of any directions from the judge or bailiff, the position should be behind the front row of spectator seats by the least used aisle-way or other unobtrusive but viable location.

(2) Pooling. Unless the judge directs otherwise, no more than one television camera should be taking pictures in the courtroom at any one time. It should be the responsibility of each broadcast news representative present at the opening of each session of court to achieve an understanding with all other broadcast representatives as to how they will pool their photographic coverage. This understanding should be reached outside the courtroom and without imposing on the judge or court personnel.

(3) Broadcast Equipment. All running wires used should be securely taped to the floor. All broadcast equipment should be handled as inconspicuously and quietly as reasonably possible. Sufficient film and/or tape capacities should be provided to obviate film and/or tape changes except during court recess. No additional lights should be used without the specific approval of the presiding judge.

(4) Decorum. Camera operators should not move tripod-mounted cameras except during court recesses. All broadcast equipment should be in place and ready to function no less than 15 minutes before the beginning of each session of court.

An accompanying set of "Illustrative Print Media Guidelines" contained substantially the same provisions for print media personnel. The only additional matters addressed were that still photographers should use cameras operating quietly and without a flash and they should not "assume body positions inappropriate for spectators."

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 04-07-040
RULES OF COURT
STATE SUPREME COURT

[March 8, 2004]

IN THE MATTER OF THE ADOPTION)
OF THE PROPOSED AMENDMENTS TO) ORDER
APR 13 AND ELC 3.4) NO. 25700-A-790

The Washington State Bar Association having recommended the adoption of the proposed amendments to APR 13 and ELC 3.4, and the Court having approved the proposed amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(f), the proposed amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2005.

(b) The purpose statement as required by GR 9(d), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 29, 2005. Comments may be sent to the following addresses: Supreme Court Clerk's Office, P.O. Box 40929, Olympia, Washington 98504-0929, or Lisa.Bausch@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 8th day of March 2004.

For the Court
Gerry L. Alexander
CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendment

ADMISSION TO PRACTICE RULES (APR)
APR 13. SIGNING OF PLEADINGS AND OTHER PAPERS; NOTICE OF CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME (as revised December 5, 2003)

Purpose: As the licensing agency for Washington lawyers, the Washington State Bar Association maintains members' addresses and telephone numbers as a public record pursuant to APR 13. The suggested amendment of that rule has two purposes. First, it would add language to the rule to clarify that the mailing address provided to the Washington State Bar Association by WSBA members is the address of record for that member.

Second, it would add a new section to require that lawyers must also provide a business electronic mail address if one exists for them. Electronic addresses facilitate delivery of official WSBA mail to members. Concurrent with approving this suggested amendment, the Board of Governors amended the Member Contact Policy to provide that electronic mail addresses will not be sold to anyone other than vendors of continuing legal education.

The Board of Governors requests that this amendment be adopted effective January 1, 2005 to allow notice to members and collection of data with the 2005 license renewal process.

SUGGESTED AMENDMENT
ADMISSION TO PRACTICE RULES (APR)
APR 13. SIGNING OF PLEADINGS AND OTHER PAPERS; ADDRESS OF RECORD; ELECTRONIC MAIL ADDRESS; NOTICE OF CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME (revised, December 5, 2003)

(a) Signing of Pleadings and Other Papers. All pleadings and other papers signed by an attorney and filed with a court shall include the attorney's Washington State Bar Association membership number in the signature block. The law department of a municipality, county, or state, public

MISC.

defender organization or law firm is authorized to make an application to the Administrative Office of the Administrator for the Courts for an office identification number. An office identification number may be assigned by the Administrative Office of the Administrator for the Courts upon a showing that it will facilitate the process of electronic notification. If an office identification number is granted, it shall appear with the attorney's Washington State Bar Association membership number in the signature block.

(b) Address of Record; Change of Address. An attorney must advise the Washington State Bar Association of a current mailing address and telephone number. The mailing address shall be the attorney's address of record. An attorney whose office mailing address or office telephone number changes shall, within 10 days after the change, notify the Executive Director of the Washington State Bar Association, who shall forward changes weekly to the Office of the Clerk of the Supreme Court for entry into the state computer system. The notice shall be in a form acceptable to the Bar Association and, in addition to shall include (1) the attorney's full name, the notice shall contain (1) (2) the attorney's Washington State Bar Association membership number, (2) (3) the previous address and telephone number, clearly identified as such, (3) (4) the new address and telephone number, clearly identified as such, and (4) (5) the effective date of the change. The courts of this state may rely on the address information contained in the state computer system in issuing notices in pending actions.

(c) Electronic mail address: An attorney must advise the Washington State Bar Association of a current business electronic mail address if one exists. An attorney whose business electronic mail address changes shall, within 10 days after the change, notify the Executive Director of the Washington State Bar Association, who shall forward changes weekly to the Office of the Clerk of the Supreme Court for entry into the state computer system. Use of electronic mail addresses for court notice, service and filing must comply with GR 30.

(e) (d) Change of Name. [No change].

(d) (e) Requirements of Local and Other Court Rules Not Affected. [No change].

GR 9 COVER SHEET

SUGGESTED AMENDMENT

RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)
ELC 3.4 RELEASE OR DISCLOSURE OF OTHERWISE CONFIDENTIAL INFORMATION

Purpose: The Practice of Law Board unanimously approved an amendment to the Rules for Enforcement of Lawyer Conduct (ELC) regarding disclosure of confidential disciplinary investigation information. The amendment was also unanimously approved by the Board of Governors of the Washington State Bar Association. The draft rule is based on a similar provision for release of information to the Lawyers' Fund for Client Protection Committee. Its purpose is to permit the sharing of information between regulatory agencies whose investigations may overlap, for example, when the Practice of Law Board is investigating allegations of unau-

thorized practice of law that may also involve allegations that a lawyer assisted the unauthorized practice.

An issue of concern is the preservation of confidentiality of any disciplinary investigation information released to the Practice of Law Board. The Board Regulations provide that "the POL Board may meet in executive session and records and files may be made confidential where the preservation of confidentiality is desirable or where public disclosure might result in the violation of individual rights or in unwarranted private or personal harm. All discussions of particular complaints and investigations will be held in Executive Session." This proposed amendment makes clear that the Board's obligation is to maintain the confidentiality of any such information unless release is authorized by the ELCs or by the WSBA Executive Director pursuant to her authority under the ELCs.

SUGGESTED AMENDMENT
RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)
ELC 3.4 RELEASE OR DISCLOSURE OF OTHERWISE CONFIDENTIAL INFORMATION

- (a) Disclosure of Information.** [No change].
- (b) Investigative Disclosure.** [No change].
- (c) Release Based upon Lawyer's Waiver.** [No change].
- (d) Response to Inquiry or False or Misleading Statement.** [No change].
- (e) Discretionary Release.** [No change].
- (f) Statement of Concern.** [No change].
- (g) Release to Judicial Officers.** [No change].
- (h) Cooperation with Criminal and Disciplinary Authorities.** [No change].
- (i) Release to Lawyers' Fund for Client Protection.** [No change].
- (j) Conflicts Review Officer.** [No change].
- (k) Board of Governors Access.** [No change].
- (l) Release to Practice of Law Board.** Information obtained in an investigation relating to possible unauthorized practice of law may be released to the Practice of Law Board. Such information shall remain under the control of the Office of Disciplinary Counsel and the Practice of Law Board must treat it as confidential unless this title or the Executive Director authorizes release.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

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

WSR 04-07-055
NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE

[Memorandum—March 9, 2004]

The board of trustees of Shoreline Community College will hold a special meeting on Friday, March 12, beginning 7:30 a.m. in the Central Conference Room of the Administration Building 1000.

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We will also notify local area media of this special meeting.

The purpose of the special meeting is for the board of trustees to complete their meeting with chairs of the appointment review committees for the third-year tenure track instructors prior to taking any action to award tenure at their monthly board meeting on March 17, 2004. This meeting is an extension of the meeting held on Tuesday, March 9, 2004.

Please call (206) 546-4552 or e-mail Michele Foley at mfoley@ctc.edu if you have further questions or need additional clarification.

WSR 04-07-056

NOTICE OF PUBLIC MEETINGS

**WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD**

[Memorandum—March 11, 2004]

Following is the revised 2004 meeting schedule for the Washington State Workforce Training and Education Coordinating Board. This change includes a date and location change (October 5 meeting replaces the September 30 meeting).

Please give Mary Reister a call at 753-5660 if you have any questions.

**WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD
2004 MEETING SCHEDULE**

Wednesday, January 28, 2004 - Dinner
Thursday, January 29, 2004 - Meeting
Olympia

Thursday, March 25, 2004 - Meeting
Olympia

Wednesday, May 12, 2004 - Dinner
Thursday, May 13, 2004 - Meeting
Port Angeles

Tuesday, June 29, 2004 - Dinner
Wednesday, June 30, 2004 - Meeting
Spokane

Wednesday, August 4, 2004 - Retreat
Thursday, August 5, 2004 - Retreat
Ocean Shores

Tuesday, October 5, 2004 - Meeting
Olympia

Wednesday, November 17, 2004 - Dinner
Thursday, November 18, 2004 - Meeting
Renton

WSR 04-07-063

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed March 11, 2004, 4:31 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Administrative Policy 7.01.

Subject: IRS confidentiality and security.

Effective Date: March 5, 2004.

Document Description: This policy explains to DCS staff how to care for documents in order to maintain federal guidelines for confidentiality and security.

To receive a copy of the interpretive or policy statement, contact Beth Heston, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5278, TDD (360) 753-9122, fax (360) 586-3274, e-mail ehston@dshs.wa.gov.

March 5, 2004

Elizabeth A. Heston

WSR 04-07-064

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed March 11, 2004, 4:31 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Administrative Policy 1.06.

Subject: DCS forms approval process.

Effective Date: March 5, 2004.

Document Description: This policy explains to DCS staff how local forms and DCS forms are created.

To receive a copy of the interpretive or policy statement, contact Beth Heston, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5278, TDD (360) 753-9122, fax (360) 586-3274, e-mail ehston@dshs.wa.gov.

March 5, 2004

Elizabeth A. Heston

WSR 04-07-065

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed March 11, 2004, 4:31 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Administrative Policy 4.05.

Subject: Purchase payments.

Effective Date: March 5, 2004.

Document Description: This policy explains to DCS staff how to request payments for services and goods.

To receive a copy of the interpretive or policy statement, contact Beth Heston, Division of Child Support, P.O. Box

MISC.

11520, Tacoma, WA 98411-5520, phone (360) 664-5278, TDD (360) 753-9122, fax (360) 586-3274, e-mail eheston@dshs.wa.gov.

March 5, 2004
Elizabeth A. Heston

WSR 04-07-066
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed March 11, 2004, 4:32 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Administrative Policy 2.06.
Subject: Missing negotiables.
Effective Date: March 9, 2004.

Document Description: This policy explains the process by which district managers investigate missing negotiables.

To receive a copy of the interpretive or policy statement, contact Beth Heston, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5278, TDD (360) 753-9122, fax (360) 586-3274, e-mail eheston@dshs.wa.gov.

March 9, 2004
Elizabeth A. Heston

WSR 04-07-068
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION COMMISSION

[Memorandum—March 10, 2004]

Following is the revised meeting dates of the Washington State Transportation Commission:

Previous Dates	Revised Dates
April 14 and 15, 2004	April 15 and 16, 2004

WSR 04-07-069
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER

[Memorandum—March 10, 2004]

A regular meeting of the Washington State Convention and Trade Center board of directors will be held on Tuesday, March 16, 2004, at 2:00 p.m. in Room 303 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

WSR 04-07-070
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD

[Memorandum—March 11, 2004]

March 25, 2004
Department of Information Services
Forum Building
Board Room - Second Floor
605 East 11th Street
Olympia, WA 98504
(360) 902-2991

The Workforce Training and Education Coordinating Board will hold a board meeting on March 25, 2004, from 8:30 a.m. to 3:00 p.m. at the Department of Information Services Forum Building Board Room, located at 605 East 11th Street, Olympia, WA.

The board will learn of the results (i.e., labor market outcomes and customer satisfaction) of major workforce development programs. The board will act on the agency's strategic plan draft and will also review emerging changes for the 2004 edition of *High Skills, High Wages*. It will consider options for use of vocational education and Workforce Investment Act funds for next year. Finally, the board will take action on the eligible training provider list policy for 2004-05.

People needing special accommodations can contact Mary Reister at least seven days in advance at (360) 753-5660, e-mail mreister@wtb.wa.gov.

WSR 04-07-071
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed March 15, 2004, 8:42 a.m.]

Title of Policy or Interpretative Statement: Drinking Water State Revolving Fund Guidelines (DWSRF) 2004.

Issuing Entity: Washington State Department of Health, Environmental Health Programs, Division of Drinking Water.

Description: Attached is a copy of the revised program guidelines for the DWSRF 2004 application cycle. The DWSRF provides funding for systems to make drinking water infrastructure improvements. The DWSRF program guidelines have been jointly revised by the Department of Health, Office of Drinking Water; the Public Works Board, and its administrative agent, the Department of Community, Trade and Economic Development to address changes in state law.

Division Contact: Chris Gagnon, DWSRF Program Manager, Department of Health, Office of Drinking Water, 7171 Cleanwater Lane, Building 3, P.O. Box 47822, Olympia, WA 98504-7822.

Effective Date: January 27, 2004.

Rich Hoey
Acting Director

WSR 04-07-072

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE**

(Beef Commission)

[Memorandum—March 11, 2004]

This is notification of a board meeting date change for the Washington State Beef Commission: The April 6, 2004, Washington State Beef Commission board meeting has been rescheduled for April 21, 2004, in Ellensburg, Washington.

Should you have questions, please contact Rosalee Mohney at (206) 444-2902.

WSR 04-07-096

ATTORNEY GENERAL'S OFFICE

[Filed March 16, 2004, 3:54 p.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 14, 2004. 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 this date, 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) 664-3027, 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):

**04-03-03 Request by Marty Brown
Director, Office of Financial Management**

Whether the WTC (Washington Technology Center) is a state agency for the purposes of RCW 43.88 and SAAM (State Administrative and Accounting Manual).

WSR 04-07-098

**NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON**

[Memorandum—March 10, 2004]

The Associated Students of the University of Washington, Bothell, will hold official meetings on the following dates (in Room LB1-325 from 9 a.m. to 11 a.m.):

- March 31st
- April 7th
- April 14th
- April 21st
- April 28th
- May 5th
- May 12th
- May 19th
- May 26th
- June 2nd

WSR 04-07-099

**NOTICE OF PUBLIC MEETINGS
WESTERN WASHINGTON UNIVERSITY**

[Memorandum—March 15, 2004]

Following is a notice of a special meeting of Western Washington University board of trustees.

The special meeting has been scheduled for Thursday, March 18, 2004, in Seattle, Washington.

If you have any questions, please contact Suzanne Baker by phone at (360) 650-3117 or by e-mail at Suzanne.Baker@wwu.edu.

**BOARD OF TRUSTEES
Study Session
March 18, 2004**

Time: 8:30 a.m. to 3:30 p.m.
Location: Preston Gates and Ellis
Seattle, Washington

WSR 04-07-100

**NOTICE OF PUBLIC MEETINGS
FOREST PRACTICES BOARD**

[Memorandum—March 15, 2004]

Per WAC 222-08-040, the Forest Practices Board will hold special meetings on:

April 21, 2004 9 a.m. - 5 p.m. Special Meeting	Natural Resources Building 1111 Washington Street S.E. Room 172 Olympia
May 12, 2004 Regular Meeting	Cancelled

MISC.

June 2 and 3, 2004 9 a.m. - 5 p.m. Special Meeting <i>Previously advertised as June 1 and 2, 2004</i>	Klickitat County area
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Mailing agendas to all individuals and groups on the board's mailing list also provides notice of these meetings. To be added to this distribution list, please use the contact Board Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1758, fax (360) 902-1428, e-mail forest.practicesboard@wadnr.gov.

To view this and other board related information on-line, log on to the Forest Practices Board's website at www.wa.gov/dnr.

WSR 04-07-101
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed March 17, 2004, 8:53 a.m.]

Notice of Prevailing Rate of
Wage Change - Power Equipment Operators

As per RCW 39.12.015, 39.12.020 and WAC 296-127-011 the Department of Labor and Industries has determined that the prevailing rate of wage published on February 3, 2004 (WSR 04-04-077) for the Power Equipment Operator's classifications in Chelan, Clallam, Douglas, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Pacific, Pierce, Skagit, Snohomish, Thurston, Whatcom and Yakima counties were inadvertently updated. Effective immediately, the correct wage rates for this classification in these counties should be those that took effect on August 31, 2003. These wage rates should not have been changed until the next wage update cycle in August of 2004.

The department has determined that this change is necessary to correct an error that was made in updating these wages. Absent this change, L&I will be enforcing an incorrect prevailing wage, which irreparably harms contractors, workers and the people of the state of Washington. This correction is necessary to ensure the correct application of prevailing wages and the general welfare.

