

Washington State Register

May 19, 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 May 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.

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

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

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

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

4. EFFECTIVE DATE OF RULES

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

5. EDITORIAL CORRECTIONS

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

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
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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.

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Copies of Attorney General Opinions can be found

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WSR 04-08-020
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed March 29, 2004, 9:34 a.m., effective April 1, 2004]

Date of Adoption: March 23, 2004.

Purpose: The Division of Developmental Disabilities has received approval from the federal Centers for Medicare and Medicaid Services (CMS) to implement four home and community based service (HCBS) waivers, which replace the current community alternatives program (CAP) waiver.

These rules will clarify eligibility, service array, utilization, provider qualifications, client appeal rights and access to services.

Rules affected are: Amending WAC 388-825-120; new WAC 388-825-125 through 388-825-160, 388-825-300 through 388-825-405, chapter 388-845 WAC; and repealing WAC 388-825-170, 388-825-180, 388-825-190, and 388-825-260 through 388-825-284.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-825-170, 388-825-180, 388-825-190, 388-825-260, 388-825-262, 388-825-264, 388-825-266, 388-825-268, 388-825-270, 388-825-272, 388-825-276, 388-825-278, 388-825-280, 388-825-282, and 388-825-294; and amending WAC 388-825-120.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

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

Reasons for this Finding: The approval of the HCBS waivers by CMS requires the department to implement new rules by April 1, 2004, to protect the health and welfare of eligible clients by ensuring no interruption in services to current participants in the CAP waiver occurs, and to ensure a continuation of federal matching funds under 42 C.F.R. 441, Subpart G—Home and Community Based Services—Waiver Requirements.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 133, Amended 1, Repealed 15; 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 Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 133, Amended 1, Repealed 15.

Effective Date of Rule: April 1, 2004.

March 23, 2004

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-02-014, filed 12/29/03, effective 1/29/04)

WAC 388-825-120 ((~~Adjudicative proceeding~~))
When can I appeal department decisions through a fair hearing process? (1) Fair hearings are governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 71A.10.050, the rules in this chapter and by chapter 388-02 WAC. If any provision in this chapter conflicts with chapter 388-02 WAC, the provision in this chapter shall prevail.

(2) A client, former client, or applicant acting on the applicant's own behalf or through an authorized representative has the right to ~~((an adjudicative proceeding to contest the following department actions:~~

~~((a))) a fair hearing.~~

(3) You have the right to a fair hearing to dispute the following department actions:

(a) Denial or termination of eligibility set forth in WAC 388-825-030 and 388-825-035;

(b) ~~((Development or modification of the individual service plan set forth in WAC 388-825-050;~~

~~((e))) Authorization, denial, reduction, or termination of services or funds paid directly to the client set forth in WAC 388-825-055 or payment of SSP set forth in chapter 388-827 WAC authorized by DDD;~~

~~((f))) (c) Admission or readmission to, or discharge from, a residential habilitation center;~~

~~((g))) (d) Refusal to abide by your request not to send notices to any other person;~~

~~((h))) (e) Refusal to consult with other persons involved in your life during the process of making the decision being disputed;~~

~~((i))) (f) A decision to move you to a different type of residential service;~~

~~((j))) (g) Denial or termination of the provider of your choice;~~

~~((k))) (h) An unreasonable delay to act on an application for eligibility or service;~~

~~((l))) (i) A claim the client, former client, or applicant owes an overpayment debt;~~

~~((m))) (f) A decision of the secretary under RCW 71A.10.060 or 71A.10.070;~~

~~((n))) (g) A decision to change a client's placement from one category of residential services to a different category of residential services.~~

~~((2)) Adjudicative proceedings are governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 71A.10.050, the rules in this chapter, and by chapter 388-02 WAC. If any provision in this chapter conflicts with chapter 388-02 WAC, the provision in this chapter shall govern.~~

~~((3)) The applicant's application for an adjudicative proceeding shall be in writing and filed with the DSHS office of appeals within twenty-eight days of receipt of the decision the appellant wishes to contest.~~

~~(4) The department shall not implement the following actions while an adjudicative proceeding is pending:~~

~~(a) Termination of eligibility;~~

~~(b) Reduction or termination of service, except when the action to reduce or terminate the service is based on the availability of funding and/or service; or~~

~~(c) Removal or transfer of a client from a service, except when a condition in subsection (5)(f) of this section is present.~~

~~(5) The department shall implement the following actions while an adjudicative proceeding is pending:~~

~~(a) Denial of eligibility;~~

~~(b) Development or modification of an individual service plan;~~

~~(c) Denial of service;~~

~~(d) Reduction or termination of service when the action to reduce or terminate the service is based on the availability of funding or service;~~

~~(e) After notification of an administrative law judge's (or review judge) ruling that the appellant has caused an unreasonable delay in the proceedings; or~~

~~(f) Removal or transfer of a client from a service when:~~

~~(i) An immediate threat to the client's life or health is present;~~

~~(ii) Service termination or transfer for a specific group of clients in order to meet the intent of and comply with sections 205 and 207, chapter 371, Laws of 2002;~~

~~(iii) The client's service provider is no longer able to provide services due to:~~

~~(A) Termination of the provider's contract;~~

~~(B) Decertification of the provider;~~

~~(C) Nonrenewal of provider's contract;~~

~~(D) Revocation of provider's license; or~~

~~(E) Emergency license suspension.~~

~~(iv) The client, the parent when the client is a minor, or the guardian when the client is an adult, approves the decision.~~

~~(6) When the appellant files an application to contest a decision to return a resident of a state residential school to the community, the procedures specified in RCW 71A.10.050(2) shall govern the proceeding. These procedures include:~~

~~(a) A placement decision shall not be implemented during any period during which an appeal can be taken or while an appeal is pending and undecided unless the:~~

~~(i) Client's or the client's representative gives written consent; or~~

~~(ii) Administrative law judge (or review judge) after notice to the parties rules the appellant has caused an unreasonable delay in the proceedings.~~

~~(b) The burden of proof is on the department; and~~

~~(c) The burden of proof is whether the specific placement proposed by the department is in the best interests of the resident.~~

~~(7) The administrative law judge shall issue an initial or final order within sixty days of the department's receipt of the application for an adjudicative proceeding. When a party files a petition for administrative review, allowed under WAC 388-02-0215 (4)(w)(x) and/or (y), the review order shall be made within sixty days of the department's receipt of the petition. The decision rendering time is extended by as many~~

~~days as the proceeding is continued on motion by, or with the assent of, the appellant).~~

NEW SECTION

WAC 388-825-125 How do I request a fair hearing?

Your notice of the department decision will include instructions on how to file an appeal, where to send it, and the length of time you have to file for a hearing.

NEW SECTION

WAC 388-825-130 How long do I have to file a request for a fair hearing? You have to file a written request within twenty-eight days of receipt of the notification of the decision you are disputing with the Office of Administrative Hearings, P.O. Box 42489, Olympia, WA 98504-2489.

NEW SECTION

WAC 388-825-135 What if I need help to request an appeal? You may call the department staff person listed in your notification letter and tell them you want to appeal the decision. The department staff person will notify the office of administrative hearings on your behalf.

NEW SECTION

WAC 388-825-140 Who else can help me appeal a department decision? You can authorize anyone except an employee of the department to file an appeal on your behalf.

NEW SECTION

WAC 388-825-145 Will the department decision go into effect if I appeal? No action will be taken by the department until there is a final decision on your appeal to terminate eligibility; reduce or terminate a service or funds paid directly to you set forth in WAC 388-825-055 or the payment of SSP set forth in chapter 388-827 WAC; remove or transfer you to another residential service, or terminate your provide of choice.

NEW SECTION

WAC 388-825-150 When can the department proceed to take action during my appeal? The department will proceed to take action if:

(1) It is an eligibility denial and you are not currently an eligible client.

(2) There is no longer funding for the service.

(3) The service no longer exists in rule or statute.

(4) The administrative law judge or review judge rules that you have caused unreasonable delay in the proceedings.

(5) You are in imminent jeopardy.

(6) Your provider is no longer qualified to provide services due to:

(a) Termination or lack of a contract;

(b) Decertification;

(c) Revocation or suspension of a license; or

(d) Lack of required registration, certification, or licensure.

(7) The parent of a person under the age of eighteen or the legal guardian approves the department's decision.

NEW SECTION

WAC 388-825-155 What are my appeal rights if I am appealing a decision to move me from a state residential habilitation center to the community? The procedures in RCW 71A.10.050(2) govern the proceeding.

(1) No action is taken until there is a final decision on the appeal unless you or your legal representative consent or the administrative law judge rules that you have caused an unreasonable delay in the proceedings.

(2) The burden of proof is on the department.

(3) The burden of proof is whether the proposed placement is in your best interest.

NEW SECTION

WAC 388-825-160 When will a decision on my appeal be made? The administrative law judge shall issue an initial order within sixty days of the department's receipt of the application for a fair hearing. The decision-rendering time is extended by as many days as the proceeding is continued on motion by, or with the assent of, the applicant.

NEW SECTION

WAC 388-825-165 Can I appeal the initial order of the administrative law judge? You may file a petition for administrative review, allowed under WAC 388-02-0215.

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 sections of the Washington Administrative Code are repealed:

- WAC 388-825-170 Community alternatives program (CAP).
- WAC 388-825-180 Eligible persons.
- WAC 388-825-190 Community alternatives program (CAP)—Services.

INDIVIDUAL PROVIDER AND AGENCY PROVIDER QUALIFICATIONS

NEW SECTION

WAC 388-825-300 What is the purpose of WAC 388-825-300 through 388-825-400? A client/legal representative may choose a qualified individual, agency, or licensed provider. The intent of WAC 388-825-300 through 388-825-400 is to describe:

(1) Qualification for individuals and agencies providing DDD services in the client's residence or the provider's residence or other setting; and

(2) Conditions under which the department will pay for the services of an individual provider or a home care agency provider or other provider.

NEW SECTION

WAC 388-825-305 What service providers are governed by the qualifications in these rules? These rules govern individuals and agencies contracted with to provide:

- (1) Respite care services;
- (2) Companion home services;
- (3) Personal care services through the Medicaid Personal Care program or DDD HCBS Basic, Basic Plus, or CORE waivers; or
- (4) Alternative living services.

NEW SECTION

WAC 388-825-310 What are the qualifications for providers? (1) Individuals and agency providers of Medicaid personal care (chapter 388-71 and 388-72A WAC) and DDD HCBS waiver personal care (chapter 388-845 WAC) must meet the qualifications and training requirements in WAC 388-71-0500 through 388-71-05909.

(2) Individuals and agencies providing nonwaiver DDD home and community based services (HCBS) in the client's residence or the provider's residence or other setting must meet the requirements in WAC 388-825-300 through 388-825-400.

(3) Individuals and agencies providing HCBS waiver services must meet the provider qualifications in chapter 388-845 WAC for the specific service.

(4) Parent providers are excluded from providing services to their own natural, step, or adopted children aged seventeen or younger.

(5) Agencies/entities providing certified residential services under chapter 388-820 WAC must meet the provider qualifications in those program rules.

NEW SECTION

WAC 388-825-315 How do I hire an individual provider? You or your legal representative:

- (1) Have the primary responsibility for locating, screening, hiring, supervising, and terminating an individual provider;
- (2) Establish an employer/employee relationship with the provider; and
- (3) May receive assistance from the social worker/case manager or other resources in this process.

NEW SECTION

WAC 388-825-320 How does a person become an individual provider? In order to become an individual provider, a person must:

- (1) Be eighteen years of age or older.

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(2) Provide the social worker/case manager/designee with:

- (a) Picture identification; and
- (b) A Social Security card.