If you have any questions or require additional information please feel free to contact Josh Swanson at (360) 902-5310 or swaj235@LNI.WA.GOV.

Josh Swanson
Prevailing Wage Manager
Industrial Statistician

WSR 04-07-106
NOTICE OF PUBLIC MEETINGS
WASHINGTON SCHOOL
FOR THE DEAF
[Memorandum—March 16, 2004]

The Washington School for the Deaf board of trustees will have a telephone conference on Wednesday, April 28, 2004, beginning at 9:00 a.m.

WSR 04-07-107
RULES COORDINATOR
DEPARTMENT OF SERVICES
FOR THE BLIND

[Filed March 18, 2004, 9:40 a.m.]

Please designate the following person as the rules coordinator for the Department of Services for the Blind: Ellen Drumheller, Department of Services for the Blind, P.O. Box 40933, Olympia, WA 98504-0933, phone (360) 586-7022, fax (360) 586-7627, elldrumheller@dsb.wa.gov.

Bill Palmer
Executive Director

WSR 04-07-108
OFFICE OF
INSURANCE COMMISSIONER

[Filed March 18, 2004, 10:42 a.m.]

In the Matter of the Merger of) No. G04-02
PACIFIC NORTHWEST TITLE)
INSURANCE COMPANY, a Wash-) NOTICE OF HEARING
ington title insurance com-)
pany, with and into THE FIRST)
AMERICAN CORPORATION, a)
California corporation)

TO: Timothy J. Parker, Esq.
Carney Badley Spellman, P.S.
700 Fifth Avenue, Ste. 5800
Seattle, WA 98104-5017

Parker S. Kennedy - President
First American Corporation
1 First American Way
Santa Ana, CA 92707

Raymond Lloyd Davis - President
Pacific Northwest Title Insurance Company
215 Columbia Street
Seattle, WA 98104-1511

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance
Commissioner
Carol Sureau, Deputy Commissioner for Legal

MISC.

Affairs

James E. Tompkins, Assistant Deputy Commissioner,

Company Supervision
Office of Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Pacific Northwest Title Insurance Company (PNWT) is a title insurance company domiciled in the State of Washington. Pacific Northwest Title Holding Company, a Washington corporation, is PNWT's holding company.

The First American Corporation (First American) is a holding company domiciled in the State of California, is publicly traded on the New York Stock Exchange, and is a general business corporation which, through its subsidiaries, is engaged in title insurance and services, specialty insurance, trust and other services, mortgage information, property information, credit information and screening information.

On January 30, 2004, First American filed an application with the Insurance Commissioner for approval of its proposal to merge with and acquire control of PNWT by acquiring all of the issued and outstanding stock of Pacific Northwest Title Holding Company in a negotiated acquisition. More specifically, and as detailed in its application, First American proposes to acquire PNWT through merger of PNWT with First American's wholly-owned subsidiary Pacific Northwest Title Holding Company Acquisition Corporation. Should this proposal be approved, upon the effective date of the purchase, Pacific Northwest Title Holding Company Acquisition Corporation shall cease to exist and Pacific Northwest Title Holding Company, a Washington corporation, shall be the surviving corporation. Said purchase will result in the merger of PNWT into First American and a change of control of PNWT. With this proposed merger, First American intends to continue and expand its business of selling and underwriting title insurance policies in the State of Washington.

A merger involving a domestic Washington insurer is controlled by RCW 48.31.010, 48.31B.015 and 48.31B.020. Pursuant to RCW 48.31.010, a Form "A" Statement Regarding the Merger and Acquisition of Control of a Domestic Insurer was submitted to the Insurance Commissioner on January 26, 2004, and has been filed herein. Pursuant to RCW 48.31.010, a domestic insurer may merge with another insurer if, after a hearing, it is found: 1) that the plan of merger has been submitted to and is approved by the Insurance Commissioner in advance of the merger; 2) that adequate notice of the hearing has been given; 3) that the proposed merger is fair, equitable, and consistent with law; 4) that no reasonable objection exists; 3) that no director, officer, member, or subscriber of any such insurer, except as is expressly provided by the plan of merger, has or shall receive any fee, commission, other compensation or valuable consideration whatsoever, for in any manner aiding, promoting or assisting in the merger; and 4) that the Washington insurer has complied with the general laws of this state relating to business corporations. Additionally, RCW 48.31B.015 requires that findings, specified therein, must be made con-

cerning licensing, financial condition, proposed restructuring, competence of the acquiring management and concerning whether the acquisition is likely to be hazardous or prejudicial to the insurance-buying public. Finally, RCW 48.31B.020 provides, among other criteria, that the Commissioner may disapprove the proposed acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in a line of insurance in this state or tend to create a monopoly therein.

YOU ARE HERBY NOTIFIED that a hearing will be held commencing on April 21, 2004 at the hour of 9:00 a.m. in the Office of the Insurance Commissioner, 5000 Capitol Boulevard, Tumwater, Washington 98501, to consider the proposed merger of PNWT with and into First American, resulting in a change of control of PNWT.

The hearing will be held under the authority granted the Insurance Commissioner by Chapter 48.04 RCW and RCW 48.31.010, and shall have as its purpose consideration of the above identified statutory criteria and entry of a final decision regarding approval or disapproval of this proposed merger. PNWT and First American must each submit evidence, in the form of live testimony and written affidavits, supporting their position regarding these criteria. Relative to these criteria, the companies must also submit evidence that the rights of Washington policyholders under their current contracts will not be altered.

The Insurance Commissioner has not taken, and will not take, any position on this matter prior to entry of the Findings of Facts, Conclusions of Law and Final Order to be entered by the undersigned after hearing.

YOU ARE FURTHER NOTIFIED that all comments on, or objections to, this proposed merger must be submitted 5:00 p.m. on April 19, 2004. Said comments or objections must be submitted to the undersigned by fax, U.S. Mail, or personal delivery. The fax number of the undersigned is (360) 664-2782, and her address is 5000 Capitol Boulevard, Tumwater, Washington 98501. Further, any member of the public may attend the hearing and may present relevant information concerning the matters at issue herein.

All parties may participate in the hearing. They may examine witnesses and fully respond and present evidence and argument on all issues involved, as required by the Administrative Procedure Act. The hearing will be governed by the Administrative Procedure Act, Chapter 34.05 RCW, and the model rules of procedure contained in Chapter 10-08 WAC. A party who fails to attend or participate in any stage of the proceeding may be held in default in accordance with Chapter 34.05 RCW.

The Insurance Commissioner will be represented by James E. Tompkins, Assistant Deputy Commissioner in his Company Supervision Division. He can be reached at (360) 725-7218. PNWT and First American will be represented by Timothy J. Parker, Esq. He can be reached at (206) 622-8020.

Based upon a delegation of authority from the Insurance Commissioner, the undersigned will conduct the hearing and will make the final decision and enter the final order relative

to this matter. Her address of Office of the Insurance Commissioner, P.O. Box 40255, Olympia, WA 98504-0255 and her telephone number is (360) 725-7105. All questions or concerns should be directed to Charlene Bowman, Administrative Assistant to the undersigned, at (360) 725-7002 or at the above address.

Pursuant to WAC 10-08-040(2) and in accordance with ch. 2.42 RCW, if a limited English-speaking or hearing impaired or speech impaired party or witness needs an interpreter, a qualified interpreter will be appointed. There will be no cost to the party or witness therefore, except as may be provided by ch. 2.42 RCW. Following this Notice is a form you may use to advise the Chief Hearing Officer of your need for an interpreter.

ENTERED at Olympia, Washington, this 2nd day of March, 2004, pursuant to Title 48 RCW and specifically RCW 48.31.010, Title 34 RCW, and regulations applicable thereto.

PATRICIA D. PETERSEN
 Presiding Officer
 Chief Hearing Officer

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

WSR 04-07-109
OFFICE OF THE
INSURANCE COMMISSIONER

[Filed March 18, 2004, 10:44 a.m.]

Technical Assistance Advisory Updates
 March 16, 2004

Due to changes that have occurred over the past few years, information on many of the insurance commissioner's technical assistance advisories (TAA) is outdated. The advisories below have been updated to include the correct OIC staff contact information to ensure that when questions come up about the content of a TAA, the correct individual within the OIC may be reached. The updates are limited to contact information only. If you have questions please contact Kacy Scott at (360) 725-7041, kacys@oic.wa.gov.

94-9	Phone number changed for contact person: (360) 725-7032 and e-mail address added BevD@oic.w.gov [BevD@oic.wa.gov].
95-5	Contact information changed: Gretchen Holtz, GretchH@oic.wa.gov, (206) 464-6263, 810 3rd Avenue, Seattle, WA 98104.
97-1	Contact person changed: Dennis Julnes, (360) 725-7209, DennisJ@oic.wa.gov.
97-3	Contact information changed: Lee Barclay's phone number corrected (360) 725-7115 and e-mail address added Leeb@oic.wa.gov; Rate[s] and Form[s] Helpdesk added for form filing questions: (360) 725-7111, rfhelpdesk@oic.wa.gov.

98-3	Contact information and website address changed: Rates and Forms Helpdesk: (360) 725-7111, rfhelpdesk@oic.wa.gov, website www.insurance.wa.gov.
98-5	Contact information changed: Carol Sureau, (360) 725-7050 or CarolS@oic.wa.gov.
99-4	Contact information changed: Beth Berendt, (360) 725-7117 or BethB@oic.wa.gov.
00-02	Contact information changed: Beth Berendt, (360) 725-7117 or BethB@oic.wa.gov.
00-03	Lichiou Lee's phone number changed to (360) 725-7128 and "associate" taken off title. Reference to new law on website was changed to site where sections are codified: Section 3 is codified at chapter 48.20 RCW, section 29 at chapter 48.44 RCW, and section 32 at chapter 48.46 RCW.
00-04	Lichiou Lee's phone number changed: (360) 725-7128.
00-07	Lichiou Lee's phone number changed: (360) 725-7128.
02-01	Update location of TAA on website: http://www.insurance.wa.gov/oicfiles/techadvisories/T97-03.pdf , reference to filing forms and procedures on website: http://www.insurance.wa.gov/industry/mainpropertycasualty.asp and update contact information. Lee Barclay, (360) 725-7115; contact for form filing contact changed to Rate[s] and Forms Help Line, (360) 725-7111, or RfhelpDesk@oic.wa.gov.
02-03	Update contact information: Rate[s] and Forms Help Line, (360) 725-7111 or Rfhelp-Desk@oic.wa.gov.

WSR 04-07-119
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE

(Hop Commission)
 [Memorandum—March 17, 2004]

The Washington Hop Commission has rescheduled its June 2004 regular meeting. We had previously filed the following information, as required by RCW 42.30.075:

Thursday, February 19	Moxee
Thursday, April 15	Moxee
Thursday, June 10	Prosser
Thursday, October 14	Mabton
Thursday and Friday, December 9-10	Yakima (annual meeting)

The meeting that had previously been scheduled for Thursday, June 10 has been rescheduled to Tuesday, June 8. The meeting will be held at 9:30 a.m. at WSU-IAREC, Prosser, Washington.

MISC.

WSR 04-07-120**INTERPRETIVE AND POLICY STATEMENT
HORSE RACING COMMISSION**

[Filed March 19, 2004, 10:11 a.m.]

In accordance with Revised Code of Washington the Washington Horse Racing Commission (WHRC) is submitting its interpretive and policy statements for publication in the Washington State Register.

The following are the current policy statements of the WHRC:

2002-01	Equine Testing Policy
2003-01	Financial Responsibility
2004-01	Drug and Alcohol Testing
2004-02	Performance Records —Minimum Workout Requirements

Copies of these policies can be obtained on the agency website at www.whrc.wa.gov/rules.htm or from Robert J. Lopez, Administrative Services Manager, by writing to the Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462, fax (360) 459-6461.

R. M. Leichner
Executive Secretary

WSR 04-07-124**DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT**

[Filed March 22, 2004, 8:18 a.m.]

**Joint Low-Income Home Energy Assistance Program
(LIHEAP) and Community Services Block Grant Program
(CSBG) Public Hearings**

The Washington State Department of Community, Trade and Economic Development (CTED) plans to hold a joint public hearing on the proposed Washington state abbreviated plan for the 2005 Low-income Home Emergency Assistance Program (LIHEAP) and the 2004-2006 Community Services Block Grant Program (CSBG).

The hearing will be held on Thursday, June 24, 2004, at the Department of Community, Trade and Economic Development, 906 Columbia Street S.W., 2nd Floor Conference Room, Olympia, WA 98504-8300. The LIHEAP hearing will begin at 10:00 a.m. and close at noon unless taking testimony requires more time and the CSBG hearing will begin at 1:00 p.m. and close at 3:00 p.m. unless taking testimony requires more time.

Two typewritten copies of all oral testimony are requested. There will be a question and answer period. Written testimony will be accepted until 5:00 p.m., June 24, 2004.

Written testimony for the LIHEAP hearing should be sent to the attention of Bruce Yasutake, Department of Community, Trade and Economic Development, 906 Columbia Street S.W., P.O. Box 48300, Olympia, WA 98504-8300.

Written testimony for CSBG hearing should be sent to the attention of Julie Baker, Department of Community,

Trade and Economic Development, 906 Columbia Street S.W., P.O. Box 48300, Olympia, WA 98504-8300.

Both the LIHEAP and CSBG plans are available in alternate format upon request. Meetings sponsored by CTED shall be accessible to persons with disabilities. Accommodations may be arranged with a minimum of ten working days notice, to Bruce Yasutake (LIHEAP) or Julie Baker (CSBG), or TTY/TDD 1-800-833-6388.

If you have any questions or need additional information, please contact Bruce Yasutake at (360) 725-2866 or by e-mail at brucey@cted.wa.gov or Julie Baker at (360) 725-2852 or by e-mail at julieb@cted.wa.gov.

Bruce Yasutake
LIHEAP/REACH
Program Manager

WSR 04-07-125**NOTICE OF PUBLIC MEETINGS
FOREST PRACTICES BOARD**

[Memorandum—March 22, 2003 [2004]]

Per WAC 222-08-040, the Forest Practices Board will NOT hold a special meeting on:

April 21, 2004	*Cancelled*
9 a.m. - 5 p.m.	Natural Resources Building
Special Meeting	111 Washington Street S.E.
	Room 172
	Olympia

Mailing agendas to all individuals and groups on the board's mailing list also provides notice of these meetings. To be added to this distribution list, please contact Board Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1758, fax (360) 902-1428, e-mail forest.practicesboard@wadnr.gov.

To view this and other board related information online, log on to the Forest Practices Board's website at www.wa.gov/dnr.

WSR 04-07-126**OFFICE OF THE GOVERNOR**

[Filed March 22, 2004, 9:30 a.m.]

**NOTICE OF APPEAL
RCW 34.05.330(3)**

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

On March 17, 2004, the Governor received a petition from Randolph L. Rowland, guardian of Michael Rowland, who is a resident of Fircrest, asking for the repeal of emergency rules of 388-837 WAC, adopted by the Department of Social and Health Services on December 24, 2003.

DATE: March 18, 2004

Jennifer Joly
General Counsel to the Governor

March 18, 2004

Mr. Randolph L. Rowland
Sound Images, Inc.
2854 N.W. 59th Street
Seattle, Washington 98107

Dear Mr. Rowland:

On Wednesday, March 17, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

The statute under which you seek relief, RCW 34.05.350(3), provides, in relevant part, that "within seven days after the rule is adopted, any person may petition the governor requesting immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010." Given that the rule was adopted on December 24, 2004, your petition is untimely and thus no longer ripe for review by the Governor.

Sincerely,

Jennifer Joly
General Counsel

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

WSR 04-07-130
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed March 22, 2004, 3:56 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 04-09 MAA.
Subject: Authorization number for medical inpatient detoxification (MID) services.

Effective Date: March 10, 2004.

Document Description: **Retroactive to dates of service on and after March 1, 2004**, hospitals must bill using one of the authorization numbers listed in this memorandum in order to receive reimbursement for inpatient medical detoxification services provided to medical assistance clients. Providers may use these authorization numbers only when the

medical inpatient detoxification (MID) criteria outlined in this memorandum have been met.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publication Section, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail salmobl@dshs.wa.gov.

March 18, 2004
E. A. Myers, Manager
Rules and Publications Section

WSR 04-07-131
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed March 22, 2004, 3:56 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 04-11 MAA.
Subject: Prescription drug program—Maximum allowable cost update.

Effective Date: March 16, 2004.

Document Description: **Effective for dates of service on and after April 1, 2004, the Medical Assistance Administration (MAA) will implement the following changes to the prescription drug program:** 1. New additions to the maximum allowable cost (MAC) list; and 2. Adjustments to existing MACs.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publication Section, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9729, e-mail salmobl@dshs.wa.gov.

March 18, 2004
E. A. Myers, Manager
Rules and Publications Section

WSR 04-07-132
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed March 22, 2004, 3:57 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: CN 239.
Subject: 2.040 Reopening closed or archived cases.
Effective Date: March 17, 2004.

MISC.

Document Description: This notice clarifies our existing policy on reopening a closed or archived case, giving staff additional guidance for deciding whether to reopen a case.

To receive a copy of the interpretive or policy statement, contact Beth Heston, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5278, TDD (360) 753-9122, fax (360) 586-3274, e-mail ehston@dshs.wa.gov.

March 17, 2004
Elizabeth A. Heston

WSR 04-07-133
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed March 22, 2004, 3:58 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: CN 240.
Subject: National medical support notice.
Effective Date: March 17, 2004.

Document Description: This notice explains to DCS staff how to use the new national medical support notice to enforce required medical insurance coverage for children.

To receive a copy of the interpretive or policy statement, contact Beth Heston, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5278, TDD (360) 753-9122, fax (360) 586-3274, e-mail ehston@dshs.wa.gov.

March 17, 2004
Elizabeth A. Heston

WSR 04-07-149
DEPARTMENT OF ECOLOGY

[Filed March 23, 2004, 10:26 a.m.]

PUBLIC NOTICE OF DRAFT GENERAL NPDES PERMIT FOR THE FRESH FRUIT PACKING INDUSTRY

Introduction: In 1994 the Washington State Department of Ecology (ecology) developed an NPDES general permit to regulate the discharge of process and storm water from fresh fruit packing facilities. This permit was reissued in 1999. A draft general permit and fact sheet are currently being developed for reissuance in 2004.

This permit was developed to meet the requirements of chapters 90.48, 90.52, and 90.54 RCW as amended, and the Federal Water Pollution Control Act (FWPCA) (Title 33 United States Code, Section 1251 et seq.) as amended. All requirements of 40 Code of Federal Regulations (C.F.R.) 122.41 and 122.42 are incorporated in this general permit by reference.

The fruit packing industry is eligible for coverage under a general permit due to: (1) The similar wastewater characteristics among facilities, (2) the uniform discharge conditions to which all facilities would be subject, and (3) the sig-

nificant reduction of resources necessary for permit handling. However, individual permits will still be applied in those instances where: (1) Ecology determines the general permit is not appropriate for that facility or (2) an individual facility does not wish to be covered or limited by this general permit. In that case an application for an individual national pollution discharge elimination system (NPDES)/state application must be submitted to and approved by ecology.

The permit establishes allowed treatment/disposal methods, effluent limits and best management practices for discharges from the fresh fruit packing industry. The development, issuance, and compliance with the fresh fruit packing general permit are anticipated to protect human health and the waters of the state.

Types of Facilities or Dischargers and Geographic Area Covered: Every new or existing fresh fruit packing facility within the entire state of Washington which receives, packs, stores, and/or ships either hard or soft fruit shall be required to apply for coverage under either this general permit or an individual NPDES/state waste discharge permit.

Public Hearings and Workshops: Two public hearings concerning this draft general permit shall be held as follows: Each hearing will be preceded by a one hour workshop to explain changes in the permit and answer questions.

DATE	Monday, May 10, 2004	Tuesday, May 11, 2004
WORKSHOP BEGINS	2:00 p.m.	2:00 p.m.
HEARING BEGINS	3:00 p.m.	3:00 p.m.
LOCATION	Washington State Department of Ecology	Washington Apple Commission Conference Room
ADDRESS	15 West Yakima Avenue Suite 200	2900 Euclid Avenue
CITY	Yakima, WA	Wenatchee, WA (Old Station)
ROOM	Waterfall/Seafoam Conference Room (2nd Floor)	Large Conference Room

How and When to Submit Comments: Comments on the proposed general permit may be given at the public hearings. Interested persons are also invited to submit written comments regarding the proposed general permit. All written comments should be submitted by 5:00 p.m. on Wednesday, May 12, 2004, to the Washington State Department of Ecology, Central Regional Office, 15 West Yakima Avenue, Suite 200, Yakima, WA 98902, Attention: Steven R. Huber, General Permit Manager, (509) 454-7298, shub461@ecy.wa.gov.

This notice will be published in the legal section of the Yakima Herald-Republic and the Wenatchee Daily World on April 7, 2004. A mailing containing this notice will be sent to all current permittees and other interested parties.

Documents Available for Review: The proposed general permit, fact sheet, application for coverage, small business economic impact statement (SBEIS), and other related documents are on file and may be inspected and copied between the hours of 8:00 a.m. and 4:30 p.m. weekdays at the above ecology location. Copies of the documents will be sent to interested parties upon request. Contact the above ecology office for further information.

MISC.

Procedure for Determining Final Determination: All comments received at the public hearings or at the Ecology Central Regional Office by 5:00 p.m. on Wednesday, May 12, 2004, will be considered before final permit terms, limitations, and conditions are established. A responsiveness summary for comments received during the comment period will be prepared and available for public review. If the final content of the general permit remains substantially unchanged from the draft permit available at the time this public notice is published, a copy of the final determination in the form of a public notice of issuance shall be forwarded to all persons who submitted written comment or gave public testimony regarding the permit. However, if the final determination is substantially changed, another public notice of draft permit shall be published.

Economic Impact Analysis: The department has determined that the changes made in this permit will not result in a significant change from the previous permit in the economic impact on the industry.

Tentative Determination to Issue: Ecology has tentatively determined to issue a general permit to the fresh fruit packing industry operating in the state of Washington. Proposed issuance date is June 15, 2004.

Further Information: Contact Steve Huber at the Ecology Central Regional Office listed above.

The Department of Ecology is an equal opportunity agency and does not discriminate on the basis of race, creed, color, disability, age, religion, national origin, sex, marital status, disabled veteran's status, Vietnam Era veteran's status or sexual orientation.

If you have special accommodation needs or require this document in alternative format, please contact Cindy Huwe at (509) 457-7105 (voice) or 800-833-6388 (TDD).

WSR 04-07-183

NOTICE OF PUBLIC MEETINGS

SHORELINE COMMUNITY COLLEGE

[Memorandum—March 23, 2004]

The board of trustees of Shoreline Community College will hold a special meeting on Thursday, March 25, beginning at 11:00 a.m., in the small conference room of the Administration Building 1000.

We will also notify local area media of this special meeting.

The purpose of the special meeting is for the board of trustees to conduct an annual evaluation of Shoreline Community College President Holly Moore. The board will meet with evaluator Barbara Kerr.

Please call (206) 546-4552 or e-mail Michele Foley at mfoley@ctc.edu if you have further questions or need additional clarification.

WSR 04-07-184

NOTICE OF PUBLIC MEETINGS

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

[Memorandum—March 24, 2004]

The Western Growth Management Hearings Board's monthly public board meeting for April has been canceled.

On April 29, 2004, commencing at 9:00 a.m., the three Growth Management Hearings Boards will hold their 2004 semiannual joint board meeting in Olympia. This meeting is to be held at the RAAD Building at 128 10th Avenue (corner of 10th and Columbia) in the Community, Trade and Economic Development 5th Floor Conference Room.

The Western Board's monthly public board meeting for May will commence at 1:00 on May 19.

WSR 04-07-190

INTERPRETIVE OR POLICY STATEMENT

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

[Filed March 24, 2004, 11:35 a.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Admin Pol 9.25.

Subject: Human resource development.

Effective Date: March 23, 2004.

Document Description: This policy explains the training and development procedures for DCS employees.

To receive a copy of the interpretive or policy statement, contact Beth Heston, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5278, TDD (360) 753-9122, fax (360) 586-3274, e-mail ehston@dshs.wa.gov.

March 23, 2004

Beth Heston

WSR 04-07-191

INTERPRETIVE OR POLICY STATEMENT

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

[Filed March 24, 2004, 11:36 a.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Admin Pol 8.00.

Subject: Travel regulations.

Effective Date: March 23, 2004.

Document Description: This policy explains the proper process to get approval and reimbursement for work related travel for DCS.

To receive a copy of the interpretive or policy statement, contact Beth Heston, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5278,

TDD (360) 753-9122, fax (360) 586-3274, e-mail eheston@dshs.wa.gov.

March 23, 2004
Beth Heston

MISC.



Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

Suffixes:

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- X = Expedited rule making
- XA = Expedited adoption
- XR = Expedited repeal
- No suffix means permanent action

WAC # Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
1- 21-070	AMD	04-02-071	16-230-450	PREP	04-03-004	16-231-105	PREP	04-03-004
4- 25-530	PREP	04-06-085	16-230-460	PREP	04-03-004	16-231-107	PREP	04-03-004
16- 08-003	NEW	04-02-063	16-230-470	PREP	04-03-004	16-231-110	PREP	04-03-004
16- 08-004	NEW	04-02-063	16-230-600	PREP	04-03-004	16-231-115	PREP	04-03-004
16-170-010	NEW-P	04-05-119	16-230-605	PREP	04-03-004	16-231-119	PREP	04-03-004
16-170-020	NEW-P	04-05-119	16-230-610	PREP	04-03-004	16-231-125	PREP	04-03-004
16-170-030	NEW-P	04-05-119	16-230-615	PREP	04-03-004	16-231-130	PREP	04-03-004
16-170-035	NEW-P	04-05-119	16-230-620	PREP	04-03-004	16-231-135	PREP	04-03-004
16-170-037	NEW-P	04-05-119	16-230-625	PREP	04-03-004	16-231-140	PREP	04-03-004
16-170-040	NEW-P	04-05-119	16-230-630	PREP	04-03-004	16-231-145	PREP	04-03-004
16-170-050	NEW-P	04-05-119	16-230-635	PREP	04-03-004	16-231-149	PREP	04-03-004
16-170-060	NEW-P	04-05-119	16-230-640	PREP	04-03-004	16-231-153	PREP	04-03-004
16-170-070	NEW-P	04-05-119	16-230-645	PREP	04-03-004	16-231-156	PREP	04-03-004
16-170-075	NEW-P	04-05-119	16-230-650	PREP	04-03-004	16-231-159	PREP	04-03-004
16-170-080	NEW-P	04-05-119	16-230-655	PREP	04-03-004	16-231-162	PREP	04-03-004
16-170-090	NEW-P	04-05-119	16-230-660	PREP	04-03-004	16-231-165	PREP	04-03-004
16-170-100	NEW-P	04-05-119	16-230-665	PREP	04-03-004	16-231-168	PREP	04-03-004
16-170-110	NEW-P	04-05-119	16-230-670	PREP	04-03-004	16-231-171	PREP	04-03-004
16-170-115	NEW-P	04-05-119	16-230-673	PREP	04-03-004	16-231-174	PREP	04-03-004
16-170-120	NEW-P	04-05-119	16-230-675	PREP	04-03-004	16-231-177	PREP	04-03-004
16-170-125	NEW-P	04-05-119	16-230-800	PREP	04-03-004	16-231-180	PREP	04-03-004
16-170-130	NEW-P	04-05-119	16-230-810	PREP	04-03-004	16-231-183	PREP	04-03-004
16-170-135	NEW-P	04-05-119	16-230-813	PREP	04-03-004	16-231-188	PREP	04-03-004
16-170-140	NEW-P	04-05-119	16-230-815	PREP	04-03-004	16-231-200	PREP	04-03-004
16-170-145	NEW-P	04-05-119	16-230-820	PREP	04-03-004	16-231-205	PREP	04-03-004
16-170-150	NEW-P	04-05-119	16-230-825	PREP	04-03-004	16-231-210	PREP	04-03-004
16-170-155	NEW-P	04-05-119	16-230-830	PREP	04-03-004	16-231-215	PREP	04-03-004
16-170-170	NEW-P	04-05-119	16-230-835	PREP	04-03-004	16-231-220	PREP	04-03-004
16-170-175	NEW-P	04-05-119	16-230-840	PREP	04-03-004	16-231-225	PREP	04-03-004
16-170-180	NEW-P	04-05-119	16-230-845	PREP	04-03-004	16-231-230	PREP	04-03-004
16-219-100	REP-X	04-06-073	16-230-850	PREP	04-03-004	16-231-235	PREP	04-03-004
16-219-105	REP-X	04-06-073	16-230-855	PREP	04-03-004	16-231-235	PREP	04-03-004
16-228-1220	PREP	04-03-005	16-230-860	PREP	04-03-004	16-231-300	PREP	04-03-004
16-228-1231	PREP	04-03-004	16-230-861	PREP	04-03-004	16-231-305	PREP	04-03-004
16-228-1250	PREP	04-03-004	16-230-862	PREP	04-03-004	16-231-310	PREP	04-03-004
16-230-400	PREP	04-03-004	16-230-863	PREP	04-03-004	16-231-315	PREP	04-03-004
16-230-410	PREP	04-03-004	16-230-864	PREP	04-03-004	16-231-320	PREP	04-03-004
16-230-420	PREP	04-03-004	16-230-866	PREP	04-03-004	16-231-325	PREP	04-03-004
16-230-430	PREP	04-03-004	16-230-868	PREP	04-03-004	16-231-330	PREP	04-03-004
16-230-440	PREP	04-03-004	16-231-100	PREP	04-03-004	16-231-335	PREP	04-03-004
						16-231-400	PREP	04-03-004
						16-231-405	PREP	04-03-004