(3) Complete and submit to the social worker/case manager/designee the department's criminal conviction background inquiry application, unless the provider is also the parent of the adult DDD client and exempted, per chapter 74.15 RCW.

(a) Preliminary results may require a thumbprint for identification purposes.

(b) An FBI fingerprint-based background check is required if the person has lived in the state of Washington less than three years.

(4) Provide references as requested.

(5) Sign a service provider contract to provide services to a DDD client.

NEW SECTION

WAC 388-825-325 What are required skills and abilities for this job? You must be able to:

(1) Adequately maintain records of services performed and payments received;

(2) Read and understand the person's service plan. Translation services may be used if needed;

(3) Be kind and caring to the DSHS client for whom services are authorized;

(4) Identify problem situations and take the necessary action;

(5) Respond to emergencies without direct supervision;

(6) Understand the way your employer wants you to do things and carry out instructions;

(7) Work independently;

(8) Be dependable and responsible;

(9) Know when and how to contact the client's representative and the client's case manager;

(10) Participate in any quality assurance reviews required by DSHS;

(11) If you are working with an adult client of DSHS as an individual alternative living, attendant care or individual supportive living provider, you must also:

(a) Be knowledgeable about the person's preferences regarding the care provided;

(b) Know the resources in the community the person prefers to use and enable the person to use them;

(c) Know who the person's friends are and enable the person to see those friends; and

(d) Enable the person to keep in touch with his/her family as preferred by the person.

NEW SECTION

WAC 388-825-330 What is required for agencies wanting to provide care in the home of a person with developmental disabilities? (1) Unless the agency is certified per chapter 388-820 WAC, agencies providing personal care services must be licensed as a home care agency or a home health agency through the department of health.

(2) If a residential agency certified per chapter 388-820 WAC wishes to provide Medicaid personal care or respite

care in the client's home, the agency must have home care agency certification or a home health license.

NEW SECTION

WAC 388-825-335 Is a background check required of a home care agency provider? In order to be a home care agency provider, a person must complete the department's criminal conviction background inquiry application, which is submitted by the agency to the department. This includes an FBI fingerprint-based background check if the home care agency provider has lived in the state of Washington less than three years.

NEW SECTION

WAC 388-835-340 What is required for a provider to provide respite or residential service in their home? Unless you are related to the client, services must take place in a DSHS licensed home.

NEW SECTION

WAC 388-825-345 What "related" providers are exempt from licensing? (1) Relatives of a specified degree are exempt from the licensing requirement and may provide out-of-home respite in their home.

(2) Relatives of specified degree include parents, grandparents, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, first cousin, niece or nephew.

NEW SECTION

WAC 388-825-355 Are there any educational requirements for individual providers? (1) If you are a Medicaid personal care provider of adults, you must meet the training requirements in WAC 388-71-05665 through 388-71-05909.

(2) If you are an individuals contracted to provide companion homes services, you must:

(a) Successfully complete DDD specialty training within the first calendar year of beginning service; and

(b) Complete ten hours of continuing education related to the job responsibilities each subsequent calendar year.

(3) If you are an MPC provider of children, or a provider of respite care, or alternative living there is no required training but DDD retains the authority to require training of any provider.

NEW SECTION

WAC 388-825-360 What is "abandonment of a vulnerable adult"? State law makes it a crime to abandon a vulnerable adult. "Abandon" means leaving a person without the means or ability to obtain any of the basic necessities of life.

(1) If you wish to "quit" or terminate your employment, you must give at least two weeks written notice to your employer, their representative (if applicable) and the DDD case manager.

(2) You will be expected to continue working until the termination date unless otherwise determined by DSHS.

NEW SECTION

WAC 388-825-365 Are providers expected to report abuse? You are expected to report any abuse or suspected abuse immediately to child protective services, adult protective services or local law enforcement and make a follow-up call to the person's case manager.

NEW SECTION

WAC 388-825-370 What are the responsibilities of an individual provider or home care agency provider when employed to provide care to a client? An individual provider or home care agency provider must:

(1) Understand the client's service plan that is signed by the client or legal representative and social worker/case manager, and translated or interpreted, as necessary, for the client and the provider;

(2) Provide the services as outlined on the client's service plan, within the scope of practice in WAC 388-71-0202 and 388-71-0203;

(3) Accommodate client's individual preferences and differences in providing care, within the scope of the service plan;

(4) Contact the client's representative and case manager when there are changes which affect the personal care and other tasks listed on the service plan;

(5) Observe the client for change(s) in health, take appropriate action, and respond to emergencies;

(6) Notify the case manager immediately when the client enters a hospital, or moves to another setting;

(7) Notify the case manager immediately if the client dies;

(8) Notify the department immediately when unable to staff/serve the client; and

(9) Notify the department when the individual provider or home care agency will no longer provide services. Notification to the client/legal guardian must:

(a) Give at least two weeks' notice, and

(b) Be in writing.

(10) Complete and keep accurate time sheets that are accessible to the social worker/case manager; and

(11) Comply with all applicable laws, regulations and contract requirements.

NEW SECTION

WAC 388-825-375 When will the department deny payment for services of an individual provider or home care agency provider? The department will deny payment for the services of an individual provider or home care agency provider who:

(1) Is the client's spouse, per 42 C.F.R. 441.360(g), except in the case of an individual provider for a Chore services client. Note: For Chore spousal providers, the department pays a rate not to exceed the amount of a one-person standard for a continuing general assistance grant, per WAC 388-478-0030;

(2) Is the natural/step/adoptive parent of a minor client aged seventeen or younger receiving services under this chapter;

(3) Has been convicted of a disqualifying crime, under RCW 43.43.830 and 43.43.842 or of a crime relating to drugs as defined in RCW 43.43.830;

(4) Has abused, neglected, abandoned, or exploited a minor or vulnerable adult, as defined in chapter 74.34 RCW;

(5) Has had a license, certification, or a contract for the care of children or vulnerable adults denied, suspended, revoked, or terminated for noncompliance with state and/or federal regulations;

(6) Does not successfully complete the training requirements within the time limits required in WAC 388-71-05665 through 388-71-05909;

(7) Is already meeting the client's needs on an informal basis, and the client's assessment or reassessment does not identify any unmet need; and/or

(8) Is terminated by the client (in the case of an individual provider) or by the home care agency (in the case of an agency provider).

(9) In addition, the department may deny payment to or terminate the contract of an individual provider as provided under WAC 388-71-0546, 388-71-0551, and 388-71-0556.

NEW SECTION

WAC 388-825-380 When can the department reject the client's choice of an individual provider? The department may reject a client's request to have a family member or other person serve as his or her individual provider if the case manager has a reasonable, good faith belief that the person will be unable to appropriately meet the client's needs. Examples of circumstances indicating an inability to meet the client's needs could include, without limitation:

(1) Evidence of alcohol or drug abuse;

(2) A reported history of domestic violence, no-contact orders, or criminal conduct (whether or not the conduct is disqualifying under RCW 43.43.830 and 43.43.842);

(3) A report from the client's health care provider or other knowledgeable person that the requested provider lacks the ability or willingness to provide adequate care;

(4) Other employment or responsibilities that prevent or interfere with the provision of required services;

(5) Excessive commuting distance that would make it impractical to provide services as they are needed and outlined in the client's service plan.

NEW SECTION

WAC 388-825-385 When can the department terminate or summarily suspend an individual provider's contract? The department may take action to terminate an individual provider's contract if the provider's inadequate performance or inability to deliver quality care is jeopardizing the client's health, safety, or well-being. The department may summarily or immediately suspend the contract pending a hearing based on a reasonable, good faith belief that the client's health, safety, or well-being is in imminent jeopardy. Examples of circumstances indicating jeopardy to the client could include, without limitation:

- (1) Domestic violence or abuse, neglect, abandonment, or exploitation of a minor or vulnerable adult;
- (2) Using or being under the influence of alcohol or illegal drugs during working hours;
- (3) Other behavior directed toward the client or other persons involved in the client's life that places the client at risk of harm;
- (4) A report from the client's health care provider that the client's health is negatively affected by inadequate care;
- (5) A complaint from the client or client's representative that the client is not receiving adequate care;
- (6) The absence of essential interventions identified in the service plan, such as medications or medical supplies; and/or
- (7) Failure to respond appropriately to emergencies.

NEW SECTION

WAC 388-825-390 When can the department otherwise terminate an individual provider's contract? The department may otherwise terminate the individual provider's contract for default or convenience in accordance with the terms of the contract and to the extent that those terms are not inconsistent with these rules.

NEW SECTION

WAC 388-825-395 What are the client's rights if the department denies, terminates, or summarily suspends an individual provider's contract? If the department denies, terminates, or summarily (immediately) suspends the individual provider's contract, the client has the right to:

- (1) A fair hearing to appeal the decision, per chapter 388-02 WAC and WAC 388-825-120; and
- (2) Receive services from another currently contracted individual provider or home care agency provider, or other options the client is eligible for, if a contract is summarily suspended.
- (3) The hearing rights afforded under this section are those of the client, not the individual provider.

NEW SECTION

WAC 388-825-400 Self-directed care—Who must direct self-directed care? Self-directed care under chapter 74.39 RCW must be directed by an adult client for whom the health-related tasks are provided. The adult client is responsible to train the individual provider in the health-related tasks which the client self-directs.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-825-260 What are qualifications for individual service providers?
- WAC 388-825-262 What services do individuals provide for persons with developmental disabilities?

- WAC 388-825-264 If I want to provide services to persons with developmental disabilities, what do I do?
- WAC 388-825-266 If I want to provide respite care in my home, what is required?
- WAC 388-825-268 What is required for agencies wanting to provide care in the home of a person with developmental disabilities?
- WAC 388-825-270 Are there exceptions to the licensing requirement?
- WAC 388-825-272 What are the minimum requirements to become an individual provider?
- WAC 388-825-276 What are required skills and abilities for this job?
- WAC 388-825-278 Are there any educational requirements for individual providers?
- WAC 388-825-280 What are the requirements for an individual supportive living service (also known as a companion home) contract?
- WAC 388-825-282 What is "abandonment of a vulnerable adult"?
- WAC 388-825-284 Are providers expected to report abuse?

Chapter 388-845 WAC

DDD HOME AND COMMUNITY BASED SERVICES WAIVERS

NEW SECTION

WAC 388-845-0010 What are home and community based services (HCBS) waivers? (1) Home and community based services (HCBS) waivers are approved by the Centers For Medicare and Medicaid Services (CMS) under section 1915 (c) of the Social Security Act as an alternative to intermediate care facility for the mentally retarded (ICF/MR) care.

(2) Certain federal regulations are "waived" enabling the provision of services in the home and community to individuals who would otherwise require services.

NEW SECTION

WAC 388-845-0015 What HCBS waivers are provided by the division of developmental disabilities (DDD)? DDD is replacing its community alternative program (CAP) waiver with four HCBS waivers:

- (1) Basic waiver,
- (2) Basic Plus waiver,

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- (3) Core waiver,
- (4) Community protection waiver.

NEW SECTION

WAC 388-845-0020 **When are these four HCBS waivers effective?** These four DDD HCBS waivers are effective April 1, 2004 to all persons enrolled on the CAP waiver March 31, 2004.

NEW SECTION

WAC 388-845-0025 **Does this change in waivers affect the waiver services I am currently receiving?** Your services will not be disrupted with this transfer to new waivers.

- (1) Your current services will continue as authorized in your current CAP waiver plan.
- (2) At the time of your next waiver plan of care after March 31, 2004, the rules and limits of your new waiver will apply.