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-231-410	PREP	04-03-004	16-232-071	PREP	04-03-004	16-402	AMD-P	04-06-083
16-231-413	PREP	04-03-004	16-232-074	PREP	04-03-004	16-402	PREP	04-07-045
16-231-415	PREP	04-03-004	16-232-077	PREP	04-03-004	16-402-010	AMD-P	04-06-083
16-231-420	PREP	04-03-004	16-232-100	PREP	04-03-004	16-402-020	AMD-P	04-06-083
16-231-425	PREP	04-03-004	16-232-105	PREP	04-03-004	16-402-030	NEW-P	04-06-083
16-231-500	PREP	04-03-004	16-232-110	PREP	04-03-004	16-402-040	NEW-P	04-06-083
16-231-505	PREP	04-03-004	16-232-115	PREP	04-03-004	16-402-100	NEW-E	04-07-046
16-231-510	PREP	04-03-004	16-232-120	PREP	04-03-004	16-402-110	NEW-E	04-07-046
16-231-515	PREP	04-03-004	16-232-200	PREP	04-03-004	16-402-120	NEW-E	04-07-046
16-231-520	PREP	04-03-004	16-232-205	PREP	04-03-004	16-402-130	NEW-E	04-07-046
16-231-525	PREP	04-03-004	16-232-210	PREP	04-03-004	16-449-001	REP	04-05-117
16-231-530	PREP	04-03-004	16-232-215	PREP	04-03-004	16-449-010	REP	04-05-117
16-231-600	PREP	04-03-004	16-232-220	PREP	04-03-004	16-449-020	REP	04-05-117
16-231-605	PREP	04-03-004	16-232-225	PREP	04-03-004	16-449-030	REP	04-05-117
16-231-610	PREP	04-03-004	16-232-300	PREP	04-03-004	16-450-005	NEW	04-05-117
16-231-613	PREP	04-03-004	16-232-305	PREP	04-03-004	16-450-010	NEW	04-05-117
16-231-615	PREP	04-03-004	16-232-310	PREP	04-03-004	16-450-012	NEW	04-05-117
16-231-620	PREP	04-03-004	16-232-315	PREP	04-03-004	16-450-014	NEW	04-05-117
16-231-700	PREP	04-03-004	16-250-155	PREP	04-06-074	16-450-016	NEW	04-05-117
16-231-705	PREP	04-03-004	16-252-155	PREP	04-06-074	16-450-020	NEW	04-05-117
16-231-710	PREP	04-03-004	16-301-250	AMD	04-06-019	16-450-022	NEW	04-05-117
16-231-715	PREP	04-03-004	16-301-265	AMD	04-06-019	16-450-024	NEW	04-05-117
16-231-720	PREP	04-03-004	16-301-270	AMD	04-06-019	16-450-026	NEW	04-05-117
16-231-725	PREP	04-03-004	16-301-310	AMD	04-06-019	16-450-028	NEW	04-05-117
16-231-800	PREP	04-03-004	16-301-325	AMD	04-06-019	16-450-032	NEW	04-05-117
16-231-805	PREP	04-03-004	16-301-330	AMD	04-06-019	16-450-040	NEW	04-05-117
16-231-810	PREP	04-03-004	16-301-335	AMD	04-06-019	16-450-042	NEW	04-05-117
16-231-815	PREP	04-03-004	16-301-365	AMD-P	04-05-118	16-450-044	NEW	04-05-117
16-231-820	PREP	04-03-004	16-301-375	AMD-P	04-05-118	16-450-046	NEW	04-05-117
16-231-825	PREP	04-03-004	16-301-380	AMD-P	04-05-118	16-450-048	NEW	04-05-117
16-231-830	PREP	04-03-004	16-301-395	AMD-P	04-05-118	16-450-050	NEW	04-05-117
16-231-835	PREP	04-03-004	16-301-396	NEW-P	04-05-118	16-450-060	NEW	04-05-117
16-231-840	PREP	04-03-004	16-301-410	AMD-P	04-05-118	16-450-070	NEW	04-05-117
16-231-900	PREP	04-03-004	16-301-415	AMD-P	04-05-118	16-459-001	REP	04-05-117
16-231-905	PREP	04-03-004	16-301-420	AMD-P	04-05-118	16-459-00101	REP	04-05-117
16-231-910	PREP	04-03-004	16-301-430	AMD-P	04-05-118	16-459-010	REP	04-05-117
16-231-912	PREP	04-03-004	16-301-435	AMD-P	04-05-118	16-459-020	REP	04-05-117
16-231-915	PREP	04-03-004	16-301-440	AMD-P	04-05-118	16-459-030	REP	04-05-117
16-231-920	PREP	04-03-004	16-301-450	REP-P	04-05-118	16-459-040	REP	04-05-117
16-231-925	PREP	04-03-004	16-301-455	REP-P	04-05-118	16-470-105	AMD-C	04-05-025
16-231-930	PREP	04-03-004	16-301-460	REP-P	04-05-118	16-512-002	REP	04-07-128
16-231-935	PREP	04-03-004	16-301-465	REP-P	04-05-118	16-512-005	AMD	04-07-128
16-232-001	PREP	04-03-004	16-301-470	REP-P	04-05-118	16-512-006	NEW	04-07-128
16-232-005	PREP	04-03-004	16-301-475	REP-P	04-05-118	16-512-006	NEW	04-07-128
16-232-007	PREP	04-03-004	16-301-480	REP-P	04-05-118	16-512-010	AMD	04-07-128
16-232-010	PREP	04-03-004	16-301-485	REP-P	04-05-118	16-512-020	AMD	04-07-128
16-232-015	PREP	04-03-004	16-302-385	AMD-P	04-05-120	16-512-030	REP	04-07-128
16-232-020	PREP	04-03-004	16-302-685	AMD	04-06-018	16-512-040	AMD	04-07-128
16-232-025	PREP	04-03-004	16-303-340	AMD	04-06-029	16-512-050	AMD	04-07-128
16-232-027	PREP	04-03-004	16-319-041	AMD	04-06-028	16-530-005	NEW-P	04-03-111
16-232-030	PREP	04-03-004	16-324-375	AMD-X	04-07-170	16-530-006	NEW-P	04-03-111
16-232-035	PREP	04-03-004	16-324-393	AMD-X	04-07-170	16-530-010	AMD-P	04-03-111
16-232-041	PREP	04-03-004	16-324-398	AMD-X	04-07-170	16-530-020	AMD-P	04-03-111
16-232-044	PREP	04-03-004	16-324-720	REP-X	04-07-170	16-530-030	REP-P	04-03-111
16-232-047	PREP	04-03-004	16-324-730	REP-X	04-07-170	16-530-040	AMD-P	04-03-111
16-232-050	PREP	04-03-004	16-324-740	REP-X	04-07-170	16-536-005	NEW-P	04-04-107
16-232-053	PREP	04-03-004	16-324-750	REP-X	04-07-170	16-536-006	NEW-P	04-04-107
16-232-056	PREP	04-03-004	16-350-040	AMD-P	04-07-171	16-536-010	AMD-P	04-04-107
16-232-059	PREP	04-03-004	16-350-045	AMD-P	04-07-171	16-536-020	AMD-P	04-04-107
16-232-062	PREP	04-03-004	16-401	PREP	04-04-108	16-536-030	REP-P	04-04-107
16-232-065	PREP	04-03-004	16-401	PREP	04-06-082	16-536-040	AMD-P	04-04-107
16-232-068	PREP	04-03-004	16-401-070	NEW-P	04-07-172	16-536-060	AMD-P	04-04-107
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16-561-006	NEW-P	04-07-194	67- 16-020	NEW-X	04-07-110	180- 46-065	REP-W	04-07-081
16-561-010	AMD-P	04-07-194	67- 16-030	NEW-X	04-07-110	180- 50-300	AMD-P	04-04-086
16-561-020	AMD-P	04-07-194	67- 16-040	NEW-X	04-07-110	180- 50-320	AMD-P	04-04-086
16-561-030	REP-P	04-07-194	106-124-900	NEW-P	04-06-014	180- 51-050	AMD	04-04-093
16-561-040	AMD-P	04-07-194	106-124-910	NEW-P	04-06-014	180- 51-061	AMD	04-04-092
16-561-060	AMD-P	04-07-194	106-124-920	NEW-P	04-06-014	180- 55-005	AMD	04-04-093
16-662-105	AMD-X	04-07-044	131	PREP	04-03-032	180- 55-015	AMD	04-04-093
16-690-001	REP	04-05-117	131- 16-070	AMD-P	04-04-033	180- 55-020	AMD	04-04-093
16-690-010	REP	04-05-117	131- 16-070	AMD	04-07-094	180- 55-034	AMD	04-04-093
16-690-015	REP	04-05-117	131- 16-091	AMD-P	04-04-033	180- 55-150	REP	04-04-093
16-690-020	REP	04-05-117	131- 16-091	AMD	04-07-094	180- 78A-100	AMD	04-04-090
16-690-025	REP	04-05-117	131- 16-092	AMD-P	04-04-033	180- 78A-270	AMD	04-04-089
16-690-030	REP	04-05-117	131- 16-092	AMD	04-07-094	180- 78A-507	AMD	04-04-010
16-690-035	REP	04-05-117	131- 16-093	AMD-P	04-04-033	180- 79A-030	AMD	04-04-011
16-690-040	REP	04-05-117	131- 16-093	AMD	04-07-094	180- 79A-117	AMD	04-04-088
16-690-045	REP	04-05-117	131- 16-094	AMD-P	04-04-033	180- 79A-140	PREP	04-04-084
16-690-100	REP	04-05-117	131- 16-094	AMD	04-07-094	180- 79A-206	AMD	04-04-011
16-750-011	AMD-X	04-07-021	131- 16-095	AMD-P	04-04-033	180- 79A-213	AMD	04-04-011
16-750-015	AMD-X	04-07-021	131- 16-095	AMD	04-07-094	180- 79A-223	AMD	04-04-012
51- 04-030	AMD-X	04-03-034	131- 16-450	AMD-P	04-07-095	180- 79A-226	AMD	04-04-011
51- 04-030	AMD	04-07-193	131- 28-026	AMD-P	04-07-093	180- 79A-231	PREP	04-04-084
51- 11-0602	AMD-W	04-07-082	132V-120	PREP	04-05-022	180- 79A-257	AMD	04-04-009
51- 11-1006	AMD-W	04-07-082	132V-130	PREP	04-05-021	180- 79A-257	AMD	04-04-011
51- 11-1132	AMD-W	04-07-082	136- 28-010	AMD	04-05-001	180- 85-105	AMD-P	04-04-085
51- 11-1310	AMD-W	04-07-082	136-130-040	AMD	04-05-001	181- 01-002	NEW-P	04-04-105
51- 11-1312	AMD-W	04-07-082	136-130-060	AMD	04-05-001	181- 01-003	NEW-P	04-04-106
51- 11-1322	AMD-W	04-07-082	136-130-070	AMD	04-05-001	182	PREP	04-07-079
51- 11-1323	AMD-W	04-07-082	137- 28-260	AMD-P	04-05-076	182- 12	PREP	04-07-080
51- 11-1331	AMD-W	04-07-082	137- 28-260	AMD	04-07-163	182- 16-040	PREP	04-07-079
51- 11-1334	AMD-W	04-07-082	139- 01-100	AMD-P	04-02-040	182- 20-400	AMD	04-03-006
51- 11-1411	AMD-W	04-07-082	139- 01-100	AMD	04-07-146	182- 50-001	NEW	04-06-021
51- 11-1413	AMD-W	04-07-082	139- 05-210	PREP	04-04-017	182- 50-005	NEW	04-06-021
51- 11-1414	AMD-W	04-07-082	139- 05-210	AMD-P	04-07-145	182- 50-010	NEW	04-06-021
51- 11-1416	AMD-W	04-07-082	139- 05-915	PREP	04-05-064	182- 50-015	NEW	04-06-021
51- 11-1423	AMD-W	04-07-082	139- 10-210	PREP	04-06-057	182- 50-025	NEW	04-06-021
51- 11-1432	AMD-W	04-07-082	173- 26-105	REP-X	04-05-105	182- 50-030	NEW	04-06-021
51- 11-1433	AMD-W	04-07-082	173-303	PREP	04-04-101	182- 50-035	NEW	04-06-021
51- 11-1436	AMD-W	04-07-082	173-503	PREP	04-06-027	182- 50-200	NEW	04-06-021
51- 11-1437	AMD-W	04-07-082	173-517	PREP	04-07-185	192- 04-040	AMD-E	04-02-039
51- 11-1440	AMD-W	04-07-082	173-518	PREP	04-07-129	192- 04-050	AMD-E	04-02-039
51- 11-1454	AMD-W	04-07-082	180- 16-220	AMD	04-04-093	192- 12-011	REP-E	04-02-039
51- 11-1513	AMD-W	04-07-082	180- 16-225	AMD	04-04-093	192- 12-012	REP-E	04-02-039
51- 11-1521	AMD-W	04-07-082	180- 16-227	AMD	04-04-093	192- 12-020	REP-E	04-02-039
51- 13-106	AMD-X	04-03-033	180- 18-050	AMD	04-04-093	192- 12-180	REP-E	04-02-039
51- 13-106	AMD	04-07-192	180- 18-055	AMD	04-04-093	192- 12-184	REP-E	04-02-039
51- 13-201	AMD-X	04-03-033	180- 18-090	NEW	04-04-093	192- 12-190	REP-E	04-02-039
51- 13-201	AMD	04-07-192	180- 20-009	AMD-P	04-04-087	192- 12-300	REP-E	04-02-039
51- 13-302	AMD-X	04-03-033	180- 20-021	NEW-P	04-04-087	192- 12-310	REP-E	04-02-039
51- 13-302	AMD	04-07-192	180- 20-101	AMD-P	04-04-087	192- 12-320	REP-E	04-02-039
51- 13-303	AMD-X	04-03-033	180- 20-111	AMD-P	04-04-087	192- 12-330	REP-E	04-02-039
51- 13-303	AMD	04-07-192	180- 24-225	NEW	04-04-091	192- 12-340	REP-E	04-02-039
51- 13-304	AMD-X	04-03-033	180- 46-005	REP-W	04-07-081	192- 16-009	AMD-E	04-02-039
51- 13-304	AMD	04-07-192	180- 46-010	REP-W	04-07-081	192- 16-015	AMD-E	04-02-039
51- 13-402	AMD-X	04-03-033	180- 46-015	REP-W	04-07-081	192- 16-016	AMD-E	04-02-039
51- 13-402	AMD	04-07-192	180- 46-020	REP-W	04-07-081	192- 16-019	REP-E	04-02-039
51- 13-502	AMD-X	04-03-033	180- 46-025	REP-W	04-07-081	192- 16-023	REP-E	04-02-039
51- 13-502	AMD	04-07-192	180- 46-030	REP-W	04-07-081	192- 23-014	REP-E	04-02-039
51- 13-503	AMD-X	04-03-033	180- 46-035	REP-W	04-07-081	192- 23-015	REP-E	04-02-039
51- 13-503	AMD	04-07-192	180- 46-040	REP-W	04-07-081	192- 23-016	REP-E	04-02-039
51- 51-2439	NEW-W	04-07-083	180- 46-045	REP-W	04-07-081	192- 23-017	REP-E	04-02-039
51- 51-2802	NEW-W	04-07-083	180- 46-050	REP-W	04-07-081	192- 23-019	REP-E	04-02-039
51- 52-0504	NEW-W	04-07-084	180- 46-055	REP-W	04-07-081	192- 23-061	REP-E	04-02-039

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192-23-096	REP-E	04-02-039	192-310-025	AMD-E	04-02-039	208-690-070	NEW-E	04-07-182
192-23-800	REP-E	04-02-039	192-310-030	AMD-E	04-02-039	208-690-075	NEW-E	04-07-182
192-23-810	REP-E	04-02-039	192-320-070	AMD-E	04-02-039	208-690-080	NEW-E	04-07-182
192-28-105	REP-E	04-02-039	192-320-075	NEW-E	04-02-039	208-690-090	NEW-E	04-07-182
192-28-110	REP-E	04-02-039	192-340-100	NEW-E	04-02-039	208-690-100	NEW-E	04-07-182
192-28-115	REP-E	04-02-039	196-09	AMD	04-04-001	208-690-110	NEW-E	04-07-182
192-28-120	REP-E	04-02-039	196-09-010	AMD	04-04-001	208-690-112	NEW-E	04-07-182
192-100-010	NEW-E	04-02-039	196-09-050	NEW	04-04-001	208-690-115	NEW-E	04-07-182
192-100-020	NEW-E	04-02-039	196-09-055	NEW	04-04-001	208-690-120	NEW-E	04-07-182
192-100-030	NEW-E	04-02-039	196-09-060	NEW	04-04-001	208-690-130	NEW-E	04-07-182
192-110-200	NEW-E	04-02-039	196-09-100	NEW	04-04-001	208-690-140	NEW-E	04-07-182
192-110-210	NEW-E	04-02-039	196-09-110	NEW	04-04-001	208-690-150	NEW-E	04-07-182
192-120-050	NEW-E	04-02-039	196-09-120	NEW	04-04-001	208-690-160	NEW-E	04-07-182
192-130-060	NEW-E	04-02-039	196-12-005	NEW	04-04-001	208-690-170	NEW-E	04-07-182
192-130-065	NEW-E	04-02-039	196-12-010	AMD	04-04-001	208-690-180	NEW-E	04-07-182
192-130-070	NEW-E	04-02-039	196-12-020	AMD	04-04-001	220-12-020	AMD	04-07-009
192-130-080	NEW-E	04-02-039	196-12-030	AMD	04-04-001	220-16-270	AMD	04-07-009
192-140-070	NEW-E	04-02-039	196-12-045	AMD	04-04-001	220-16-550	AMD	04-07-009
192-140-075	NEW-E	04-02-039	196-12-050	AMD	04-04-001	220-16-800	NEW	04-07-009
192-140-080	NEW-E	04-02-039	196-12-055	NEW	04-04-001	220-16-810	NEW	04-07-009
192-140-085	NEW-E	04-02-039	196-12-065	NEW	04-04-001	220-32-05100P	NEW-E	04-03-075
192-140-090	NEW-E	04-02-039	196-16-006	NEW	04-04-001	220-32-05100P	REP-E	04-03-075
192-140-100	NEW-E	04-02-039	196-16-007	AMD	04-04-001	220-32-05100P	REP-E	04-04-053
192-140-120	NEW-E	04-02-039	196-16-010	AMD	04-04-001	220-32-05100Q	NEW-E	04-04-053
192-140-200	NEW-E	04-02-039	196-16-020	AMD	04-04-001	220-32-05100Q	REP-E	04-04-053
192-140-210	NEW-E	04-02-039	196-16-031	AMD	04-04-001	220-32-05100Q	REP-E	04-07-027
192-150-050	AMD-E	04-02-039	196-16-035	NEW	04-04-001	220-32-05100R	NEW-E	04-07-027
192-150-055	AMD-E	04-02-039	196-20-005	NEW-P	04-04-027	220-32-05100R	REP-E	04-07-027
192-150-060	AMD-E	04-02-039	196-20-010	AMD-P	04-04-027	220-33-01000Q	REP-E	04-04-071
192-150-065	AMD-E	04-02-039	196-20-020	AMD-P	04-04-027	220-33-01000R	NEW-E	04-04-071
192-150-085	AMD-E	04-02-039	196-20-030	AMD-P	04-04-027	220-33-01000R	REP-E	04-04-071
192-150-090	AMD-E	04-02-039	196-21-005	NEW	04-04-001	220-33-01000S	NEW-E	04-06-002
192-150-110	NEW-E	04-02-039	196-21-010	AMD	04-04-001	220-33-01000S	REP-E	04-06-002
192-150-115	NEW-E	04-02-039	196-21-020	AMD	04-04-001	220-33-01000S	REP-E	04-06-059
192-150-120	NEW-E	04-02-039	196-21-030	AMD	04-04-001	220-33-01000T	NEW-E	04-06-059
192-150-125	NEW-E	04-02-039	196-23-070	AMD	04-04-001	220-33-01000T	REP-E	04-07-008
192-150-130	NEW-E	04-02-039	196-24-041	REP	04-04-001	220-33-01000U	NEW-E	04-07-008
192-150-135	NEW-E	04-02-039	196-24-080	REP	04-04-001	220-33-01000U	REP-E	04-07-028
192-150-140	NEW-E	04-02-039	196-24-085	REP	04-04-001	220-33-01000V	NEW-E	04-07-028
192-150-150	NEW-E	04-02-039	196-24-100	REP	04-04-001	220-33-01000V	REP-E	04-07-050
192-150-200	NEW-E	04-02-039	196-24-105	REP	04-04-001	220-33-01000W	NEW-E	04-07-050
192-150-205	NEW-E	04-02-039	196-24-110	REP-W	04-05-061	220-33-01000W	REP-E	04-07-078
192-150-210	NEW-E	04-02-039	196-25-001	AMD	04-04-001	220-33-01000X	NEW-E	04-07-078
192-150-215	NEW-E	04-02-039	196-25-002	AMD-W	04-05-061	220-33-01000X	REP-E	04-07-118
192-150-220	NEW-E	04-02-039	196-25-005	AMD	04-04-001	220-33-01000Y	NEW-E	04-07-118
192-180-010	AMD-E	04-02-039	196-25-010	AMD	04-04-001	220-33-01000Y	REP-E	04-07-169
192-180-015	AMD-E	04-02-039	196-25-020	REP	04-04-001	220-33-01000Z	NEW-E	04-07-169
192-180-020	AMD-E	04-02-039	196-25-030	REP	04-04-001	220-33-04000U	REP-E	04-07-117
192-180-025	AMD-E	04-02-039	196-25-040	AMD-W	04-05-061	220-33-04000V	NEW-E	04-07-117
192-180-030	AMD-E	04-02-039	196-25-050	AMD	04-04-001	220-33-04000V	REP-E	04-07-117
192-180-040	NEW-E	04-02-039	196-25-100	REP	04-04-001	220-44-05000A	NEW-E	04-03-010C
192-200-005	NEW-E	04-02-039	196-27A-025	NEW-W	04-05-061	220-44-05000Z	REP-E	04-03-010C
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192-220-020	NEW-E	04-02-039	208-690-030	NEW-E	04-07-182	220-48-06200C	NEW-E	04-05-056
192-220-030	NEW-E	04-02-039	208-690-031	NEW-E	04-07-182	220-49-02000P	NEW-E	04-05-056
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192-240-040	AMD-E	04-02-039	208-690-045	NEW-E	04-07-182	220-52-04000V	NEW-E	04-05-007
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220- 52-04600I	REP-E	04-07-013	220- 69-241	AMD	04-05-028	232- 28-351	AMD-P	04-05-107
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220- 52-07100D	NEW-E	04-03-031	220- 88B-040	AMD	04-05-027	232- 28-61900G	REP-E	04-03-047
220- 52-07100D	REP-E	04-05-008	220- 88C-030	AMD-P	04-07-186	232- 28-61900G	REP-E	04-04-028
220- 52-07100E	NEW-E	04-05-008	220- 88C-040	AMD-P	04-07-186	232- 28-61900H	NEW-E	04-04-028
220- 52-07100E	REP-E	04-05-045	220-110-035	PREP	04-04-008	232- 28-61900H	REP-E	04-04-028
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220- 52-07100F	REP-E	04-06-041	222- 08-010	AMD	04-05-122	232- 28-61900I	NEW-E	04-04-060
220- 52-07100G	NEW-E	04-06-041	222- 08-020	AMD	04-05-122	232- 28-61900J	NEW-E	04-05-015
220- 52-07300J	REP-E	04-03-010B	222- 08-020	DECOD	04-05-122	232- 28-61900J	REP-E	04-05-015
220- 52-07300K	NEW-E	04-03-010B	222- 08-030	AMD	04-05-122	232- 28-61900K	NEW-E	04-05-033
220- 52-07300K	REP-E	04-03-074	222- 08-030	DECOD	04-05-122	232- 28-61900K	REP-E	04-05-033
220- 52-07300L	NEW-E	04-03-074	222- 08-035	DECOD	04-05-122	232- 28-61900K	REP-E	04-07-026
220- 52-07300L	REP-E	04-06-012	222- 08-040	AMD	04-05-122	232- 28-61900L	NEW-E	04-05-048
220- 55-061	NEW-P	04-05-068	222- 08-050	NEW	04-05-122	232- 28-61900L	REP-E	04-05-048
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220- 56-100	AMD	04-07-009	222- 08-070	NEW	04-05-122	232- 28-61900M	REP-E	04-07-007
220- 56-115	AMD	04-07-009	222- 08-080	NEW	04-05-122	232- 28-61900N	NEW-E	04-07-004
220- 56-118	NEW	04-07-009	222- 08-090	NEW	04-05-122	232- 28-61900N	REP-E	04-07-004
220- 56-150	AMD	04-07-009	222- 08-100	NEW	04-05-122	232- 28-61900P	NEW-E	04-07-026
220- 56-215	AMD	04-07-009	222- 08-120	NEW	04-05-122	232- 28-61900P	REP-E	04-07-026
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220- 56-23500T	NEW-E	04-07-006	222- 08-150	RECOD	04-05-122	236- 12-290	AMD-P	04-05-101
220- 56-23500T	REP-E	04-07-006	222- 08-160	RECOD	04-05-122	236- 51-001	NEW	04-07-104
220- 56-250	AMD	04-07-009	222- 12-090	AMD	04-05-087	236- 51-005	NEW	04-07-104
220- 56-25000F	NEW-E	04-07-005	222- 16-010	AMD	04-05-087	236- 51-006	NEW	04-07-104
220- 56-26700B	NEW-E	04-05-057	230- 04-124	AMD-W	04-05-059	236- 51-010	NEW	04-07-104
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220- 56-27000R	REP-E	04-07-123	230- 04-196	REP-P	04-05-078	236- 51-110	NEW	04-07-104
220- 56-27000S	NEW-E	04-05-057	230- 12-045	AMD-P	04-07-103	236- 51-115	NEW	04-07-104
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220- 56-27000U	NEW-E	04-07-123	230- 40-070	AMD-P	04-07-147	236- 51-210	NEW	04-07-104
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220- 56-315	AMD	04-07-009	230- 40-823	AMD	04-06-058	236- 51-300	NEW	04-07-104
220- 56-325	AMD	04-07-009	232- 12-004	AMD-P	04-05-099	236- 51-302	NEW	04-07-104
220- 56-330	AMD	04-07-009	232- 12-005	NEW-P	04-05-099	236- 51-305	NEW	04-07-104
220- 56-335	AMD	04-07-009	232- 12-014	AMD-P	04-05-110	236- 51-306	NEW	04-07-104
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236- 51-502	NEW	04-07-104	246-254-090	AMD	04-04-055	246-840-850	AMD-E	04-05-043
236- 51-505	NEW	04-07-104	246-254-090	AMD-P	04-07-175	246-840-860	AMD-E	04-05-043
236- 51-510	NEW	04-07-104	246-254-100	AMD-P	04-07-175	246-840-870	AMD-E	04-05-043
236- 51-515	NEW	04-07-104	246-254-120	AMD-P	04-07-175	246-840-880	AMD-E	04-05-043
236- 51-600	NEW	04-07-104	246-272B	PREP	04-03-010	246-840-890	AMD-E	04-05-043
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236- 51-615	NEW	04-07-104	246-290-025	AMD	04-04-056	246-840-930	AMD-E	04-06-009
236- 51-620	NEW	04-07-104	246-290-130	AMD	04-04-056	246-840-940	AMD-E	04-06-009
236- 51-700	NEW	04-07-104	246-290-300	AMD	04-04-056	246-840-990	AMD	04-04-054
236- 51-710	NEW	04-07-104	246-290-310	AMD	04-04-056	246-841-405	AMD-E	04-06-008
236- 51-715	NEW	04-07-104	246-290-320	AMD	04-04-056	246-851-570	NEW	04-05-004
236- 51-720	NEW	04-07-104	246-290-480	AMD	04-04-056	246-851-580	NEW-P	04-06-045
236- 51-725	NEW	04-07-104	246-290-601	AMD	04-04-056	246-851-590	NEW-P	04-06-045
236- 51-730	NEW	04-07-104	246-290-630	AMD	04-04-056	246-851-600	NEW	04-05-004
236- 51-735	NEW	04-07-104	246-290-660	AMD	04-04-056	246-851-610	NEW-P	04-06-045
236- 51-740	NEW	04-07-104	246-290-664	AMD	04-04-056	246-873-090	PREP-W	04-07-010
236- 51-745	NEW	04-07-104	246-290-666	AMD	04-04-056	246-887-160	AMD-X	04-03-105
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246- 08	PREP	04-06-043	246-290-72012	AMD	04-04-056	246-915-050	PREP	04-07-178
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246- 50-005	NEW-W	04-02-066	246-292-160	AMD-P	04-06-046	246-915-100	PREP	04-07-173
246- 50-010	AMD-W	04-02-066	246-294-001	AMD	04-06-047	246-915-105	PREP	04-07-174
246- 50-020	AMD-W	04-02-066	246-294-010	AMD	04-06-047	246-915-120	PREP	04-07-176
246- 50-030	AMD-W	04-02-066	246-294-020	AMD	04-06-047	246-915-180	PREP	04-07-177
246- 50-035	NEW-W	04-02-066	246-294-030	AMD	04-06-047	246-915-182	NEW-P	04-03-119
246- 50-040	REP-W	04-02-066	246-294-040	AMD	04-06-047	246-915-210	AMD-P	04-03-107
246- 50-990	AMD-W	04-02-066	246-294-050	AMD	04-06-047	246-915-220	AMD-P	04-03-107
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246-217-015	PREP-W	04-06-020	246-294-070	AMD	04-06-047	246-915-240	AMD-P	04-03-107
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246-233-025	NEW	04-04-055	246-809-710	NEW	04-06-011	246-919-360	AMD	04-04-067
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246-247-040	AMD-P	04-07-180	246-828-095	AMD	04-02-068	251- 30-020	DECOD-P	04-07-188
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246-247-075	AMD-P	04-07-180	246-828-220	AMD	04-02-068	251- 30-030	DECOD-P	04-07-188
246-247-080	AMD-P	04-07-180	246-828-270	AMD	04-02-068	251- 30-030	RECOD-P	04-07-188
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246-247-110	AMD-P	04-07-180	246-828-330	AMD	04-02-068	251- 30-040	REP-P	04-07-188
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246-247-120	AMD-P	04-07-180	246-828-500	AMD	04-02-068	251- 30-055	AMD-P	04-07-188
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260-08-630	AMD	04-05-089	296-23-230	AMD-P	04-05-075	296-24-16513	REP-P	04-03-085
260-08-640	REP	04-05-089	296-23-255	REP	04-04-029	296-24-16515	REP-P	04-03-085
260-08-650	AMD	04-05-089	296-23-260	REP	04-04-029	296-24-16517	REP-P	04-03-085
260-08-660	AMD	04-05-089	296-23-265	REP	04-04-029	296-24-16519	REP-P	04-03-085
260-14-010	AMD	04-05-090	296-23-26501	REP	04-04-029	296-24-16521	REP-P	04-03-085
260-16-065	NEW	04-05-091	296-23-26502	REP	04-04-029	296-24-16523	REP-P	04-03-085
260-24-510	AMD-P	04-07-144	296-23-26503	REP	04-04-029	296-24-16525	REP-P	04-03-085
260-24-650	AMD-P	04-04-045	296-23-26504	REP	04-04-029	296-24-16527	REP-P	04-03-085
260-24-650	AMD	04-07-074	296-23-26505	REP	04-04-029	296-24-16529	REP-P	04-03-085
260-28-140	REP	04-05-092	296-23-26506	REP	04-04-029	296-24-16531	REP-P	04-03-085
260-36-120	AMD-P	04-04-046	296-23-267	REP	04-04-029	296-24-16533	REP-P	04-03-085
260-36-120	AMD	04-07-075	296-23-270	REP	04-04-029	296-24-16535	REP-P	04-03-085
260-40-100	AMD-P	04-05-088	296-23-302	NEW	04-04-029	296-24-16537	REP-P	04-03-085
260-40-160	AMD-P	04-04-047	296-23-307	NEW	04-04-029	296-24-16539	REP-P	04-03-085
260-40-160	AMD	04-07-076	296-23-312	NEW	04-04-029	296-24-180	REP-P	04-03-085
260-48-620	AMD-P	04-04-048	296-23-317	NEW	04-04-029	296-24-18001	REP-P	04-03-085
260-48-620	AMD	04-07-077	296-23-322	NEW	04-04-029	296-24-18003	REP-P	04-03-085
260-48-890	AMD-P	04-04-048	296-23-327	NEW	04-04-029	296-24-18005	REP-P	04-03-085
260-48-890	AMD	04-07-077	296-23-332	NEW	04-04-029	296-24-18007	REP-P	04-03-085
260-48-900	AMD-P	04-04-048	296-23-337	NEW	04-04-029	296-24-18009	REP-P	04-03-085
260-48-900	AMD	04-07-077	296-23-342	NEW	04-04-029	296-24-190	REP-P	04-03-085
260-48-910	AMD-P	04-04-048	296-23-347	NEW	04-04-029	296-24-19001	REP-P	04-03-085
260-48-910	AMD	04-07-077	296-23-352	NEW	04-04-029	296-24-19003	REP-P	04-03-085
260-60-350	AMD	04-05-093	296-23-357	NEW	04-04-029	296-24-19005	REP-P	04-03-085
260-60-360	AMD	04-05-093	296-23-362	NEW	04-04-029	296-24-19007	REP-P	04-03-085
260-70-545	NEW	04-05-094	296-23-367	NEW	04-04-029	296-24-19009	REP-P	04-03-085
260-70-630	AMD	04-05-095	296-23-372	NEW	04-04-029	296-24-19011	REP-P	04-03-085
260-88-010	AMD	04-05-096	296-23-377	NEW	04-04-029	296-24-19013	REP-P	04-03-085
284-74-400	NEW	04-04-070	296-23-381	NEW	04-04-029	296-24-19015	REP-P	04-03-085
284-74-410	NEW	04-04-070	296-23-382	NEW	04-04-029	296-24-195	REP-P	04-03-085
284-74-420	NEW	04-04-070	296-23-387	NEW	04-04-029	296-24-19501	REP-P	04-03-085
284-74-430	NEW	04-04-070	296-23-392	NEW	04-04-029	296-24-19503	REP-P	04-03-085
284-74-440	NEW	04-04-070	296-24	PREP	04-05-074	296-24-19505	REP-P	04-03-085
284-74-450	NEW	04-04-070	296-24	PREP	04-06-078	296-24-19507	REP-P	04-03-085
284-74-460	NEW	04-04-070	296-24	PREP	04-07-154	296-24-19509	REP-P	04-03-085
287-01-030	AMD	04-03-114	296-24	PREP	04-07-157	296-24-19511	REP-P	04-03-085
287-02-030	AMD	04-03-114	296-24-012	AMD	04-07-161	296-24-19513	REP-P	04-03-085
287-02-130	AMD	04-03-114	296-24-110	REP-P	04-03-102	296-24-19514	REP-P	04-03-085
296-05-007	AMD-P	04-04-014	296-24-11001	REP-P	04-03-102	296-24-19517	REP-P	04-03-085
296-05-008	NEW-P	04-04-014	296-24-11003	REP-P	04-03-102	296-24-197	REP-P	04-03-085
296-17	PREP	04-04-098	296-24-11005	REP-P	04-03-102	296-24-200	REP-P	04-03-085
296-17	PREP	04-04-100	296-24-11007	REP-P	04-03-102	296-24-20001	REP-P	04-03-085
296-17-31013	AMD-P	04-07-122	296-24-11009	REP-P	04-03-102	296-24-20003	REP-P	04-03-085
296-17-644	AMD-W	04-06-060	296-24-11011	REP-P	04-03-102	296-24-20005	REP-P	04-03-085
296-17-67701	NEW-P	04-07-122	296-24-11013	REP-P	04-03-102	296-24-20007	REP-P	04-03-085
296-17-870	AMD-P	04-07-121	296-24-11015	REP-P	04-03-102	296-24-20009	REP-P	04-03-085
296-17-895	AMD-P	04-07-122	296-24-11017	REP-P	04-03-102	296-24-20011	REP-P	04-03-085
296-19A-210	AMD-S	04-03-035	296-24-119	REP-P	04-03-102	296-24-20013	REP-P	04-03-085
296-19A-480	AMD-S	04-03-035	296-24-120	REP	04-07-161	296-24-20015	REP-P	04-03-085
296-20-01002	AMD-P	04-03-082	296-24-150	REP-P	04-03-085	296-24-20017	REP-P	04-03-085
296-20-02704	AMD-P	04-03-082	296-24-15001	REP-P	04-03-085	296-24-20019	REP-P	04-03-085
296-20-02705	AMD-P	04-03-082	296-24-15003	REP-P	04-03-085	296-24-20021	REP-P	04-03-085
296-20-03011	AMD-P	04-03-082	296-24-15005	REP-P	04-03-085	296-24-205	REP-P	04-03-085
296-20-03012	AMD-P	04-03-082	296-24-15007	REP-P	04-03-085	296-24-20501	REP-P	04-03-085
296-20-135	AMD-P	04-05-075	296-24-15009	REP-P	04-03-085	296-24-20503	REP-P	04-03-085
296-20-200	AMD	04-04-029	296-24-165	REP-P	04-03-085	296-24-20505	REP-P	04-03-085
296-20-2010	NEW	04-04-029	296-24-16501	REP-P	04-03-085	296-24-20507	REP-P	04-03-085
296-20-2015	NEW	04-04-029	296-24-16503	REP-P	04-03-085	296-24-20509	REP-P	04-03-085
296-20-2025	NEW	04-04-029	296-24-16505	REP-P	04-03-085	296-24-20511	REP-P	04-03-085
296-20-2030	NEW	04-04-029	296-24-16507	REP-P	04-03-085	296-24-20513	REP-P	04-03-085