NEW SECTION

WAC 388-845-0030 **Do I meet criteria for HCBS waiver-funded services?** If you are on the CAP waiver as of March 31, 2004, your waiver eligibility continues until your plan of care review. You meet criteria for DDD HCBS waiver funded services if you meet all of the following:

- (1) You have been determined eligible for DDD services per RCW 71A.10.020.
- (2) You have been determined to meet ICF/MR level of care per WAC 388-845-0070 (How am I determined to need ICF/MR level of care?).
- (3) You meet disability criteria established in the Social Security Act.
- (4) You meet financial eligibility requirements as defined in WAC 388-515-1510.
- (5) You choose to receive services in the community rather than in an ICF/MR facility.
- (6) You have a need for waiver services as identified in your plan of care.

NEW SECTION

WAC 388-845-0035 **Am I guaranteed placement on a waiver if I meet waiver criteria?** If you are not currently on a waiver, meeting criteria for the waiver does not guarantee access to or receipt of waiver services.

NEW SECTION

WAC 388-845-0040 **Is there a limit to the number of people who can be on each HCBS waiver** Each waiver has a limit on the number of people who can be served in a waiver year. In addition, DDD has the authority to limit access to the waivers based on availability of funding for new waiver participants.

NEW SECTION

WAC 388-845-0045 **When there is capacity to add people to a waiver, how does DDD determine who will be added?** When there is capacity on a waiver and available funding for new waiver participants, DDD may add people to the waiver based on the following priority considerations.

- (1) First priority will be given to current waiver eligible persons assessed to require a different waiver because their needs have changed.
- (2) After the needs of current waiver recipients are met, DDD may consider any of the following priority populations:
 - (a) Priority populations as identified and funded by the legislature.
 - (b) Persons DDD has determined to be in immediate risk of ICF/MR admission due to unmet health and safety needs.
 - (c) Persons identified as a risk to the safety of the community.
 - (d) Persons currently receiving services through state-only funds.
- (3) For the basic waiver only, DDD may consider persons who need the waiver services available in the basic waiver to maintain them in their family's home.

NEW SECTION

WAC 388-845-0050 **How do I request to be enrolled in a waiver?** You can contact DDD and request to be enrolled in a waiver at any time.

- (1) Your request for waiver enrollment will be documented by DDD in a statewide database if DDD determines that you:
 - (a) Meet the criteria for a priority populations in WAC 388-845-0045, and
 - (b) Have ICF/MR level of care needs per WAC 388-845-0070 through 388-845-0090.
- (2) When there is capacity available to enroll additional people in a waiver, WAC 388-845-0045 describes how DDD will determine who will be added.

NEW SECTION

WAC 388-845-0055 **How do I remain eligible for the waiver?** If you are already on a HCBS waiver, you must continue to meet eligibility criteria.

- (1) DDD completes a reassessment at least every twelve months to determine if you continue to meet all of the eligibility requirements in WAC 388-845-0030.
- (2) Your reassessments must be done in-person and may be completed more often if your functional, financial, or other significant circumstances change.

NEW SECTION

WAC 388-845-0060 **Can my waiver eligibility be terminated?** DDD may terminate your waiver eligibility if DDD determines that your health and safety needs cannot be met in your current waiver or for one of the following reasons:

- (1) You no longer meet one of the requirements listed in WAC 388-845-0030;

- (2) You no longer need or use waiver services;
- (3) You are in the community protection waiver and choose not to be served by a certified residential community protection provider-intensive supported living services (CP-ISLS);
- (4) You choose to disenroll from the waiver;
- (5) You reside out of state;
- (6) You cannot be located or do not make yourself available for the annual waiver reassessment of eligibility;
- (7) You refuse to participate with DDD in:
- (a) Service planning,
- (b) Required quality assurance and program monitoring activities, or
- (c) Accepting services agreed to in your plan of care as necessary to meet your health and safety needs.
- (8) You are residing in hospital, jail, prison, nursing facility, ICF/MR, or other institution and remain in residence at least one full calendar month, and are still in residence:
- (a) At the time your annual waiver reassessment is due; or
- (b) On March 31st, the end of the waiver fiscal year, whichever date occurs first.

NEW SECTION

WAC 388-845-0065 What happens if I am terminated or choose to disenroll from a waiver? If you are terminated from a waiver or choose to disenroll from a waiver, DDD will notify you.

- (1) DDD cannot guarantee continuation of your current services, including Medicaid eligibility.
- (2) Your eligibility for nonwaiver DDD services is based upon availability of funding and program eligibility for a particular service.

NEW SECTION

WAC 388-845-0070 What determines if I need ICF/MR level of care? DDD determines if you need ICF/MR level of care based on your need for waiver services. To reach this decision, DDD uses its department-approved assessment and/or other information.

NEW SECTION

WAC 388-845-0075 How is a child age twelve or younger assessed for ICF/MR level of care? If you are age twelve or younger, DDD assesses you for ICF/MR level of care using the "child's assessment of ICF/MR level of care—current support needs" form. You must have support needs exceeding what is expected of others of the same age.

NEW SECTION

WAC 388-845-0080 What score indicates ICF/MR level of care if I am age twelve or younger? (1) If you are age five or younger you need major or moderate support in five of nine tasks;

- (2) If you are age six through twelve, you need major or moderate support in seven of nine of the following tasks.

(3) The form indicates certain tasks that require major support and which require moderate or major support.

- (a) Major support for:
- (i) Dressing and grooming self,
- (ii) Toileting self.
- (b) Major or moderate support for:
- (i) Eating,
- (ii) Mobility,
- (iii) Communication,
- (iv) Making choices and taking responsibility,
- (v) Exploring one's environment,
- (vi) Supports needed to meet therapy and health needs
- (vii) Family/caregiver support required to maintain the child at home.

NEW SECTION

WAC 388-845-0085 How is a person age thirteen or older assessed for ICF/MR level of care? If you are age thirteen and older, DDD assesses you for ICF/MR level of care using the "assessment of ICF/MR level of care—current support needs" form.

NEW SECTION

WAC 388-845-0090 What score indicates ICF/MR level of care if I am age thirteen or older? If you are age thirteen or older, you must have a qualifying score of at least forty in response to twenty questions assessing your residential, school or employment, and social support needs.

NEW SECTION

WAC 388-845-0095 What if my score on the current needs assessment does not indicate ICF/MR level of care?

(1) If you do not have a qualifying score for determining ICF/MR level of care using the department approved assessment, you may provide DDD other current information that provides evidence of your need for waiver services.

(2) This additional information may include occupational therapy (OT), physical therapy (PT), psychological, nursing, social work, speech and hearing, or other professional evaluations that reflect current needs.

NEW SECTION

WAC 388-845-0100 What determines which waiver I am assigned to? DDD will assign you to a waiver based on the following criteria:

(1) If you are on the CAP waiver as of March 2004, your initial assignment to the Basic, Basic Plus, CORE, or community protection waiver is based on:

(a) Services you received from DDD in October 2002 through September 2003; and

(b) Services you were authorized to receive in October, November and December 2003.

(2) If you are new to a waiver since April 1, 2004, assignment is based on your assessment and service plan.

(3) Additional criteria apply to the assignment to the community protection waiver.

NEW SECTION

WAC 388-845-0105 What criteria determine assignment to the community protection waiver? DDD may assign you to the community protection waiver only if you are at least eighteen years of age, not currently residing in a hospital, jail or other institution, and meet the following criteria:

- (1) You have been identified by DDD as a person who meets one or more of the following:
 - (a) You have been convicted of or charged with a crime of sexual violence as defined in chapter 71.09 RCW;
 - (b) You have been convicted of or charged with acts directed towards strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization, or persons of casual acquaintance with whom no substantial personal relationship exists;
 - (c) You have been convicted of or charged with a sexually violent offense and/or predatory act, and may constitute a future danger as determined by a qualified professional;
 - (d) You have not been convicted and/or charged, but you have a history of stalking, sexually violent, predatory and/or opportunistic behavior which demonstrates a likelihood to commit a sexually violent and/or predatory act based on current behaviors that may escalate to violence, as determined by a qualified professional;
 - (e) You have committed one or more violent crimes.
- (2) You receive or agree to receive residential services from certified residential community protection provider-intensive supported living services (CP-ISLS); and
- (3) You comply with the specialized supports and restrictions in your:
 - (a) Plan of care (POC);
 - (b) Individual instruction and support plan (IISP); and/or
 - (c) Treatment plan provided by DDD approved certified individuals and agencies.

NEW SECTION

WAC 388-845-0110 Are there limitations to the waiver services I can receive? There are limitations to waiver services. In addition to the limitations to your access to nonwaiver services cited for specific services in WAC 388-845-0115, the following limitations apply:

- (1) A service must be offered in your waiver and authorized in your plan of care.
- (2) Waiver services are limited to services required to prevent ICF/MR placement.
- (3) The cost of your waiver services cannot exceed the average daily cost of an ICF/MR.
- (4) Waiver services cannot replace or duplicate other available paid and unpaid supports and services, including payments authorized to you by DDD to purchase a service directly.
- (5) Waiver funding cannot be authorized for treatments determined by DSHS/medical assistance to be experimental.
- (6) The Basic and Basic Plus waivers have yearly limits on some services and combinations of services.
- (7) Your choice of qualified providers and services is limited to the most cost effective option that meets your assessed needs.

(8) Services out-of-state are limited to respite care and personal care during vacations.

NEW SECTION

WAC 388-845-0115 Does my waiver eligibility limit my access to DDD nonwaiver services? (1) You are not eligible for state-only funding for DDD services.

(2) You are not eligible for Medicaid personal care.

NEW SECTION

WAC 388-845-0120 Will I continue to receive state supplementary payments (SSP) if I am on the waiver? Your participation in the new waivers does not affect your continued receipt of SSP from DDD.

NEW SECTION

WAC 388-845-0200 What waiver services are available to me? Each of the four HCBS waivers has a different scope of service and your service plan defines the waiver services available to you.

NEW SECTION

WAC 388-845-0205 Basic waiver services.

	SERVICES	YEARLY LIMIT
BASIC WAIVER	Behavior management and consultation Community guide Environmental accessibility adaptations Specialized medical equipment/supplies Occupational therapy Specialized psychiatric services Physical therapy Respite care Speech, hearing and language services Staff/family consultation and training Transportation	May not exceed \$1425 per year on any combination of these services
	Person-to-person Supported employment Community access Prevocational services	May not exceed \$6500 per year
	Personal care	Limits are determined by CARE assessment
	Mental health diversion services: Behavior management and consultation Crisis respite care Specialized psychiatric services	Limits determined by mental health or DDD
	Emergency assistance is only for services contained in the Basic waiver	\$6000 per year; Pre-authorization required

EMERGENCY

NEW SECTION

WAC 388-845-0210 Basic plus waiver services.

	SERVICES	YEARLY LIMIT
BASIC PLUS WAIVER	Behavior management and consultation Community guide Environmental accessibility adaptations Specialized medical equipment/supplies Occupational therapy Specialized psychiatric services Physical therapy Respite care Skilled nursing Speech, hearing and language services Staff/family consultation and training Transportation	May not exceed \$6070 per year on any combination of these services
	Person-to-person Supported employment Community access Prevocational services	May not exceed \$9500 per year
	Adult foster care (adult family home) Adult residential care (boarding home)	Determined per department rate structure
	Mental health diversion services: Behavior management and consultation Crisis respite care Specialized psychiatric services Skilled nursing	Limits determined by mental health or DDD
	Personal care	Limits determined by the CARE assessment
	Emergency assistance is only for services contained in the Basic Plus waiver	\$6000 per year; Preauthorization required

	SERVICES	YEARLY LIMIT
	Staff/family consultation and training Transportation	
	Residential habilitation	
	Person-to-person Supported employment Community access Prevocational services	
	Personal care	Limited by CARE assessment

NEW SECTION

WAC 388-845-0220 Community protection waiver services.