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-24-20515	REP-P	04-03-085	296-155-120	AMD	04-07-160	296-800-150	AMD	04-07-160
296-24-20517	REP-P	04-03-085	296-155-429	AMD-P	04-03-102	296-800-15005	AMD	04-07-160
296-24-20519	REP-P	04-03-085	296-155-487	AMD-P	04-03-085	296-800-15010	REP	04-07-160
296-24-20521	REP-P	04-03-085	296-155-488	AMD-P	04-03-085	296-800-15015	REP	04-07-160
296-24-20523	REP-P	04-03-085	296-155-525	AMD-P	04-03-085	296-800-15025	REP	04-07-160
296-24-20525	REP-P	04-03-085	296-155-617	PREP	04-07-154	296-800-35052	PREP	04-06-078
296-24-20527	REP-P	04-03-085	296-155-682	AMD-P	04-03-085	296-803-100	NEW-P	04-03-102
296-24-20529	REP-P	04-03-085	296-301-020	AMD-P	04-03-085	296-803-200	NEW-P	04-03-102
296-24-20531	REP-P	04-03-085	296-301-020	PREP	04-06-078	296-803-20005	NEW-P	04-03-102
296-24-20533	REP-P	04-03-085	296-301-170	AMD-P	04-03-085	296-803-300	NEW-P	04-03-102
296-24-20699	REP-P	04-03-085	296-302-010	REP-P	04-03-085	296-803-30005	NEW-P	04-03-102
296-24-20700	REP-P	04-03-085	296-302-015	REP-P	04-03-085	296-803-400	NEW-P	04-03-102
296-24-20710	REP-P	04-03-085	296-302-020	REP-P	04-03-085	296-803-40005	NEW-P	04-03-102
296-24-20720	REP-P	04-03-085	296-302-025	REP-P	04-03-085	296-803-40010	NEW-P	04-03-102
296-24-20730	REP-P	04-03-085	296-302-02501	REP-P	04-03-085	296-803-40015	NEW-P	04-03-102
296-24-56527	AMD	04-07-161	296-302-02503	REP-P	04-03-085	296-803-40020	NEW-P	04-03-102
296-24-61703	AMD	04-07-161	296-302-02505	REP-P	04-03-085	296-803-500	NEW-P	04-03-102
296-24-63399	AMD	04-07-161	296-302-02507	REP-P	04-03-085	296-803-50005	NEW-P	04-03-102
296-24-67509	PREP	04-07-155	296-302-02509	REP-P	04-03-085	296-803-50010	NEW-P	04-03-102
296-24-69003	AMD-P	04-03-085	296-302-02511	REP-P	04-03-085	296-803-50015	NEW-P	04-03-102
296-24-75011	AMD	04-07-161	296-302-02513	REP-P	04-03-085	296-803-50020	NEW-P	04-03-102
296-24-88020	AMD-P	04-03-085	296-302-02515	REP-P	04-03-085	296-803-50025	NEW-P	04-03-102
296-24-90003	AMD-P	04-03-085	296-302-02517	REP-P	04-03-085	296-803-50030	NEW-P	04-03-102
296-24-95603	AMD	04-07-161	296-302-02519	REP-P	04-03-085	296-803-50035	NEW-P	04-03-102
296-24-975	AMD-P	04-03-102	296-302-03001	REP-P	04-03-085	296-803-50040	NEW-P	04-03-102
296-30-081	PREP	04-04-099	296-302-03003	REP-P	04-03-085	296-803-50045	NEW-P	04-03-102
296-45-125	AMD	04-07-160	296-302-035	REP-P	04-03-085	296-803-50050	NEW-P	04-03-102
296-45-175	AMD-P	04-03-102	296-302-040	REP-P	04-03-085	296-803-50055	NEW-P	04-03-102
296-54-573	AMD-P	04-03-085	296-302-045	REP-P	04-03-085	296-803-50060	NEW-P	04-03-102
296-54-57310	AMD-P	04-03-102	296-302-050	REP-P	04-03-085	296-803-600	NEW-P	04-03-102
296-56	PREP	04-07-154	296-302-05501	REP-P	04-03-085	296-803-60005	NEW-P	04-03-102
296-56-60115	AMD-X	04-05-072	296-302-05503	REP-P	04-03-085	296-803-60010	NEW-P	04-03-102
296-56-60243	AMD-X	04-05-072	296-302-060	REP-P	04-03-085	296-803-60015	NEW-P	04-03-102
296-59-130	AMD-P	04-03-085	296-302-065	REP-P	04-03-085	296-803-700	NEW-P	04-03-102
296-62	PREP	04-05-073	296-302-06501	REP-P	04-03-085	296-803-70005	NEW-P	04-03-102
296-62	PREP	04-07-155	296-302-06503	REP-P	04-03-085	296-803-70010	NEW-P	04-03-102
296-62	PREP	04-07-156	296-302-06505	REP-P	04-03-085	296-803-70015	NEW-P	04-03-102
296-62-05305	AMD-P	04-07-159	296-302-06507	REP-P	04-03-085	296-803-800	NEW-P	04-03-102
296-62-141	AMD	04-03-081	296-302-06509	REP-P	04-03-085	296-806-100	NEW-P	04-03-085
296-62-300	AMD	04-02-053	296-302-06511	REP-P	04-03-085	296-806-200	NEW-P	04-03-085
296-65	PREP	04-05-073	296-302-06513	REP-P	04-03-085	296-806-20002	NEW-P	04-03-085
296-78-540	AMD	04-07-160	296-302-06515	REP-P	04-03-085	296-806-20004	NEW-P	04-03-085
296-78-56511	AMD-P	04-03-085	296-302-06517	REP-P	04-03-085	296-806-20006	NEW-P	04-03-085
296-78-590	AMD-P	04-03-085	296-302-06519	REP-P	04-03-085	296-806-20008	NEW-P	04-03-085
296-78-605	AMD-P	04-03-085	296-302-06521	REP-P	04-03-085	296-806-20010	NEW-P	04-03-085
296-78-615	AMD-P	04-03-085	296-302-06523	REP-P	04-03-085	296-806-20012	NEW-P	04-03-085
296-78-650	AMD-P	04-03-085	296-302-06525	REP-P	04-03-085	296-806-20014	NEW-P	04-03-085
296-78-660	AMD-P	04-03-085	296-302-06527	REP-P	04-03-085	296-806-20016	NEW-P	04-03-085
296-78-665	AMD-P	04-03-085	296-302-06529	REP-P	04-03-085	296-806-20018	NEW-P	04-03-085
296-78-690	AMD-P	04-03-085	296-302-06531	REP-P	04-03-085	296-806-20020	NEW-P	04-03-085
296-78-70503	AMD-P	04-03-085	296-303-030	AMD-P	04-03-085	296-806-20022	NEW-P	04-03-085
296-78-710	PREP	04-06-078	296-305-01515	AMD	04-07-160	296-806-20024	NEW-P	04-03-085
296-78-71007	AMD-P	04-03-085	296-305-06519	AMD-P	04-03-085	296-806-20026	NEW-P	04-03-085
296-78-71017	AMD-P	04-03-085	296-307-039	AMD	04-07-160	296-806-20028	NEW-P	04-03-085
296-78-71505	AMD-P	04-03-085	296-307-03905	AMD	04-07-160	296-806-20030	NEW-P	04-03-085
296-79-030	AMD-P	04-03-085	296-307-03910	REP	04-07-160	296-806-20032	NEW-P	04-03-085
296-79-220	AMD-P	04-03-102	296-307-03915	REP	04-07-160	296-806-20034	NEW-P	04-03-085
296-115-050	AMD-P	04-03-085	296-307-03925	REP	04-07-160	296-806-20036	NEW-P	04-03-085
296-127	PREP	04-06-063	296-307-14505	AMD-X	04-07-162	296-806-20038	NEW-P	04-03-085
296-127-011	AMD-X	04-03-083	296-307-14510	AMD-X	04-07-162	296-806-20040	NEW-P	04-03-085
296-155	PREP	04-03-084	296-800	PREP	04-07-157	296-806-20042	NEW-P	04-03-085
296-155	PREP	04-05-074	296-800-11045	PREP	04-06-078	296-806-20044	NEW-P	04-03-085

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-806-45542	NEW-P	04-03-085	296-806-48080	NEW-P	04-03-085	296-823-16015	AMD-X	04-07-158
296-806-460	NEW-P	04-03-085	296-806-48082	NEW-P	04-03-085	296-823-16025	AMD-X	04-07-158
296-806-46002	NEW-P	04-03-085	296-806-48084	NEW-P	04-03-085	296-823-16030	AMD-X	04-07-158
296-806-46004	NEW-P	04-03-085	296-806-48086	NEW-P	04-03-085	296-823-17010	AMD-X	04-07-158
296-806-46006	NEW-P	04-03-085	296-806-48088	NEW-P	04-03-085	296-823-180	AMD-X	04-07-158
296-806-465	NEW-P	04-03-085	296-806-485	NEW-P	04-03-085	296-823-18015	AMD-X	04-07-158
296-806-46502	NEW-P	04-03-085	296-806-48502	NEW-P	04-03-085	296-823-18045	AMD-X	04-07-158
296-806-46504	NEW-P	04-03-085	296-806-500	NEW-P	04-03-085	296-823-18050	AMD-X	04-07-158
296-806-46506	NEW-P	04-03-085	296-809-100	NEW	04-03-081	296-823-18055	AMD-X	04-07-158
296-806-46508	NEW-P	04-03-085	296-809-200	NEW	04-03-081	296-823-200	AMD-X	04-07-158
296-806-46510	NEW-P	04-03-085	296-809-20002	NEW	04-03-081	296-841	PREP	04-07-155
296-806-46512	NEW-P	04-03-085	296-809-20004	NEW	04-03-081	296-841	PREP	04-07-156
296-806-46514	NEW-P	04-03-085	296-809-20006	NEW	04-03-081	296-843-100	NEW	04-02-053
296-806-46516	NEW-P	04-03-085	296-809-300	NEW	04-03-081	296-843-110	NEW	04-02-053
296-806-470	NEW-P	04-03-085	296-809-30002	NEW	04-03-081	296-843-11005	NEW	04-02-053
296-806-47002	NEW-P	04-03-085	296-809-30004	NEW	04-03-081	296-843-11010	NEW	04-02-053
296-806-47004	NEW-P	04-03-085	296-809-400	NEW	04-03-081	296-843-120	NEW	04-02-053
296-806-475	NEW-P	04-03-085	296-809-40002	NEW	04-03-081	296-843-12005	NEW	04-02-053
296-806-47502	NEW-P	04-03-085	296-809-40004	NEW	04-03-081	296-843-130	NEW	04-02-053
296-806-47504	NEW-P	04-03-085	296-809-500	NEW	04-03-081	296-843-13005	NEW	04-02-053
296-806-47506	NEW-P	04-03-085	296-809-50002	NEW	04-03-081	296-843-13010	NEW	04-02-053
296-806-47508	NEW-P	04-03-085	296-809-50004	NEW	04-03-081	296-843-140	NEW	04-02-053
296-806-480	NEW-P	04-03-085	296-809-50006	NEW	04-03-081	296-843-14005	NEW	04-02-053
296-806-48002	NEW-P	04-03-085	296-809-50008	NEW	04-03-081	296-843-150	NEW	04-02-053
296-806-48004	NEW-P	04-03-085	296-809-50010	NEW	04-03-081	296-843-15005	NEW	04-02-053
296-806-48006	NEW-P	04-03-085	296-809-50012	NEW	04-03-081	296-843-15010	NEW	04-02-053
296-806-48008	NEW-P	04-03-085	296-809-50014	NEW	04-03-081	296-843-15015	NEW	04-02-053
296-806-48010	NEW-P	04-03-085	296-809-50016	NEW	04-03-081	296-843-160	NEW	04-02-053
296-806-48012	NEW-P	04-03-085	296-809-50018	NEW	04-03-081	296-843-16005	NEW	04-02-053
296-806-48014	NEW-P	04-03-085	296-809-50020	NEW	04-03-081	296-843-170	NEW	04-02-053
296-806-48016	NEW-P	04-03-085	296-809-50022	NEW	04-03-081	296-843-17005	NEW	04-02-053
296-806-48018	NEW-P	04-03-085	296-809-50024	NEW	04-03-081	296-843-180	NEW	04-02-053
296-806-48020	NEW-P	04-03-085	296-809-600	NEW	04-03-081	296-843-18005	NEW	04-02-053
296-806-48022	NEW-P	04-03-085	296-809-60002	NEW	04-03-081	296-843-18010	NEW	04-02-053
296-806-48024	NEW-P	04-03-085	296-809-60004	NEW	04-03-081	296-843-18015	NEW	04-02-053
296-806-48026	NEW-P	04-03-085	296-809-700	NEW	04-03-081	296-843-18020	NEW	04-02-053
296-806-48028	NEW-P	04-03-085	296-809-70002	NEW	04-03-081	296-843-190	NEW	04-02-053
296-806-48030	NEW-P	04-03-085	296-809-70004	NEW	04-03-081	296-843-19005	NEW	04-02-053
296-806-48032	NEW-P	04-03-085	296-809-800	NEW	04-03-081	296-843-200	NEW	04-02-053
296-806-48034	NEW-P	04-03-085	296-816-100	NEW-P	04-07-159	296-843-20005	NEW	04-02-053
296-806-48036	NEW-P	04-03-085	296-816-200	NEW-P	04-07-159	296-843-20010	NEW	04-02-053
296-806-48038	NEW-P	04-03-085	296-816-20005	NEW-P	04-07-159	296-843-20015	NEW	04-02-053
296-806-48040	NEW-P	04-03-085	296-816-20010	NEW-P	04-07-159	296-843-20020	NEW	04-02-053
296-806-48042	NEW-P	04-03-085	296-816-20015	NEW-P	04-07-159	296-843-20025	NEW	04-02-053
296-806-48044	NEW-P	04-03-085	296-816-20020	NEW-P	04-07-159	296-843-20030	NEW	04-02-053
296-806-48046	NEW-P	04-03-085	296-816-300	NEW-P	04-07-159	296-843-20035	NEW	04-02-053
296-806-48048	NEW-P	04-03-085	296-823-100	AMD-X	04-07-158	296-843-210	NEW	04-02-053
296-806-48050	NEW-P	04-03-085	296-823-11010	AMD-X	04-07-158	296-843-21005	NEW	04-02-053
296-806-48052	NEW-P	04-03-085	296-823-12010	AMD-X	04-07-158	296-843-220	NEW	04-02-053
296-806-48054	NEW-P	04-03-085	296-823-13005	AMD-X	04-07-158	296-843-22005	NEW	04-02-053
296-806-48056	NEW-P	04-03-085	296-823-14005	AMD-X	04-07-158	296-843-22010	NEW	04-02-053
296-806-48058	NEW-P	04-03-085	296-823-14015	AMD-X	04-07-158	296-843-300	NEW	04-02-053
296-806-48060	NEW-P	04-03-085	296-823-14025	AMD-X	04-07-158	308- 13-150	PREP	04-06-030
296-806-48062	NEW-P	04-03-085	296-823-14050	AMD-X	04-07-158	308- 15	PREP	04-04-050
296-806-48064	NEW-P	04-03-085	296-823-14060	AMD-X	04-07-158	308- 17-150	AMD-P	04-07-032
296-806-48066	NEW-P	04-03-085	296-823-14065	AMD-X	04-07-158	308- 18-150	AMD-P	04-07-031
296-806-48068	NEW-P	04-03-085	296-823-15010	AMD-X	04-07-158	308- 20-010	AMD	04-05-005
296-806-48070	NEW-P	04-03-085	296-823-15015	AMD-X	04-07-158	308- 20-040	AMD	04-05-005
296-806-48072	NEW-P	04-03-085	296-823-15020	AMD-X	04-07-158	308- 20-055	NEW	04-05-005
296-806-48074	NEW-P	04-03-085	296-823-160	AMD-X	04-07-158	308- 20-090	AMD	04-05-005
296-806-48076	NEW-P	04-03-085	296-823-16005	AMD-X	04-07-158	308- 20-101	NEW	04-05-005
296-806-48078	NEW-P	04-03-085	296-823-16010	AMD-X	04-07-158	308- 20-110	AMD	04-05-005

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308- 20-550	AMD	04-05-005	326- 20-050	AMD-P	04-02-043	365-230-160	NEW-P	04-05-062
308- 20-555	NEW	04-05-005	326- 20-070	AMD-P	04-02-043	365-230-170	NEW-P	04-05-062
308- 56A	PREP	04-05-121	326- 20-080	AMD-P	04-02-043	365-230-180	NEW-P	04-05-062
308- 56A-020	AMD-P	04-04-006	326- 20-092	AMD-P	04-02-041	365-230-190	NEW-P	04-05-062
308- 56A-030	AMD-P	04-03-120	326- 20-094	AMD-P	04-02-041	365-230-200	NEW-P	04-05-062
308- 56A-030	AMD	04-07-168	326- 20-095	AMD-P	04-02-041	365-230-210	NEW-P	04-05-062
308- 56A-040	AMD-P	04-03-120	326- 20-096	AMD-P	04-02-041	365-230-220	NEW-P	04-05-062
308- 56A-040	AMD	04-07-168	326- 20-098	AMD-P	04-02-041	365-230-230	NEW-P	04-05-062
308- 56A-140	AMD-P	04-04-006	326- 20-110	AMD-P	04-02-043	365-230-240	NEW-P	04-05-062
308- 56A-150	AMD-P	04-04-022	326- 20-120	AMD-P	04-02-043	365-230-250	NEW-P	04-05-062
308- 56A-450	AMD-P	04-04-022	326- 20-125	AMD-P	04-02-042	365-230-260	NEW-P	04-05-062
308- 56A-455	AMD-P	04-04-006	326- 20-160	AMD-P	04-02-043	365-230-270	NEW-P	04-05-062
308- 56A-460	AMD-P	04-04-006	326- 20-173	AMD-P	04-02-043	371- 08-306	NEW	04-03-001
308- 56A-500	AMD-P	04-04-049	326- 20-180	AMD-P	04-02-043	371- 08-315	AMD	04-03-001
308- 56A-505	AMD-P	04-04-049	332-130-100	AMD-X	04-05-030	388- 02-0215	AMD-E	04-07-090
308- 56A-640	AMD	04-03-016	352- 32	PREP	04-06-089	388- 11-032	PREP-W	04-07-112
308- 61-190	AMD-P	04-06-004	352- 44	PREP	04-06-088	388- 11-045	PREP-W	04-07-112
308- 78-010	AMD	04-06-001	352- 44-020	PREP	04-06-088	388- 11-048	PREP-W	04-07-112
308- 78-045	AMD	04-06-001	356- 18-140	AMD-E	04-07-053	388- 11-205	PREP-W	04-07-112
308- 93-030	PREP	04-07-054	356- 18-220	AMD-E	04-07-053	388- 14-045	PREP-W	04-07-112
308- 93-050	PREP	04-07-054	356- 60-010	AMD-P	04-07-188	388- 14-450	PREP-W	04-07-112
308- 96A	PREP	04-03-002	356- 60-010	DECOD-P	04-07-188	388- 14A	PREP	04-07-113
308- 96A	PREP	04-03-003	356- 60-010	RECOD-P	04-07-188	388- 14A-1020	PREP	04-06-053
308- 96A-005	PREP	04-03-002	356- 60-020	AMD-P	04-07-188	388- 14A-1020	AMD-E	04-07-057
308- 96A-021	AMD-P	04-03-121	356- 60-020	DECOD-P	04-07-188	388- 14A-3810	PREP	04-06-053
308- 96A-026	AMD-P	04-04-022	356- 60-020	RECOD-P	04-07-188	388- 14A-4040	AMD-E	04-07-057
308- 96A-072	AMD-P	04-03-121	356- 60-030	AMD-P	04-07-188	388- 14A-4100	PREP-W	04-07-022
308- 96A-074	AMD-P	04-03-121	356- 60-030	DECOD-P	04-07-188	388- 14A-4100	AMD-E	04-07-057
308- 96A-311	PREP	04-03-003	356- 60-030	RECOD-P	04-07-188	388- 14A-4100	PREP	04-07-062
308- 96A-550	AMD-P	04-03-121	356- 60-032	NEW-P	04-07-188	388- 14A-4110	PREP-W	04-07-022
308- 96A-560	AMD-P	04-03-121	356- 60-034	NEW-P	04-07-188	388- 14A-4110	AMD-E	04-07-057
308- 99-020	AMD-P	04-07-047	356- 60-040	REP-P	04-07-188	388- 14A-4110	PREP	04-07-062
308- 99-040	AMD-P	04-07-047	356- 60-050	REP-P	04-07-188	388- 14A-4120	PREP-W	04-07-022
308- 99-060	AMD-P	04-07-047	356- 60-055	AMD-P	04-07-188	388- 14A-4120	AMD-E	04-07-057
308-124A-025	AMD-P	04-03-039	356- 60-057	AMD-P	04-07-188	388- 14A-4120	PREP	04-07-062
308-124A-110	AMD-P	04-03-039	356- 60-060	REP-P	04-07-188	388- 14A-4121	NEW-E	04-07-057
308-124A-110	AMD	04-07-153	357- 10-005	NEW-P	04-04-109	388- 14A-4122	NEW-E	04-07-057
308-124A-440	AMD-P	04-03-039	357- 10-005	NEW	04-07-052	388- 14A-4123	NEW-E	04-07-057
308-124C-030	AMD-P	04-03-037	357- 10-010	NEW-P	04-04-109	388- 14A-4124	NEW-E	04-07-057
308-124C-030	AMD	04-07-151	357- 10-010	NEW	04-07-052	388- 14A-4125	NEW-E	04-07-057
308-124D-030	AMD-P	04-03-038	357- 10-020	NEW-P	04-04-109	388- 14A-4126	NEW-E	04-07-057
308-124D-030	AMD	04-07-152	357- 10-020	NEW	04-07-052	388- 14A-4130	PREP-W	04-07-022
308-125-200	AMD	04-04-052	365-230-010	NEW-P	04-05-062	388- 14A-4130	AMD-E	04-07-057
308-127-140	AMD-P	04-05-098	365-230-015	NEW-P	04-05-062	388- 14A-4130	PREP	04-07-062
308-127-160	AMD-P	04-05-098	365-230-016	NEW-P	04-05-062	388- 14A-4135	NEW-E	04-07-057
308-127-225	AMD-P	04-05-098	365-230-020	NEW-P	04-05-062	388- 14A-4140	NEW-E	04-07-057
308-420-200	AMD-P	04-05-097	365-230-030	NEW-P	04-05-062	388- 14A-4143	NEW-E	04-07-057
314- 02-105	AMD-P	04-02-075	365-230-035	NEW-P	04-05-062	388- 14A-4145	NEW-E	04-07-057
314- 02-105	AMD	04-07-020	365-230-040	NEW-P	04-05-062	388- 14A-4150	NEW-E	04-07-057
314- 17	PREP	04-02-074	365-230-050	NEW-P	04-05-062	388- 14A-4160	NEW-E	04-07-057
314- 20-020	AMD	04-06-007	365-230-060	NEW-P	04-05-062	388- 14A-4165	NEW-E	04-07-057
326- 02-010	AMD-P	04-02-043	365-230-070	NEW-P	04-05-062	388- 14A-4170	NEW-E	04-07-057
326- 02-030	AMD-P	04-02-043	365-230-080	NEW-P	04-05-062	388- 14A-4175	NEW-E	04-07-057
326- 02-034	AMD-P	04-07-041	365-230-090	NEW-P	04-05-062	388- 14A-5000	PREP	04-07-166
326- 02-040	AMD-P	04-02-043	365-230-100	NEW-P	04-05-062	388- 25	PREP	04-07-059
326- 02-045	AMD-P	04-02-043	365-230-110	NEW-P	04-05-062	388- 25-1000	NEW-E	04-07-091
326- 07-030	AMD-P	04-02-043	365-230-120	NEW-P	04-05-062	388- 25-1010	NEW-E	04-07-091
326- 20-010	AMD-P	04-02-043	365-230-130	NEW-P	04-05-062	388- 25-1020	NEW-E	04-07-091
326- 20-045	NEW-P	04-02-043	365-230-132	NEW-P	04-05-062	388- 25-1030	NEW-E	04-07-091
326- 20-046	NEW-P	04-02-043	365-230-134	NEW-P	04-05-062	388- 25-1040	NEW-E	04-07-091
326- 20-047	NEW-P	04-02-043	365-230-140	NEW-P	04-05-062	388- 25-1050	NEW-E	04-07-091
326- 20-048	NEW-P	04-02-043	365-230-150	NEW-P	04-05-062	388- 27-0120	AMD-E	04-03-018

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388-27-0130	AMD-E	04-03-018	388-105-0005	AMD-P	04-06-075	388-140-0250	NEW-E	04-03-010D
388-27-0130	AMD	04-06-024	388-105-0030	AMD-P	04-04-044	388-140-0255	NEW-E	04-03-010D
388-27-0135	AMD-E	04-03-018	388-105-0030	AMD-E	04-06-038	388-140-0260	NEW-E	04-03-010D
388-27-0135	AMD	04-06-024	388-105-0030	AMD-W	04-06-056	388-140-0265	NEW-E	04-03-010D
388-27-0155	AMD-E	04-03-018	388-105-0030	AMD-P	04-06-075	388-140-0270	NEW-E	04-03-010D
388-27-0155	AMD	04-06-024	388-105-0040	AMD-P	04-04-044	388-140-0275	NEW-E	04-03-010D
388-27-0160	AMD-E	04-03-018	388-105-0040	AMD-E	04-06-038	388-140-0280	NEW-E	04-03-010D
388-27-0160	AMD	04-06-024	388-105-0040	AMD-W	04-06-056	388-140-0285	NEW-E	04-03-010D
388-27-0165	AMD-E	04-03-018	388-105-0040	AMD-P	04-06-075	388-140-0290	NEW-E	04-03-010D
388-27-0165	AMD	04-06-024	388-105-0045	NEW-P	04-04-044	388-140-0295	NEW-E	04-03-010D
388-27-0175	AMD-E	04-03-018	388-105-0045	NEW-E	04-06-038	388-140-0300	NEW-E	04-03-010D
388-27-0175	AMD	04-06-024	388-105-0045	NEW-W	04-06-056	388-140-0305	NEW-E	04-03-010D
388-27-0190	AMD-E	04-03-018	388-105-0045	NEW-P	04-06-075	388-140-0310	NEW-E	04-03-010D
388-27-0190	AMD	04-06-024	388-105-0045	NEW-E	04-03-010D	388-140-0315	NEW-E	04-03-010D
388-27-0195	AMD-E	04-03-018	388-140-0010	NEW-E	04-03-010D	388-140-0320	NEW-E	04-03-010D
388-27-0195	AMD	04-06-024	388-140-0015	NEW-E	04-03-010D	388-140-0325	NEW-E	04-03-010D
388-27-0200	AMD-E	04-03-018	388-140-0020	NEW-E	04-03-010D	388-140-0330	NEW-E	04-03-010D
388-27-0200	AMD	04-06-024	388-140-0025	NEW-E	04-03-010D	388-140-0335	NEW-E	04-03-010D
388-27-0210	AMD-E	04-03-018	388-140-0030	NEW-E	04-03-010D	388-140-0340	NEW-E	04-03-010D
388-27-0210	AMD	04-06-024	388-140-0035	NEW-E	04-03-010D	388-140-0345	NEW-E	04-03-010D
388-27-0215	AMD-E	04-03-018	388-140-0040	NEW-E	04-03-010D	388-140-0350	NEW-E	04-03-010D
388-27-0215	AMD	04-06-024	388-140-0045	NEW-E	04-03-010D	388-140-0355	NEW-E	04-03-010D
388-27-0220	AMD-E	04-03-018	388-140-0050	NEW-E	04-03-010D	388-140-0360	NEW-E	04-03-010D
388-27-0220	AMD	04-06-024	388-140-0055	NEW-E	04-03-010D	388-140-0365	NEW-E	04-03-010D
388-27-0225	REP-E	04-03-018	388-140-0060	NEW-E	04-03-010D	388-140-0370	NEW-E	04-03-010D
388-27-0225	REP	04-06-024	388-140-0065	NEW-E	04-03-010D	388-140-0375	NEW-E	04-03-010D
388-27-0230	AMD-E	04-03-018	388-140-0070	NEW-E	04-03-010D	388-140-0380	NEW-E	04-03-010D
388-27-0230	AMD	04-06-024	388-140-0075	NEW-E	04-03-010D	388-140-0385	NEW-E	04-03-010D
388-27-0235	REP-E	04-03-018	388-140-0080	NEW-E	04-03-010D	388-140-0390	NEW-E	04-03-010D
388-27-0235	REP	04-06-024	388-140-0085	NEW-E	04-03-010D	388-140-0395	NEW-E	04-03-010D
388-27-0240	REP-E	04-03-018	388-140-0090	NEW-E	04-03-010D	388-140-0400	NEW-E	04-03-010D
388-27-0240	REP	04-06-024	388-140-0095	NEW-E	04-03-010D	388-140-0405	NEW-E	04-03-010D
388-27-0245	REP-E	04-03-018	388-140-0100	NEW-E	04-03-010D	388-140-0410	NEW-E	04-03-010D
388-27-0245	REP	04-06-024	388-140-0105	NEW-E	04-03-010D	388-140-0415	NEW-E	04-03-010D
388-27-0270	REP-E	04-03-018	388-140-0110	NEW-E	04-03-010D	388-140-0420	NEW-E	04-03-010D
388-27-0270	REP	04-06-024	388-140-0115	NEW-E	04-03-010D	388-140-0425	NEW-E	04-03-010D
388-71-0105	AMD-E	04-06-039	388-140-0120	NEW-E	04-03-010D	388-140-0430	NEW-E	04-03-010D
388-71-0116	NEW-E	04-06-039	388-140-0125	NEW-E	04-03-010D	388-140-0435	NEW-E	04-03-010D
388-71-0202	AMD	04-04-042	388-140-0130	NEW-E	04-03-010D	388-140-0440	NEW-E	04-03-010D
388-71-0531	NEW	04-04-042	388-140-0135	NEW-E	04-03-010D	388-140-0445	NEW-E	04-03-010D
388-71-0531	REP-E	04-07-058	388-140-0140	NEW-E	04-03-010D	388-140-0450	NEW-E	04-03-010D
388-71-0531	PREP	04-07-060	388-140-0145	NEW-E	04-03-010D	388-140-0455	NEW-E	04-03-010D
388-71-0900	PREP	04-07-061	388-140-0150	NEW-E	04-03-010D	388-140-0460	NEW-E	04-03-010D
388-71-0905	PREP	04-07-061	388-140-0155	NEW-E	04-03-010D	388-140-0465	NEW-E	04-03-010D
388-71-0910	PREP	04-07-061	388-140-0160	NEW-E	04-03-010D	388-140-0470	NEW-E	04-03-010D
388-71-0915	PREP	04-07-061	388-140-0165	NEW-E	04-03-010D	388-140-0475	NEW-E	04-03-010D
388-71-0920	PREP	04-07-061	388-140-0170	NEW-E	04-03-010D	388-140-0480	NEW-E	04-03-010D
388-71-0925	PREP	04-07-061	388-140-0175	NEW-E	04-03-010D	388-140-0485	NEW-E	04-03-010D
388-71-0930	PREP	04-07-061	388-140-0180	NEW-E	04-03-010D	388-140-0490	NEW-E	04-03-010D
388-71-0935	PREP	04-07-061	388-140-0185	NEW-E	04-03-010D	388-140-0495	NEW-E	04-03-010D
388-71-0940	PREP	04-07-061	388-140-0190	NEW-E	04-03-010D	388-140-0500	NEW-E	04-03-010D
388-71-0945	PREP	04-07-061	388-140-0195	NEW-E	04-03-010D	388-140-0505	NEW-E	04-03-010D
388-71-0950	PREP	04-07-061	388-140-0200	NEW-E	04-03-010D	388-140-0510	NEW-E	04-03-010D
388-71-0955	PREP	04-07-061	388-140-0205	NEW-E	04-03-010D	388-140-0515	NEW-E	04-03-010D
388-71-0960	PREP	04-07-061	388-140-0210	NEW-E	04-03-010D	388-140-0520	NEW-E	04-03-010D
388-71-0965	PREP	04-07-061	388-140-0215	NEW-E	04-03-010D	388-140-0525	NEW-E	04-03-010D
388-78A	PREP	04-06-072	388-140-0220	NEW-E	04-03-010D	388-140-0530	NEW-E	04-03-010D
388-78A	PREP	04-07-189	388-140-0225	NEW-E	04-03-010D	388-140-0535	NEW-E	04-03-010D
388-97-125	PREP	04-06-055	388-140-0230	NEW-E	04-03-010D	388-140-0540	NEW-E	04-03-010D
388-105-0005	AMD-P	04-04-044	388-140-0235	NEW-E	04-03-010D	388-140-0545	NEW-E	04-03-010D
388-105-0005	AMD-E	04-06-038	388-140-0240	NEW-E	04-03-010D	388-140-0550	NEW-E	04-03-010D