	SERVICES	YEARLY LIMIT
COMMUNITY PROTECTION WAIVER	Behavior management and consultation Environmental accessibility adaptations Specialized medical equipment/supplies Occupational therapy Specialized psychiatric services Physical therapy Skilled nursing Speech, hearing and language services Staff/family consultation and training Transportation	Limited to the average cost of an ICF/MR for any combination of services
	Residential habilitation	
	Person-to-person Supported employment Prevocational services	

WAVIER SERVICES DEFINITIONS

NEW SECTION

WAC 388-845-0215 Core waiver services.

	SERVICES	YEARLY LIMIT
CORE WAIVER	Behavior management and consultation Community guide Environmental accessibility adaptations Specialized medical equipment/supplies Occupational therapy Specialized psychiatric services Physical therapy Respite care Skilled nursing Speech, hearing and language services	Limited to the average cost of an ICF/MR for any combination of services

NEW SECTION

WAC 388-845-0300 What are adult family home (AFH) services? Per RCW 70.128.010 an AFH is a regular family abode in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the service. Adult family homes (AFH) may provide residential care to adults in the Basic Plus waiver.

NEW SECTION

WAC 388-845-0305 Who is a qualified provider of AFH services? The provider must be licensed and ADSA contracted as an AFH who has successfully completed the DDD specialty training provided by the department.

EMERGENCY

NEW SECTION

WAC 388-845-0310 Are there limits to the AFH services I can receive? Adult family homes services are limited by the following:

(1) AFH services are defined and limited per chapter 388-72A and 388-71 WAC governing Medicaid personal care and the comprehensive assessment and reporting evaluation (CARE) or the legacy comprehensive assessment.

(2) Rates are determined by and limited to department published rates for the level of care generated by CARE or the legacy comprehensive assessment.

(3) AFH reimbursement cannot be supplemented by other department funding.

NEW SECTION

WAC 388-845-0400 What are adult residential care (ARC) services? Adult residential care (ARC) facilities may provide residential care to adults. This service is available in the Basic Plus waiver.

(1) An ARC is a licensed boarding home for seven or more unrelated adults.

(2) Services include, but are not limited to, individual and group activities; assistance with arranging transportation; assistance with obtaining and maintaining functional aids and equipment; housework; laundry; self-administration of medications and treatments; therapeutic diets; cuing and providing physical assistance with bathing, eating, dressing, locomotion and toileting; stand-by one person assistance for transferring.

NEW SECTION

WAC 388-854-0405 Who is a qualified provider of ARC services? The provider must:

- (1) Be a licensed boarding home;
- (2) Be contracted with ADSA to provide ARC services; and
- (3) Have completed the required and approved DDD specialty training.

Reviser's note: The above new section was filed by the agency as WAC 388-854-0405. This section is placed among sections forming new chapter 388-845 WAC, and therefore should be numbered WAC 388-845-0405. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

NEW SECTION

WAC 388-845-0410 Are there limits to the ARC services I can receive? ARC services are limited by the following:

(1) ARC services are defined and limited by boarding home licensure and rules and chapter 388-72A and 388-71 WAC governing Medicaid personal care and the comprehensive assessment and reporting evaluation (CARE) or the legacy comprehensive assessment.

(2) Rates are determined and limited to department published rates for the level of care generated by CARE or the legacy comprehensive assessment.

(3) ARC reimbursement cannot be supplemented by other department funding.

NEW SECTION

WAC 388-845-0500 What is behavior management and consultation? Behavior management interventions and consultation may be provided to persons on any of the HCBS waivers and include:

(1) The development and implementation of programs designed to support waiver participants to behave in ways that enhance their inclusion in the community.

(2) Strategies for effectively relating to caregivers and other people in the waiver participant's life.

(3) Direct interventions with the person to decrease aggressive, destructive, and sexually inappropriate or other behaviors that compromise their ability to remain in the community (i.e., training, specialized cognitive counseling).

NEW SECTION

WAC 388-845-0505 Who is a qualified provider of behavior management or consultation? The provider must be one of the following licensed, registered, or certified professionals contracted with DDD to provide this service:

(1) Marriage and family therapist (chapter 246-809 WAC);

(2) Mental health counselor (chapter 246-809; 246-810 WAC);

(3) Psychologist (chapter 246-924 WAC);

(4) Registered counselor (chapter 246-810 WAC);

(5) Sex offender treatment provider (chapter 246-930 WAC);

(6) Social worker (chapter 246-809 WAC).

NEW SECTION

WAC 388-845-0510 Are there limits to the behavior management and consultation I can receive? The following limits apply to your receipt of behavior management or consultation:

(1) DDD and the treating professional will determine the need and amount of service you will receive.

(2) The limits in your Basic and Basic Plus waiver limit the amount of service.

(3) DDD reserves the right to require a second opinion from a department-selected provider.

NEW SECTION

WAC 388-845-0600 What is community access? Community access is a service provided in the community to enhance or maintain the person's competence, integration, physical or mental skills.

(1) If you are age sixty-two or younger, the goal of community access is to help you progress towards employment.

(2) If you are age sixty-three or older, this service is available to meet your retirement needs.

(3) This service is available to adults in the Basic, Basic Plus, and CORE waiver.

NEW SECTION

WAC 388-845-0605 Who is a qualified provider of community access? The provider must be a county or person or agency contracted with a county or DDD.

NEW SECTION

WAC 388-845-0610 Are there limits to community access I can receive? The following limits apply to your receipt of community access:

(1) You must be age twenty-one and graduated from high school or age twenty-two or older.

(2) You cannot be authorized to receive community access services if you receive pre-vocational services or supported employment services.

NEW SECTION

WAC 388-845-0700 What is a community guide service? Community guide service increases access to informal community supports. Services are short-term and designed to develop creative, flexible and supportive community resources for individuals with developmental disabilities. This service is available in Basic, Basic Plus and CORE waivers.

NEW SECTION

WAC 388-845-0705 Who is a qualified community guide? Any individual or agency contracted with DDD as a "community guide" is qualified to provide this service.

NEW SECTION

WAC 388-845-0710 Are there limitations to the community guide services I can receive? You may not receive community guide services if you are receiving residential habilitation services because your residential provider can meet this need.

NEW SECTION

WAC 388-845-0800 What is emergency assistance? Emergency assistance is a temporary increase to the yearly dollar limit specified in the Basic and Basic Plus waiver when additional waiver services are required to prevent ICF/MR placement. These additional services are limited to the services provided in your waiver.

NEW SECTION

WAC 388-845-0805 Who is a qualified provider of emergency assistance? The provider of the service you need to meet your emergency must meet the provider qualifications for that service.

NEW SECTION

WAC 388-845-0810 How do I qualify for emergency assistance? You qualify for emergency assistance only if your current situation meets one of the following criteria:

(1) You involuntarily lose your present residence for any reason either temporary or permanent;

(2) You lose your present caregiver for any reason, including death;

(3) There are changes in your caregiver's mental or physical status resulting in the caregiver's inability to perform effectively for the individual;

(4) There are significant changes in your emotional or physical condition that requires a temporary increase in the amount of a waiver service.

NEW SECTION

WAC 388-845-0820 Are there limits to my use of emergency assistance? All of the following limitations apply to your use of emergency assistance:

(1) Prior authorization is required based on a reassessment of your plan of care to determine the need for emergency services;

(2) Payment authorizations are reviewed every thirty days and cannot exceed six thousand dollars per twelve months based on the effective date of your current plan of care (POC);

(3) Emergency services are limited to the scope of services in your waiver;

(4) Emergency Assistance may be used for interim services until:

(a) The emergency situation has been resolved; or

(b) You are transferred to alternative supports that meet your assessed needs; or

(c) You are transferred to an alternate waiver that provides the service you need.

NEW SECTION

WAC 388-845-0900 What are environmental accessibility adaptations? (1) Environmental accessibility adaptations are available in all of the HCBS waivers and provide the physical adaptations to the home required by the individual's plan of care needed to:

(a) Ensure the health, welfare and safety of the individual; or

(b) Enable the individual who would otherwise require institutionalization to function with greater independence in the home.

(2) Environmental accessibility adaptations may include the installation of ramps and grab bars, widening of doorways, modification of bathroom facilities, or installing specialized electrical and/or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.

NEW SECTION

WAC 388-845-0905 Who is a qualified provider for building these environmental accessibility adaptations? The provider making these environmental accessibility adaptations must be a registered contractor per chapter 18.27 RCW and contracted with DDD.

NEW SECTION

WAC 388-845-0910 What limitations apply to environmental accessibility adaptations? The following service limitations apply to environmental accessibility adaptations:

- (1) Prior approval by DDD is required.
- (2) Environmental accessibility adaptations or improvements to the home are excluded if they are of general utility without direct medical or remedial benefit to the individual, such as carpeting, roof repair, central air conditioning, etc.
- (3) Environmental accessibility adaptations cannot add to the total square footage of the home.

NEW SECTION

WAC 388-845-1000 What are extended state plan services? Extended state plan services refer to physical therapy, occupational therapy, speech hearing and language services available to you under Medicaid without regard to your waiver status. They are "extended" services when the waiver pays for more services than is provided under the state Medicaid plan. These services are available under all four HCBS waivers.

NEW SECTION

WAC 388-845-1010 Who is a qualified provider of extended state plan services? Providers must be certified, registered or licensed therapists as required by law and contracted with DDD for the therapy they are providing.

NEW SECTION

WAC 388-845-1015 Are there limits to the extended state plan services I can receive? (1) Additional therapy may be authorized as a waiver service only after you have accessed what is available to you under Medicaid and any other private health insurance plan;

(2) The department does not pay for treatment determined by DSHS to be experimental;

(3) The department and the treating professional determine the need for and amount of service you can receive:

(a) The department reserves the right to require a second opinion from a department-selected provider.

(b) The department will require evidence that you have accessed your full benefits through Medicaid and private insurance before authorizing this waiver service.

(4) The Basic and Basic Plus waivers limit the amount of service you can receive.

NEW SECTION

WAC 388-845-1100 What are mental health diversion services? Mental health diversion services stabilize persons in crisis due to a mental health disorder. These services are available in all four waivers to adults determined by mental health professionals or DDD to be at risk of institutionalization in a psychiatric hospital without one of more of the following services.

- (1) Behavior management and consultation,
- (2) Skilled nursing services,

(3) Specialized psychiatric services,

(4) Mental health crisis respite for the purpose of crisis stabilization.

NEW SECTION

WAC 388-845-1105 Who are qualified providers of mental health diversion services? Providers of these diversion services are listed in the rules in this chapter governing the specific services listed in WAC 388-845-1100.

NEW SECTION

WAC 388-845-1110 Are there limitations to the mental health diversion services that I can receive? Mental health diversion services are intermittent and temporary. The duration and amount of services you need to stabilize your crisis is determined by a mental health professional and/or DDD.

NEW SECTION

WAC 388-845-1200 What is a "person-to-person" service? "Person-to-person" is a day program service intended to assist participants to progress toward employment goals through individualized planning, skill instruction, information and referral, and one to one relationship building. This service may be provided in addition to community access, prevocational services, or supported employment. This service is available to adults in all four HCBS waivers.

NEW SECTION

WAC 388-845-1205 Who is a qualified provider of person-to-person services? The provider of "person-to-person" must be a county or an individual or agency contracted with a county or DDD.

NEW SECTION

WAC 388-845-1210 Are there limits to the person-to-person service I can receive? You must be age twenty-one and graduated from high school or age twenty-two or older to receive person-to-person services.

NEW SECTION

WAC 388-845-1300 What are personal care services? Personal care services are the provision of assistance with personal care tasks as defined in WAC 388-71-0202, Personal care services. These services are available in the Basic, Basic Plus, and CORE waivers.

NEW SECTION

WAC 388-845-1305 Who are the qualified providers of personal care services? (1) Qualified providers of personal care may be individuals or licensed homecare agencies contracted with DDD.