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388-140-0560	NEW-E	04-03-0100	388-148-0210	AMD-P	04-03-116	388-148-0542	NEW-P	04-03-116
388-140-0565	NEW-E	04-03-0100	388-148-0220	AMD-P	04-03-116	388-148-0542	NEW-E	04-05-035
388-140-0570	NEW-E	04-03-0100	388-148-0220	AMD-E	04-05-035	388-148-0555	AMD-P	04-03-116
388-140-0575	NEW-E	04-03-0100	388-148-0225	AMD-P	04-03-116	388-148-0560	AMD-P	04-03-116
388-140-0580	NEW-E	04-03-0100	388-148-0230	AMD-P	04-03-116	388-148-0560	AMD-E	04-05-035
388-140-0585	NEW-E	04-03-0100	388-148-0235	AMD-P	04-03-116	388-148-0585	AMD-P	04-03-116
388-140-0590	NEW-E	04-03-0100	388-148-0240	AMD-P	04-03-116	388-148-0585	AMD-E	04-05-035
388-140-0595	NEW-E	04-03-0100	388-148-0245	AMD-P	04-03-116	388-148-0600	AMD-P	04-03-116
388-140-0600	NEW-E	04-03-0100	388-148-0250	AMD-P	04-03-116	388-148-0605	AMD-P	04-03-116
388-140-0605	NEW-E	04-03-0100	388-148-0255	AMD-P	04-03-116	388-148-0610	AMD-P	04-03-116
388-140-0610	NEW-E	04-03-0100	388-148-0260	AMD-P	04-03-116	388-148-0615	REP-P	04-03-116
388-140-0615	NEW-E	04-03-0100	388-148-0260	AMD-E	04-05-035	388-148-0620	AMD-P	04-03-116
388-140-0620	NEW-E	04-03-0100	388-148-0265	AMD-P	04-03-116	388-148-0625	AMD-P	04-03-116
388-140-0625	NEW-E	04-03-0100	388-148-0270	AMD-P	04-03-116	388-148-0630	REP-P	04-03-116
388-140-0630	NEW-E	04-03-0100	388-148-0270	AMD-E	04-05-035	388-148-0630	AMD-E	04-05-035
388-140-0635	NEW-E	04-03-0100	388-148-0275	AMD-P	04-03-116	388-148-0635	REP-P	04-03-116
388-148	AMD-P	04-03-116	388-148-0285	REP-P	04-03-116	388-148-0640	AMD-P	04-03-116
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388-148-0085	AMD-P	04-03-116	388-148-0422	NEW-P	04-03-116	388-148-0765	AMD-P	04-03-116
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388-148-0095	AMD-P	04-03-116	388-148-0427	NEW-E	04-05-035	388-148-0785	AMD-P	04-03-116
388-148-0095	AMD-E	04-05-035	388-148-0430	AMD-P	04-03-116	388-148-0785	AMD-E	04-05-035
388-148-0098	NEW-P	04-03-116	388-148-0445	AMD-P	04-03-116	388-148-0795	AMD-P	04-03-116
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388-148-0110	AMD-P	04-03-116	388-148-0455	AMD-P	04-03-116	388-148-0805	AMD-P	04-03-116
388-148-0120	AMD-P	04-03-116	388-148-0460	AMD-P	04-03-116	388-148-0810	AMD-P	04-03-116
388-148-0120	AMD-E	04-05-035	388-148-0460	AMD-E	04-05-035	388-148-0830	AMD-P	04-03-116
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388-148-0127	NEW-P	04-03-116	388-148-0480	AMD-P	04-03-116	388-148-0875	AMD-P	04-03-116
388-148-0130	AMD-P	04-03-116	388-148-0485	AMD-P	04-03-116	388-148-0880	AMD-P	04-03-116
388-148-0135	AMD-P	04-03-116	388-148-0487	NEW-P	04-03-116	388-148-0880	AMD-E	04-05-035
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388-148-0170	AMD-P	04-03-116	388-148-0520	AMD-E	04-05-035	388-148-0895	AMD-P	04-03-116
388-148-0170	AMD-E	04-05-035	388-148-0525	AMD-P	04-03-116	388-148-0900	AMD-P	04-03-116
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388-148-1035	AMD-P	04-03-116	388-155-160	REP-P	04-07-134	388-290-0032	NEW-P	04-02-047
388-148-1045	AMD-P	04-03-116	388-155-165	REP-P	04-07-134	388-290-0035	AMD-P	04-02-047
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388-148-1070	AMD-E	04-05-035	388-155-240	REP-P	04-07-134	388-290-0070	AMD-P	04-02-047
388-148-1076	NEW-P	04-03-116	388-155-250	REP-P	04-07-134	388-290-0075	AMD-P	04-02-047
388-148-1076	NEW-E	04-05-035	388-155-270	REP-P	04-07-134	388-290-0075	AMD-E	04-05-079
388-148-1077	NEW-P	04-03-116	388-155-280	REP-P	04-07-134	388-290-0080	REP-P	04-02-047
388-148-1077	NEW-E	04-05-035	388-155-290	REP-P	04-07-134	388-290-0082	NEW-P	04-02-047
388-148-1078	NEW-P	04-03-116	388-155-295	REP-P	04-07-134	388-290-0085	AMD-P	04-02-047
388-148-1078	NEW-E	04-05-035	388-155-310	REP-P	04-07-134	388-290-0085	AMD-E	04-05-079
388-148-1079	NEW-P	04-03-116	388-155-320	REP-P	04-07-134	388-290-0090	AMD-P	04-02-047
388-148-1079	NEW-E	04-05-035	388-155-330	REP-P	04-07-134	388-290-0095	AMD-P	04-02-047
388-148-1085	AMD-P	04-03-116	388-155-340	REP-P	04-07-134	388-290-0100	AMD-P	04-02-047
388-148-1115	AMD-P	04-03-116	388-155-350	REP-P	04-07-134	388-290-0105	AMD-P	04-02-047
388-148-1115	AMD-E	04-05-035	388-155-360	REP-P	04-07-134	388-290-0107	NEW-P	04-02-047
388-148-1120	AMD-P	04-03-116	388-155-370	REP-P	04-07-134	388-290-0108	NEW-P	04-02-047
388-148-1120	AMD-E	04-05-035	388-155-380	REP-P	04-07-134	388-290-0110	AMD-P	04-02-047
388-148-1205	NEW-P	04-03-116	388-155-390	REP-P	04-07-134	388-290-0120	AMD-P	04-02-047
388-148-1210	NEW-P	04-03-116	388-155-400	REP-P	04-07-134	388-290-0125	AMD-P	04-02-047
388-148-1215	NEW-P	04-03-116	388-155-410	REP-P	04-07-134	388-290-0130	AMD-P	04-02-047
388-148-1220	NEW-P	04-03-116	388-155-420	REP-P	04-07-134	388-290-0130	AMD-E	04-04-030
388-148-1225	NEW-P	04-03-116	388-155-430	REP-P	04-07-134	388-290-0135	AMD-P	04-02-047
388-148-1230	NEW-P	04-03-116	388-155-440	REP-P	04-07-134	388-290-0140	AMD-P	04-02-047
388-148-1235	NEW-P	04-03-116	388-155-450	REP-P	04-07-134	388-290-0143	AMD-P	04-02-047
388-148-1240	NEW-P	04-03-116	388-155-460	REP-P	04-07-134	388-290-0145	AMD-P	04-02-047
388-148-1245	NEW-P	04-03-116	388-155-470	REP-P	04-07-134	388-290-0150	AMD-P	04-02-047
388-148-1250	NEW-P	04-03-116	388-155-480	REP-P	04-07-134	388-290-0155	AMD-P	04-02-047
388-148-1255	NEW-P	04-03-116	388-155-490	REP-P	04-07-134	388-290-0160	AMD-P	04-02-047
388-148-1260	NEW-P	04-03-116	388-155-500	REP-P	04-07-134	388-290-0165	AMD-P	04-02-047
388-148-1265	NEW-P	04-03-116	388-155-600	REP-P	04-07-134	388-290-0167	AMD-P	04-02-047
388-148-1270	NEW-P	04-03-116	388-155-605	REP-P	04-07-134	388-290-0180	AMD-P	04-02-047
388-148-1275	NEW-P	04-03-116	388-155-610	REP-P	04-07-134	388-290-0190	AMD-P	04-02-047
388-148-1280	NEW-P	04-03-116	388-155-620	REP-P	04-07-134	388-290-0190	AMD-E	04-05-079
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388-155-096	REP-P	04-07-134	388-290-0001	AMD-P	04-02-047	388-290-0271	NEW-P	04-02-047
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388-295-0070	AMD-P	04-05-084	388-296-0530	NEW-P	04-07-134	388-296-1190	NEW-P	04-07-134
388-295-0090	AMD-P	04-05-084	388-296-0540	NEW-P	04-07-134	388-296-1200	NEW-P	04-07-134
388-295-0100	AMD-P	04-05-084	388-296-0550	NEW-P	04-07-134	388-296-1210	NEW-P	04-07-134
388-295-0110	AMD-P	04-05-084	388-296-0560	NEW-P	04-07-134	388-296-1220	NEW-P	04-07-134
388-295-1070	AMD-P	04-05-084	388-296-0570	NEW-P	04-07-134	388-296-1230	NEW-P	04-07-134
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388-295-2090	AMD-P	04-05-084	388-296-0600	NEW-P	04-07-134	388-296-1260	NEW-P	04-07-134
388-295-2100	AMD-P	04-05-084	388-296-0610	NEW-P	04-07-134	388-296-1270	NEW-P	04-07-134
388-295-3010	AMD-P	04-05-084	388-296-0620	NEW-P	04-07-134	388-296-1280	NEW-P	04-07-134
388-295-4010	AMD-P	04-05-084	388-296-0630	NEW-P	04-07-134	388-296-1290	NEW-P	04-07-134
388-295-4100	AMD-P	04-05-084	388-296-0640	NEW-P	04-07-134	388-296-1300	NEW-P	04-07-134
388-295-5030	AMD-P	04-05-084	388-296-0650	NEW-P	04-07-134	388-296-1320	NEW-P	04-07-134
388-295-5150	AMD-P	04-05-084	388-296-0700	NEW-P	04-07-134	388-296-1330	NEW-P	04-07-134
388-295-7010	AMD-P	04-05-084	388-296-0710	NEW-P	04-07-134	388-296-1340	NEW-P	04-07-134
388-295-7040	AMD-P	04-05-084	388-296-0720	NEW-P	04-07-134	388-296-1350	NEW-P	04-07-134
388-295-7050	AMD-P	04-05-084	388-296-0730	NEW-P	04-07-134	388-296-1360	NEW-P	04-07-134
388-296-0010	NEW-P	04-07-134	388-296-0740	NEW-P	04-07-134	388-296-1370	NEW-P	04-07-134
388-296-0020	NEW-P	04-07-134	388-296-0750	NEW-P	04-07-134	388-296-1380	NEW-P	04-07-134
388-296-0110	NEW-P	04-07-134	388-296-0760	NEW-P	04-07-134	388-296-1390	NEW-P	04-07-134
388-296-0120	NEW-P	04-07-134	388-296-0770	NEW-P	04-07-134	388-296-1400	NEW-P	04-07-134
388-296-0125	NEW-P	04-07-134	388-296-0780	NEW-P	04-07-134	388-296-1410	NEW-P	04-07-134
388-296-0130	NEW-P	04-07-134	388-296-0790	NEW-P	04-07-134	388-296-1420	NEW-P	04-07-134
388-296-0140	NEW-P	04-07-134	388-296-0800	NEW-P	04-07-134	388-296-1430	NEW-P	04-07-134
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388-296-0220	NEW-P	04-07-134	388-296-0880	NEW-P	04-07-134	388-310-1650	AMD	04-07-025
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388-296-0250	NEW-P	04-07-134	388-296-0910	NEW-P	04-07-134	388-408-0015	PREP	04-07-164
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388-296-0290	NEW-P	04-07-134	388-296-0950	NEW-P	04-07-134	388-408-0035	AMD	04-06-025
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388-296-0310	NEW-P	04-07-134	388-296-0970	NEW-P	04-07-134	388-410-0001	AMD	04-05-010
388-296-0320	NEW-P	04-07-134	388-296-0980	NEW-P	04-07-134	388-414-0001	AMD-P	04-04-076
388-296-0330	NEW-P	04-07-134	388-296-0990	NEW-P	04-07-134	388-414-0001	AMD	04-07-139
388-296-0340	NEW-P	04-07-134	388-296-1000	NEW-P	04-07-134	388-416-0015	AMD	04-03-019
388-296-0350	NEW-P	04-07-134	388-296-1010	NEW-P	04-07-134	388-416-0030	REP-P	04-04-074
388-296-0360	NEW-P	04-07-134	388-296-1020	NEW-P	04-07-134	388-416-0030	REP	04-07-141
388-296-0370	NEW-P	04-07-134	388-296-1030	NEW-P	04-07-134	388-418-0005	AMD-W	04-02-052
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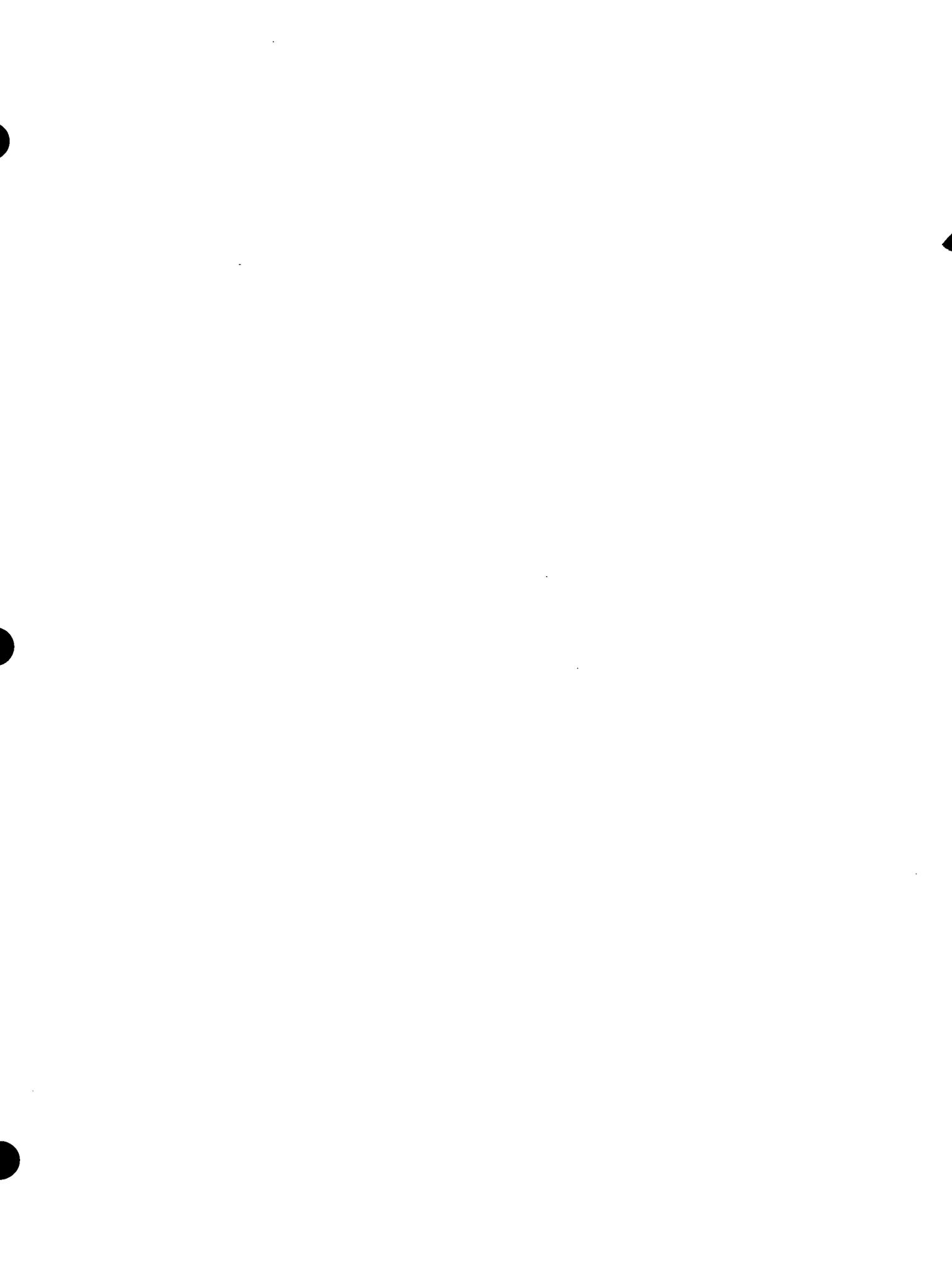
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