(2) All individual providers and homecare agency providers must meet provider qualifications for in-home caregivers in WAC 388-71-0500 through 388-71-0580.

(3) Providers of adults must comply with the training requirements in these rules governing Medicaid personal care providers in WAC 388-71-05910 through 388-71-05952.

(4) Natural, step, or adoptive parents can be the personal care provider of their adult child age eighteen or older.

NEW SECTION

WAC 388-845-1310 Are there limits to the personal care services I can receive? (1) You must meet the programmatic eligibility for Medicaid personal care in chapter 388-72A and 388-71 WAC governing Medicaid personal care (MPC) using the current department approved assessment form: Comprehensive assessment reporting evaluation (CARE), legacy comprehensive assessment, or children's comprehensive assessment.

(2) The maximum hours of personal care you may receive are determined by the approved department assessment for Medicaid personal care services.

(a) Provider rates are limited to the department established hourly rates for in-home Medicaid personal care.

(b) Homecare agencies must be licensed through the department of health and contracted with DDD.

NEW SECTION

WAC 388-845-1400 What are prevocational services? Prevocational services prepare an adult for paid or unpaid employment through the teaching of such concepts as compliance, attendance, task completion, problem solving and safety. These services are available in all four HCBS waivers.

NEW SECTION

WAC 388-845-1405 Who are the qualified providers of prevocational services? Providers or prevocational services must be a county or an individual or agency contracted with a county or DDD.

NEW SECTION

WAC 388-845-1410 Are there limits to the prevocational services I can receive? The following limitations apply to your receipt of prevocational services.

(1) You must be age twenty-one and graduated from high school or age twenty-two or older.

(2) You are not expected to be competitively employed within one year (excluding supported employment programs).

(3) You cannot be authorized to receive prevocational services if you receive community access services or supported employment services.

NEW SECTION

WAC 388-845-1500 What are residential habilitation services? (1) Residential habilitation services (RHS) services

include assistance to learn or improve or retain the social and adaptive skills necessary for living in the community. These services are available in the CORE and community protection waivers.

(2) Services may provide instruction and support addressing one or more of the following outcomes:

(a) Health and safety;

(b) Personal power and choice;

(c) Competence and self-reliance;

(d) Positive recognition by self and others;

(e) Positive relationships; and

(f) Integration into the physical and social life of the community.

NEW SECTION

WAC 388-845-1505 Who are qualified providers of residential habilitation services for the core waiver? Providers of residential habilitation for participants in the CORE waiver must be one of the following:

(1) Individuals contracted with DDD to provide residential support as a "companion home" provider;

(2) Individuals contracted with DDD to provide training as an "alternative living provider";

(3) Agencies contracted with DDD and certified per chapter 388-820 WAC; State-operated living alternatives (SOLA);

(4) Licensed and contracted group care homes, foster homes, child placing agencies, staffed residential homes (licensed and contracted adult residential rehabilitation center per WAC 246-325-0012).

NEW SECTION

WAC 388-845-1510 Who are qualified providers of residential habilitation services for the community protection waiver? Providers of residential habilitation for participants of the community protection waiver are limited to state-operated living alternatives (SOLA) and supported living providers who:

(1) Are certified under chapter 388-820 WAC as a residential community protection provider-intensive supported living services (CP-ISLS); and

(2) Meet the additional standards in DDD Policy 15.04 (Standards for community protection intensive supported living services).

NEW SECTION

WAC 388-845-1515 Are there limits to the residential habilitation services I can receive? (1) You may only receive one type of residential habilitation service at a time.

(2) None of the following can be paid for under the CORE or community protection waiver:

(a) Room and board;

(b) The cost of building maintenance, upkeep, improvement, modifications or adaptations required to assure the health and safety of residents, or to meet the requirements of the applicable life safety code;

(c) Activities or supervision already being paid for by another source;

(d) Services provided in your parent's home unless you are receiving alternative living services for a maximum of six months to transition you from your parent's home into your own home.

(3) The following persons cannot be paid providers for your service:

- (a) Your spouse;
- (b) Your natural, step, or adoptive parents if you are a child age seventeen or younger;
- (c) Your natural, step, or adoptive parent unless your parent is certified as a residential agency per chapter 388-820 WAC or is employed by a certified or licensed agency qualified to provide residential habilitation services.

NEW SECTION

WAC 388-845-1600 What is respite care? Respite care is intended to provide short-term intermittent relief for persons normally providing care for waiver individuals. This service is available in the Basic, Basic Plus, and CORE waivers.

NEW SECTION

WAC 388-845-1605 Who is eligible to receive respite care? The person providing your care is eligible to receive respite care services if you are in the Basic, Basic Plus or Core waiver and reside in one of the following living situations:

- (1) You are a child under age eighteen living in a private home;
- (2) You live in a licensed children's foster home;
- (3) You are age eighteen or older and live with a contracted companion home provider;
- (4) You are age eighteen or older and live in a private home with your full-time caregiver:
 - (a) This includes paid and unpaid caregivers,
 - (b) The home cannot be a licensed adult family home.
- (5) You are age eighteen or older and are authorized respite through mental health crisis diversion.

NEW SECTION

WAC 388-845-1610 Where can respite care be provided? Respite care can be provided in the following location(s):

- (1) Individual's home or place of residence;
- (2) Relative's home;
- (3) Licensed children's foster home;
- (4) Licensed, contracted and DDD certified group home;
- (5) State operated living alternative (SOLA) and other DDD certified supported living settings;
- (6) Licensed boarding home contracted as an adult residential center;
- (7) Adult residential rehabilitation center;
- (8) Licensed and contracted adult family home;
- (9) Children's licensed group care facility or staffed residential home licensed childcare setting;
- (10) Other community settings such as camp, senior center, or adult day care center.

NEW SECTION

WAC 388-845-1615 Who are qualified providers of respite care? Providers of respite care can be any of the following individuals or agencies contracted with DDD for respite care:

- (1) Individuals meeting the provider qualifications under chapter 388-825 WAC;
- (2) Homecare/home health agencies, licensed under chapter 246-335 WAC, Part 1;
- (3) Licensed and contracted group homes, foster homes, child placing agencies, staffed residential homes and foster group care homes;
- (4) Licensed and contracted AFH;
- (5) Licensed and contracted ARC;
- (6) Licensed and contracted adult residential rehabilitation center (WAC 246-325-0012);
- (7) Licensed childcare center chapter 388-151 WAC;
- (8) Licensed child daycare center chapter 388-150 and 388-155 WAC;
- (9) Adult day care centers contracted with DDD;
- (10) Certified provider per chapter 388-820 WAC when respite is provided within the DDD contract for certified residential services;
- (11) Other DDD contracted providers such as community center, senior center, parks and recreation, summer programs, adult day care.

NEW SECTION

WAC 388-845-1620 Are there limits to the respite care I can receive? The following limitations apply to the respite care you can receive:

- (1) Prior approval by DDD is required to exceed fourteen days per month.
- (2) Respite cannot be a replacement for daycare while a parent or guardian is at work.
- (3) Respite is in addition to any personal care hours available to you.
- (4) Respite care cannot be authorized in an unlicensed private home unless it is the client's home or the home of a relative.
- (5) When determining your unmet need for respite care, DDD will first consider the personal care hours available to you.
- (6) If you require respite from a licensed healthcare professional, your needs will be authorized under skilled nursing per WAC 388-845-1700.
- (7) The respite provider cannot be the spouse of the caregiver receiving respite if the spouse and the caregiver reside in the same residence.

NEW SECTION

WAC 388-845-1700 What is skilled nursing? (1) Skilled nursing is continuous, intermittent, or part time nursing services. These services are available in the Basic Plus, CORE, and community protection waivers.

- (2) Services include nurse delegation services provided by a registered nurse, including the initial visit, follow-up instruction, and/or supervisory visits.

NEW SECTION

WAC 388-845-1705 Who is a qualified provider of skilled nursing services? The provider of skilled nursing services must be a healthcare professional acting within the scope of the Nurse Practice Act chapter 246-845 WAC and contracted with DDD to provide this service.

NEW SECTION

WAC 388-845-1710 Are there limitations to the skilled nursing services I can receive? The following limitations apply to your receipt of skilled nursing services:

- (1) Prior department approval is required.
- (2) The department and the treating professional determine the need for and amount of service.
- (3) The department reserves the right to require a second opinion by a department-selected provider.

NEW SECTION

WAC 388-845-1800 What are specialized medical equipment and supplies? (1) Specialized medical equipment and supplies are services to help individuals with their activities of daily living or to better participate in their environment. These services are available in all four HCBS waivers.

(2) Included are devices, controls, appliances, and items necessary for life support; ancillary supplies and equipment necessary to the proper functioning of such items; and durable and nondurable medical equipment not available through Medicaid under the Medicaid state plan.

NEW SECTION

WAC 388-845-1805 Who are the qualified providers of medical equipment and supplies? The provider of medical equipment and supplies must be a medical equipment supplier contracted with DDD.

NEW SECTION

WAC 388-845-1810 Are there limitations to my receipt of medical equipment and supplies? The following limitations apply to your receipt of medical equipment and supplies:

- (1) Prior approval by the department is required for each authorization.
- (2) The department reserves the right to require a second opinion by a department-selected provider.
- (3) Items reimbursed with waiver funds shall be in addition to any medical equipment and supplies furnished under the Medicaid state plan.
- (4) Items are excluded if they are not of direct medical and remedial benefit to the individual.
- (5) Medications, prescribed or nonprescribed, and vitamins are excluded.

NEW SECTION

WAC 388-845-1900 What are specialized psychiatric services? (1) Specialized psychiatric services are specific to

the individual needs of persons with developmental disabilities who are experiencing mental health symptoms. These services are available in all four HCBS waivers.

- (2) Service may be any of the following:
 - (a) Psychiatric evaluation,
 - (b) Medication evaluation and monitoring,
 - (c) Psychiatric consultation.

NEW SECTION

WAC 388-845-1905 Who are qualified providers of specialized psychiatric services? Providers of specialized psychiatric services must be one of the following licensed or registered, and contracted healthcare professionals:

- (1) Advanced registered nurse practitioner (ARNP),
- (2) Physician assistant,
- (3) Psychiatrist.

NEW SECTION

WAC 388-845-1910 Are there limitations to the specialized psychiatric services I can receive? Specialized psychiatric services are excluded if they are available through other Medicaid programs.

NEW SECTION

WAC 388-845-2000 What is staff/family consultation and training? (1) Staff/family consultation and training is professional assistance to families or direct service providers to help them better meet the needs of the waiver person. This service is available in all four HCBS waivers.

(2) Consultation and training is provided to families, direct staff, or personal care providers to meet the specific needs of the waiver participant as outlined in the individual's plan of care.

- (3) Special needs include:
 - (a) Health and medication monitoring,
 - (b) Positioning and transfer,
 - (c) Basic and advanced instructional techniques,
 - (d) Positive behavior support,
 - (e) Augmentative communication systems.

NEW SECTION

WAC 388-845-2005 Who is a qualified provider of staff/family consultation and training? To provide staff/family consultation and training, as provider must be one of the following licensed, registered or certified professionals and be contracted with DDD:

- (1) Audiologist,
- (2) Licensed practical nurse,
- (3) Marriage and family therapist,
- (4) Mental health counselor,
- (5) Occupational therapist,
- (6) Physical therapist,
- (7) Counselor,
- (8) Registered nurse,
- (9) Sex offender treatment provider,
- (10) Speech/language pathologist,

- (11) Social worker,
- (12) Psychologist.

NEW SECTION

WAC 388-845-2010 Are there limitations to the staff/family consultation and training I can receive? Expenses to the family or provider for room and board or attendance, including registration, at conferences are excluded as a service under staff/family consultation and training.

NEW SECTION

WAC 388-845-2100 What is supported employment? Supported employment provides intensive ongoing individual or group support in a work setting to adults with developmental disabilities. This service is available in all four HCBS waivers.

- (1) Supported employment includes activities needed to sustain paid work by individuals receiving waiver services, including supervision and training.
- (2) Supported employment is conducted in a variety of settings; particularly work sites in which persons without disabilities are employed.

NEW SECTION

WAC 388-845-2105 Who is a qualified provider of supported employment? A supported employment provider must be a county or agencies or individuals contracted with a county or DDD.

NEW SECTION

WAC 388-845-2110 Are there limits to the supported employment I can receive? The following limitations apply to your receipt of supported employment:

- (1) You must be age twenty-one and graduated from high school or age twenty-two or older.
- (2) Payment will be made only for the adaptations, supervision and training you require as a result of your disabilities.
- (3) Payment is excluded for the supervisory activities rendered as a normal part of the business setting.
- (4) You cannot be authorized to receive supported employment services if you receive community access services or prevocational services.

NEW SECTION

WAC 388-845-2200 What are transportation services? Transportation services provide reimbursement to a provider when the transportation is required and specified in the waiver plan of care. This service is available in all four HCBS waivers.

- (1) Transportation provides the person access to waiver and other community services, activities and resources, specified by the plan of care.

- (2) Whenever possible, the person will use family, neighbors, friends, or community agencies that can provide this service without charge.

NEW SECTION

WAC 388-845-2205 Who is qualified to provide transportation services? The provider of transportation services can be an individual or agency contracted with DDD.

NEW SECTION

WAC 388-845-2210 Are there limitations to the transportation services I can receive? The following limitations apply to transportation services:

- (1) Transportation to/from medical or medically related appointments are Medicaid transportation services and are to be considered and used first.
- (2) Transportation is offered in addition to medical transportation but shall not replace Medicaid transportation services.
- (3) Reimbursement for provider mileage requires prior approval by DDD and is paid according to contract.
- (4) This service does not cover the purchase or lease of vehicles.
- (5) Reimbursement for provider travel time is not included in this service.
- (6) Reimbursement to the provider is limited to transportation that occurs when you are with the provider.
- (7) You are not eligible for transportation services if the cost and responsibility for transportation is already included in your waiver provider's contract and payment.

ASSESSMENT AND PLAN OF CARE**NEW SECTION**

WAC 388-845-3000 What is the process for determining the services I need? Your service needs are determined through an assessment and service planning process.

- (1) You receive an initial and annual assessment of your needs using a department-approved form.
- (2) From the assessment, DDD develops your waiver plan of care (POC) with you and/or your legal representative and others who are involved in your life such as your parent or guardian, advocate and service providers.

NEW SECTION

WAC 388-845-3005 What is a waiver plan of care (POC)? (1) A waiver plan of care (POC) is a document that is based on an assessment of your needs and the limitations in WAC 388-845-0110.

- (2) Your plan must include:
 - (a) The services that you and DDD have agreed are necessary for you to receive in order to address your health and welfare needs;
 - (b) Both paid and unpaid services you receive or need;
 - (c) How often you will receive each waiver service; how long you will need it; and who will provide it; and

(d) Your signature on the plan indicating your agreement.

(3) You may choose any qualified provider for the service, who meets all of the following:

(a) Is able to meet your needs within the scope of their contract, licensure and certification;

(b) Is reasonably available;

(c) Meets provider qualifications in chapter 388-845 and 388-825 WAC for contracting; and

(d) Agrees to provide the service at department rates.

NEW SECTION

WAC 388-845-3010 **When is my plan of care effective?** Your plan of care is effective the date a DDD representative signs and approves it.

NEW SECTION

WAC 388-845-3015 **How long is my plan effective?** Your plan of care is effective for three hundred sixty-five days.

NEW SECTION

WAC 388-845-3020 **What happens if I do not sign my plan of care?** If DDD is unable to obtain the necessary signature on the plan of care from you or your legal representative, DDD will take one or more of the following actions:

(1) DDD will continue providing services as identified in your prior POC for up to thirty days after completion of your new POC.

(2) DDD will attempt to contact you or your legal representative by phone or mail.

(3) After thirty days, if DDD has not heard from you or your legal representative, DDD will assume consent and implement the new POC with or without your signature or the signature of your legal representative.

(4) You will be provided written notification and appeal rights to this action to implement the new POC.

(5) Your appeal rights are in WAC 388-825-0120 through 388-825-0165.

NEW SECTION

WAC 388-845-3025 **What if my needs change?** You may request a review of your plan of care at any time by calling your case manager. If there is a significant change in your condition or circumstances, DDD must reassess your plan of care with you and amend the plan to reflect any significant changes. This reassessment does not affect the end date of your annual plan of care.

NEW SECTION

WAC 388-845-3030 **What if my needs exceed the maximum yearly funding limit under the basic or basic plus waiver?** (1) If you are on the Basic or Basic Plus waiver and your assessed need for services exceeds the maximum permitted, DDD may make the following efforts to meet your health and welfare needs:

(a) Add more available natural supports;

(b) Access available nonwaiver services not included in the Basic or Basic Plus waiver other than natural supports;

(c) Authorize emergency services up to six thousand dollars per year if your needs meet the definition of emergency services in WAC 388-845-0800.

(2) If emergency services and other efforts are not sufficient to meet your needs, you will be offered:

(a) An opportunity to apply for an alternate waiver that has the services you need;

(b) Priority for placement on that waiver when there is capacity to add people to that waiver;

(c) Placement in an ICF/MR.

(3) If none of the options in subsections (1) and (2) above is successful in meeting your health and welfare needs, DDD may terminate your waiver eligibility.

(4) If you are terminated from a waiver, you will remain eligible for nonwaiver DDD services but access is limited by availability of funding.

NEW SECTION

WAC 388-845-3035 **Will I have to pay toward the cost of waiver services?** (1) Depending on your SSI status, Medicaid status, income and resources you may be required to participate towards the cost of your care. DDD determines what amount, if any, you pay.

(2) Currently clients are only required to participate towards the cost of residential services provided in a licensed facility.

(3) If you live in a licensed facility, you participate from your earned and unearned income per rules in WAC 388-515-1505:

(a) If you have nonexempt income that exceeds the cost of your Waiver services, you may keep the difference.

(b) If you are an SSI beneficiary who receives only SSI income, you pay only for board and room and you keep a personal allowance of thirty-eight dollars and eighty-four cents.

(c) If you are an SSI beneficiary who receives SSI and SSA benefits, you only pay for board and room and you are allowed to keep an additional twenty dollars for a total personal allowance of fifty-eight dollars and eighty-four cents.

(d) If you are not an SSI beneficiary, you may be required to participate towards the cost of your waiver services in addition to your facility board and room rate.

(e) If you earn wages and are not an SSI beneficiary, the department exempts the first sixty-five dollars and one-half of the remaining earned gross wages from the amount of income used to calculate participation.

(f) Guardianship fees, payee fees and medical expenses not covered by Medicaid are deducted from your available income when calculating the amount of your participation.

NEW SECTION

WAC 388-854-4000 **What are my appeal rights under the waiver?** You have appeal rights under WAC 388-825-120 to the following decisions:

(1) Any denial, reductions, or termination of a service.

(2) A denial or termination of your choice of a qualified provider.

(3) Your termination from waiver eligibility.

(4) Denial of your request to receive ICF/MR services instead of waiver services.

Reviser's note: The above new section was filed by the agency as WAC 388-854-4000. This section is placed among sections forming new chapter 388-845 WAC, and therefore should be numbered WAC 388-845-4000. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

NEW SECTION

WAC 388-845-4005 Can I appeal a denial of my request to be enrolled in a waiver? If you are not on an HCBS waiver, your appeal rights are limited to WAC 388-825-120. You have an appeal right to a denial of services or provider but you do not have an appeal right to a denial to be enrolled in a waiver.

NEW SECTION

WAC 388-845-4010 How do I appeal a department action? (1) Your rights to appeal a department decision are in RCW 71A.10.050 and WAC 388-825-120 and are limited to an applicant, recipient, or former recipient of services from the division of developmental disabilities.

(2) If you want to appeal a department action, you must file a written appeal with the office of administrative hearings in Olympia within twenty-eight days from receipt of the department notice of the action you are disputing.

NEW SECTION

WAC 388-845-4015 Will my services continue during an appeal? Services may continue during the appeal process except as specified in WAC 388-825-150.

**WSR 04-09-094
EMERGENCY RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed April 20, 2004, 4:21 p.m.]

Date of Adoption: April 20, 2004.

Purpose: The emergency rule revises chapter 388-72A WAC, Comprehensive assessment reporting evaluation (CARE) tool, to include the CARE algorithm component in rule.

A CR-101, preproposal statement of inquiry, for adoption of permanent rules on this subject has also been filed.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-72A-0040 and 388-72A-0075; and amending WAC 388-72A-0010, 388-72A-0055, 388-72A-0060, 388-72A-0065, 388-72A-0070, 388-72A-0080, 388-72A-0085, 388-72A-0090, and 388-72A-0095.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Other Authority: RCW 74.39A.090, 74.39A.095.

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: Based on fair hearings, the department has determined that confusion about the new CARE assessment as described under current rules in chapter 388-72A WAC is leading to inconsistent hearing decisions and is jeopardizing the fair and equitable administration of home and community programs. Additional information about the CARE algorithm needs to be included in chapter 388-72A WAC immediately in order to allay such confusion and to ensure that clients receive benefits appropriate to their assessed needs.

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 14, Amended 9, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; or **Other Alternative Rule Making:** New 14, Amended 9, Repealed 2.

Effective Date of Rule: Immediately.

April 20, 2004

Brian H. Lindgren, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

WAC 388-72A-0010 Does chapter 388-71 WAC apply to me? Yes. Chapter 388-71 WAC applies with the exception of the following: WAC 388-72-0202 (Direct personal care services, household assistance, medically oriented tasks, personal care services, plan of care, supervision, and unscheduled tasks), 388-71-0203, 388-71-0205, 388-71-0430, 388-71-0435, 388-71-0440, 388-71-0442, and 388-71-0445.

NEW SECTION

WAC 388-72A-0036 How are my needs for personal care services determined? The assessor gathers information from you, your caregivers, family members, and other sources to determine how much assistance you need with personal care services. This is measured by your:

(1) Self-performance, what you actually did within the last seven days, not what you might be capable of doing. Coding is based on the level of performance that occurred three or more times in the seven-day period.

(2) Support provided, which means the highest level of support provided by others over the last seven days, even if that level of support occurred only once.

(3) Status, which identifies whether a need is met, unmet, partially met, or declined.

(4) Assistance available.

NEW SECTION

WAC 388-72A-0037 How are self performance and support provided for the activities of daily living (ADLs) scored? (1) For each ADL, except as otherwise provided for bathing, body care, and medication management, the assessor determines your ability to self-perform the ADL. Your self performance is scored as:

(a) Independent if you received no help or oversight, or if you needed help or oversight only once or twice.

(b) Supervision if you received oversight (monitoring or standby), encouragement, or cueing three or more times, or needed physical assistance in addition to supervision only once or twice.

(c) Limited assistance if you were highly involved in the activity and:

(i) Given physical help in guided maneuvering of limbs or other nonweight bearing assistance on three or more occasions, or

(ii) Given weight bearing assistance but only one or two times.

(d) Extensive assistance if you performed part of the activity, but on three or more occasions, you needed weight bearing support or you received full performance of the activity during part, but not all, of the activity.

(e) Total dependence if you received full caregiver performance of the activity and all subtasks during the entire seven-day period from others. Total dependence means complete nonparticipation by you in all aspects of the ADL; or

(f) Activity did not occur if you or others do not perform an ADL over the last seven days before your assessment. The activity may not have occurred because:

(i) You were not able (e.g., walking, if paralyzed); or

(ii) No provider was available to assist; or

(iii) You declined assistance with the task.

(2) The assessor also determines the level of support provided. Your support provided is scored as:

(a) No set-up or physical help provided by others;

(b) Set-up help only provided, which is the type of help characterized by providing you with articles, devices, or preparation necessary for greater self-performance of the activity (such as giving or holding out an item that you take from others);

(c) One-person physical assist provided;

(d) Two- or more person physical assist provided; or

(e) Activity did not occur during entire seven-day period.

NEW SECTION

WAC 388-72A-0038 How are the ADLs bathing, body care, and medication managed scored? (1) The activity of bathing is assessed in the same way as other ADLs in WAC 388-72A-0037, except you are assessed as needing:

(a) Limited assistance with bathing if physical help is limited to transfer only.

(b) Extensive assistance with bathing if you needed physical help with part of the activity (other than transfer).

(2) The activity of body care is assessed to determine whether you need assistance. You are scored as needing assistance if you require:

(a) Application of ointment or lotions;

(b) Trimming of toenails;

(c) Dry bandage changes; or

(d) Passive range of motion treatment.

(3) The activity of medication management is assessed to determine whether you need assistance managing your medications. This assistance is scored as:

(a) Independent if you remember to take medications as prescribed and manage your medications without assistance.

(b) Assistance required if you need assistance from a nonlicensed provider to facilitate your self-administration of a prescribed, over the counter, or herbal medication, you are assessed as needing assistance with medication management. Assistance required includes reminding or coaching you, handing you the medication container, opening the container, using an enabler to assist you in getting the medication into your mouth, and placing the medication in your hand. This does not include assistance with intravenous or injectable medications. You must be aware that you are taking medications.

(c) Self-directed medication assistance/administration if you are a person with a functional disability who is capable of and who chooses to self-direct your medication assistance/administration.

(d) Must be administered if you must have medications placed in your mouth or applied to your skin or mucus membrane by a family member or unpaid caregiver, a licensed health care professional, or an adult family home or boarding home provider who is not a RN or a licensed practical nurse (LPN) but is following nurse delegation protocols in chapter 246-840 WAC. Intravenous or injectable medications must be administered by a licensed health care professional, family member, or unpaid caregiver.

NEW SECTION

WAC 388-72A-0039 How are self performance and difficulty for the instrumental activities of daily living (IADLs) scored? (1) For each IADL, the assessor determines your ability to self-perform the IADL. Your self performance is scored as:

(a) Independent if you received no help, set-up help, or supervision.

(b) Supervision if you received set-up help or arrangements only.

(c) Limited assistance if you sometimes performed the activity yourself and other times needed assistance.

(d) Extensive assistance if you were involved in performing the activity, but required cueing/supervision or partial assistance at all times.

(e) Total dependence if you needed the activity fully performed by others.

(f) Activity did not occur if you or others did not perform the activity within the assessment period.

(2) For each IADL, the assessor determines how difficult it is or would be for you to perform the activity. This is scored as:

- (a) No difficulty in performing the activity;
- (b) Some difficulty in performing the activity (e.g., you need some help, are very slow, or fatigue easily); or
- (c) Great difficulty in performing the activity (e.g., little or no involvement in the activity is possible).

NEW SECTION

WAC 388-72A-0041 How are status and assistance available scored for ADLs and IADLs? (1) For each ADL and IADL, the assessor determines whether there is an informal support available. An informal support is a person or

resource that is available to provide assistance without home and community program funding.

(a) Met: The ADL or IADL will be fully provided by an informal support.

(b) Unmet: An informal support will not be available to provide assistance with the identified ADL or IADL.

(c) Partially Met: An informal support will be available to provide some assistance, but not all, with the identified ADL or IADL.

(d) Client declines: Client does not want assistance with the task.

(2) If partially met is selected then the amount of the assistance available is determined using one of four categories. Table 1 below is used to determine these percentages.

- (a) Less than one-fourth of the time,
- (b) One-fourth to one-half of the time
- (c) Over one-half of the time to three-fourths of the time
- (d) Over three-fourths of the time.

NUMBER OF TIMES/HOURS TASK IS MET INFORMALLY

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
1																				
2	50%																			
3	33%																			
4	25%	50%																		
5		40%		80%																
6		33%	50%		83%															
7		29%	43%			86%														
8		25%	38%	50%			88%													
9			33%	44%			78%	89%												
10			30%	40%	50%			80%	90%											
11			27%	36%	45%				82%	91%										
12			25%	33%	42%	50%				83%	92%									
13				31%	38%	46%				77%	85%	92%								
14				29%	36%	43%	50%				79%	86%	93%							
15				27%	33%	40%	47%					80%	87%	93%						
16				25%	31%	38%	44%	50%					81%	88%	94%					
17					29%	35%	41%	47%						76%	82%	88%	94%			
18					28%	33%	39%	44%	50%						78%	83%	89%	94%		
19					26%	32%	37%	42%	47%							79%	84%	89%	95%	
20					25%	30%	35%	40%	45%	50%							80%	85%	90%	95%

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AMENDATORY SECTION (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

WAC 388-72A-0055 Am I eligible for COPES-funded services? You are eligible for COPES-funded services if you meet all of the following criteria. The department or its designee must assess your needs and determine that:

- (1) You are age:

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

(b) Sixty-five or older.

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

(3) You:

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

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

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

(a) You require care provided by or under the supervision of a registered nurse or a licensed practical nurse on a daily basis, or:

(b) You have an unmet or partially met need or the activity did not occur (because you were unable or no provider was available) with at least three or more of the following(~~(, as defined in WAC 388-72A-0040)~~):

- (i) Setup in eating (e.g., cutting meat and opening containers at meals; giving one food category at a time);
- (ii) Supervision in toileting;
- (iii) Supervision in bathing;
- (iv) Supervision plus setup in transfer;
- (v) Supervision plus setup in bed mobility;
- (vi) Supervision plus set up help in one of the following three tasks:

- (A) Walk in room, hallway and rest of immediate living environment;
- (B) Locomotion in room and immediate living environment;
- (C) Locomotion outside of immediate living environment including outdoors.

(vii) Assistance required in medication management; or

(c) You have an unmet or partially met need with at least two or more of the following(~~(, as defined in WAC 388-72A-0040)~~):

- (i) Extensive assistance plus one person physical assistance in toileting;
- (ii) Extensive assistance plus one person physical assistance in one of the following three tasks:

- (A) Walk in room, hallway and rest of immediate living environment;
- (B) Locomotion in room and immediate living environment;
- (C) Locomotion outside of immediate living environment including outdoors.

(iii) Extensive assistance plus one person physical assistance in transfer;

(iv) Limited assistance plus one person physical assistance in bed mobility and need turning/repositioning;

(v) Physical help limited to transfer plus one person physical assist in bathing;

(vi) Supervision plus one person physical assist in eating; or

(vii) Daily assistance required in medication management; or

(d) You have a cognitive impairment and require supervision due to one or more of the following: Disorientation, memory impairment, impaired decision making, or wandering and have an unmet or partially met need with at least one

or more of the following(~~(, as defined in WAC 388-72A-0040)~~):

(i) Extensive assistance plus one person physical assistance in toileting;

(ii) Extensive assistance plus one person physical assistance in one of the following three tasks:

- (A) Walk in room, hallway and rest of immediate living environment;
- (B) Locomotion in room and immediate living environment;
- (C) Locomotion outside of immediate living environment including outdoors.

(iii) Extensive assistance plus one person physical assistance in transfer;

(iv) Limited assistance plus one person physical assistance in bed mobility;

(v) Physical help limited to transfer plus one person physical assist in bathing;

(vi) Supervision plus one person physical assist in eating; or

(vii) Daily assistance required in medication management.

AMENDATORY SECTION (Amending WSR 03-24-001, filed 11/19/03, effective 12/20/03)

WAC 388-72A-0060 Am I eligible for MPC-funded services? You are eligible for MPC-funded services when the department or its designee assesses your needs and determines that you meet all of the following criteria:

(1) Are certified as Title XIX categorically needy, as defined in WAC 388-500-0005.

(2) Have an unmet or partially met need or the activity did not occur (because you were unable or no provider was available) in at least three or more of the following(~~(, as defined in WAC 388-72A-0040)~~):

- (a) Help/oversight one or two times during the last seven days plus setup in eating;
- (b) Supervision in toileting;
- (c) Supervision in bathing;
- (d) Supervision in dressing;
- (e) Supervision plus setup in transfer;
- (f) Supervision plus setup in bed mobility;
- (g) Supervision plus set up help in one of the following three tasks:

- (i) Walk in room, hallway and rest of immediate living environment;
- (ii) Locomotion in room and immediate living environment;
- (iii) Locomotion outside of immediate living environment including outdoors.

(h) Assistance required in medication management;

(i) Supervision in personal hygiene;

(j) Assistance with body care, which means you need:

- (i) Application of ointment or lotions;
- (ii) Your toenails trimmed;
- (iii) Dry bandage changes; or
- (iv) Passive range of motion treatment.

(3) You have an unmet or partially met need or the activity did not occur (because you were unable or no provider

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was available) with at least one or more of the following (~~as defined in WAC 388-72A-0040~~):

- (a) Extensive assistance plus one person physical assistance in toileting;
 - (b) Extensive assistance plus one person physical assistance in one of the following three tasks:
 - (i) Walk in room, hallway and rest of immediate living environment;
 - (ii) Locomotion in room and immediate living environment;
 - (iii) Locomotion outside of immediate living environment including outdoors.
 - (c) Extensive assistance plus one person physical assistance in transfer;
 - (d) Limited assistance plus one person physical assistance in bed mobility and need turning/repositioning;
 - (e) Physical help limited to transfer plus one person physical assist in bathing;
 - (f) Supervision plus one person physical assist in eating;
- or
- (g) Daily assistance required in medication management;
- or
- (h) Assistance with body care, which means you need:
 - (i) Application of ointment or lotions;
 - (ii) Your toenails trimmed;
 - (iii) Dry bandage changes; or
 - (iv) Passive range of motion treatment.
 - (i) Extensive assistance plus one person physical assistance in dressing.
 - (j) Extensive assistance plus one person physical assistance in personal hygiene.

AMENDATORY SECTION (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

WAC 388-72A-0065 Am I eligible for Chore-funded services? To be eligible for Chore-funded services, you must:

- (1) Be eighteen years of age or older;
- (2) Have an unmet or partially met need or the activity did not occur (because you were unable or no provider was available) in at least one or more of the following (~~as defined in WAC 388-72A-0040~~):
 - (a) Help/oversight one or two times during the last seven days plus setup in eating;
 - (b) Supervision in toileting;
 - (c) Supervision in bathing;
 - (d) Supervision in dressing;
 - (e) Supervision plus setup in transfer;
 - (f) Supervision plus setup in bed mobility;
 - (g) Supervision plus set up help in one of the following three tasks:
 - (i) Walk in room, hallway and rest of immediate living environment;
 - (ii) Locomotion in room and immediate living environment;
 - (iii) Locomotion outside of immediate living environment including outdoors.
 - (h) Assistance required in medication management;
 - (i) Supervision in personal hygiene;

- (j) Assistance with body care, which means you need:
 - (i) Application of ointment or lotions;
 - (ii) Your toenails trimmed;
 - (iii) Dry bandage changes; or
 - (iv) Passive range of motion treatment.
- (3) Currently be on the Chore program and not be eligible for MPC or COPEs, Medicare home health or other programs if these programs can meet your needs;
- (4) Have net household income (as described in WAC 388-450-0005, 388-450-0020, 388-450-0040, and 388-511-1130) not exceeding:
 - (a) The sum of the cost of your chore services; and
 - (b) One-hundred percent of the Federal Poverty Level (FPL) adjusted for family size.
- (5) Have resources, as described in chapter 388-470 WAC, which does not exceed ten thousand dollars for a one-person family or fifteen thousand dollars for a two-person family. (Note: One thousand dollars for each additional family member may be added to these limits.)
- (6) Not transfer assets on or after November 1, 1995 for less than fair market value as described in WAC 388-513-1365.

NEW SECTION

WAC 388-72A-0069 How does CARE use the information the assessor gathers used? CARE processes the information that the assessor gathers through an algorithm. An algorithm is a numerical formula utilized by the CARE assessment software that determines a classification group, payment level and referral needs based upon the information documented in the CARE assessment.

AMENDATORY SECTION (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

WAC 388-72A-0070 What are the in-home hours and residential rate based on? The department employs a client classification methodology consisting of fourteen care groups. Twelve groups apply to clients served in residential settings, and for the in-home setting, two additional exceptional care groups apply. The department uses ~~((an automated assessment tool known as the comprehensive assessment reporting evaluation -)CARE(-)tool))~~ to assess client characteristics. CARE places clients in a classification group based on the assessment. For in-home settings, each classification group is assigned a base number of care hours.

AMENDATORY SECTION (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

WAC 388-72A-0080 What ~~((are the elements that))~~ criteria does the CARE tool ~~((evaluates for each of the criteria in WAC 388-72A-0075))~~ use to place a client in one of the classification groups? The CARE tool ~~((evaluates for))~~ uses the following criteria to place a client in one of the classification groups:

- (1) Cognitive performance
 - ~~((a) Short term memory;~~
 - ~~(b) Self performance in eating;~~
 - ~~(e) Ability to make self understood;~~

~~(d) Ability to make decisions regarding ADLs; and
(e) Comatose or in a persistent vegetative state)), as defined in WAC 388-72A-0081, by using the cognitive performance scale (CPS) and assigning a score from zero to six.~~

(2) Clinical complexity

~~((a) Diagnoses requiring more than average care time and/or special care;~~

~~(b) Skin problems receiving treatment;~~

~~(c) Unstable clinical conditions; and~~

~~(d) Skilled nursing needs)), as defined in WAC 388-72A-0082.~~

(3) Mood/behaviors ~~((the assessment data evaluated may include, but is not limited to the following:~~

~~(a) Assaulting care givers;~~

~~(b) Resisting care;~~

~~(c) Wandering; and~~

~~(d) Depression)) symptoms, as defined in WAC 388-72A-0083~~

(4) ~~((Activities of daily living (ADLs))~~ ADLs ~~(ADLs))~~ by scoring the amount of assistance ~~((the client needs))~~ received to perform ~~((ADLs))~~ ADL in the past seven days as defined in WAC 388-72A-0084.

(a) Understood—The client expresses ideas clearly;

(b) Usually understood—The client has difficulty finding the right words or finishing thoughts, resulting in delayed responses; or requires some prompting to make self understood.

(c) Sometimes understood—The client has limited ability, but is able;

(d) Rarely/never understood.

(4) Does the client have short-term memory problem, which is defined as client's capacity to remember recent events; or does the client have delayed recall?

(5) Does the client have total dependence for self performance in eating as defined in WAC 388-72A-0037?

NEW SECTION

WAC 388-72A-0081 How is cognitive performance measured in the CARE tool? The CARE tool uses a standardized tool called the cognitive performance scale (CPS) to evaluate a client's cognitive impairment. The CPS results in a score that ranges from zero (intact) to six (very severe impairment), as shown in Table 2 below. Answers to the following questions are used to determine a client's CPS score:

(1) Is the client comatose?

(a) No,

(b) Yes.

(2) What is the client's ability to make everyday decisions about tasks or activities of daily living in the seven days prior to the assessment?

(a) Independent—Decisions about the client's daily routine are consistent and organized; reflecting the client's lifestyle, choices, culture, and values.

(b) Modified Independence/difficulty in new situations—The client has an organized daily routine, was able to make decisions in familiar situations, but experienced some difficulty in decision making when faced with new tasks or situations.

(c) Moderately impaired/poor decisions; unaware of consequences—Decisions are poor and the client requires reminders, cues and supervision in planning, organizing and correcting daily routines. Client attempts to make decisions, although poorly.

(d) Severely impaired/no or few decisions or preferences regarding ADLs—Decision making severely impaired, never/rarely makes decisions.

(3) How is the client able to make himself/herself understood (to those closest to him/her), to express or communicate requests, needs, opinions, urgent problems and social conversations, whether in speech, writing, sign language, symbols, or a combination of these including use of a communication board or keyboard?

Condition	AND an ADL Score of
Pressure ulcers, areas of persistent skin redness OR Pressure ulcers, partial loss of skin layers OR Pressure ulcers, a full thickness lost OR Skin problem, skin desensitized to pain/pressure OR Skin problem, open lesions OR Skin problem, stasis ulcers	>=2
AND	
Receives ulcer care OR (Received) or (needs and received) or (need met) pressure relieving device OR (Receive) or (needs and received) or (need met) turning/reposition program OR Receives application of dressing OR Receives wound/skin care	
Quadriplegia	>14
Rheumatoid Arthritis	>14
Skin problem, burns AND Receives application of dressings OR Receives wound/skin care	>=2
Frequently incontinent, bladder OR Incontinent all or most of the time, bladder OR Frequently incontinent, bowel OR Incontinent all or most of the time, bowel AND Uses, has leakage, needs assistance OR Does not use, has leakage OR Any scheduled toileting plan	>10
Current swallowing problem and not independent in eating	>10
Edema	>14
Pain daily	>14
Bowel program receives and needs	>10

Condition	AND an ADL Score of
Dialysis, needs	>10
IV nutritional support, needs OR Tube feedings, needs AND Total calories received per IV or tube was greater than 50% OR Total calories per IV or tube was 25-50% AND Fluid intake greater than 2 cups	>=2
Hospice care, needs	>14
Injections, needs	>14
Intravenous medications, needs	>10
Management of IV lines, needs	>10
Ostomy care, needs	>=2
Oxygen therapy, needs	>10
Radiation, needs	>10
Range of motion, passive, receives and needs	>10
Walking, training, receives and needs	>10
Suction, needs	>=2
Tracheostomy care, needs	>10
Ventilator/respirator, needs	>10

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.

NEW SECTION

WAC 388-72A-0083 How are mood and behaviors measured within the CARE tool? (1) When you do not meet the criteria for clinical complexity as defined in WAC 388-72A-0082 or the criteria for exceptional care, as defined in WAC 388-72A-0085, or have a cognitive performance scale score of five or six (in-home only), as defined in WAC 388-72A-0082 the mood and behavior criteria listed in subsection (3) below determines your classification group.

(2) Each documented behavior within CARE is described as:

(a) Current which means it occurred within seven days of the assessment date, including the day of the assessment. Behaviors that are indicated as current must also include information about:

(i) Whether the behavior is easily altered or not easily altered; and

(ii) The frequency of the behavior.

(b) Past which means it occurred between eight days and five years of the assessment date. For behaviors indicated as past, the assessor determines whether the behavior is addressed with current interventions or whether no interventions are in place.

(3) CARE places you in the Mood and behavior classification group only if you have one or more of the following

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behavior/moods that meets the corresponding description in the status, frequency, and alterability column. No other moods or behaviors documented in CARE are pertinent to this group.

Behavior/Mood	AND Status, Frequency & Alterability
Assaultive	Current
Combative during personal care	Current
Combative during personal care	In past and addressed with current interventions
Crying tearfulness	Current, frequency 4 or more days per week
Delusions	In past, addressed with current interventions
Depression score >=14	
Disrobes in public	Current and not easily altered
Easily irritable/agitated	Current and not easily altered
Eats nonedible substances	Current
Eats nonedible substances	In past, addressed with current interventions
Hallucinations	Current
Hiding items	In past, addressed with current interventions
Hoarding/collecting	In past, addressed with current interventions
Mental health therapy/program	Need
Repetitive complaints/questions	Current, daily
Repetitive complaints/questions	In past, addressed with current interventions
Repetitive movement/pacing	Current, daily
Resistive to care	Current
Resistive to care	In past, addressed with current interventions
Sexual acting out	Current
Sexual acting out	In past, addressed with current interventions
Spitting	Current and not easily altered
Spitting	In past, addressed with current interventions
Breaks/throws items	Current
Unsafe smoking	Current and not easily altered
Up at night and requires intervention	Current

Behavior/Mood	AND Status, Frequency & Alterability
Wanders exit seeking	Current
Wanders exit seeking	In past, addressed with current interventions
Wanders not exit seeking	Current
Wanders not exit seeking	In past, addressed with current interventions
Yelling/screaming	Current, frequency 4 or more days per week

NEW SECTION

WAC 388-72A-0084 How are ADL scores measured within the CARE tool? CARE determines an ADL score ranging from zero to twenty-eight. The ADL scores are determined by looking at the self-performance coding for each of the ADLs listed below. Although assessed in CARE, bathing and medication management are not scored to determine the classification groups.

- (a) Personal hygiene,
- (b) Bed mobility,
- (c) Transfers,
- (d) Eating,
- (e) Toilet use,
- (f) Dressing,
- (g) Locomotion in room,
- (h) Locomotion outside room,
- (i) Walk in room.

(2) CARE assigns a points value as described in the chart below. Only one score is used for the locomotion in room, locomotion outside of room and walk in room. The highest score of the three is used in determining the overall ADL score.

If Self Performance is:	Score Equals
Independent	0
Supervision	1
Limited assistance	2
Extensive assistance	3
Total dependence	4
Did not occur/no provider	4
Did not occur/client not able	4
Did not occur/client declined	0

AMENDATORY SECTION (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

WAC 388-72A-0085 How does the CARE tool evaluate ~~((the criteria elements))~~ **for the two exceptional care classifications of in-home care?** ~~((The CARE tool evaluates the criteria elements for:~~

~~(1) Cognitive performance by using the cognitive performance scale (CPS) and assigning a score. The score assigns ranges from zero to six with six being very severely impaired;~~

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(2) ~~Clinical complexity by determining whether your medical conditions take more or less time and/or require special care;~~

(3) ~~Mood/behavior by determining whether your mood/behavior symptoms take more or less time;~~

(4) ~~ADLs by scoring the assistance needed to perform ADLs-)~~ Exceptional care classification groups for the in-home setting occur only when the following criteria are met in either of the diagrams below:

<u>Diagram 1 of Condition</u>	
<u>One of the following diagnoses:</u> <u>Quadriplegia</u> <u>Paraplegia</u> <u>ALS (Amyotrophic Lateral Sclerosis)</u> <u>Parkinson's Disease</u> <u>Multiple Sclerosis</u> <u>Comatose</u> <u>Muscular Dystrophy</u> <u>Cerebral Palsy</u> <u>Post Polio Syndrome</u> <u>TBI (traumatic brain injury)</u>	<u>AND</u>
<u>ADL score of greater than or equal to 22</u>	<u>AND</u>
<u>(Needs) or (needs and received) or (need met) Turning/repositioning program</u>	<u>AND</u>
<u>External catheter</u> <u>or</u> <u>Intermittent catheter</u> <u>or</u> <u>Indwelling catheter care</u> <u>or</u> <u>Bowel program</u> <u>or</u> <u>Ostomy care</u>	<u>AND</u>
<u>Needs active range of motion (AROM)</u> <u>or</u> <u>Needs passive range of motion (PROM) with provider code of:</u> <u>03= Individual provider or agency provider</u> <u>04= Self-directed care (individual provider only)</u> <u>10= Private duty nurse</u>	

<u>Diagram 2 of Condition</u>	
<u>ADL score greater than or equal to 22</u>	<u>AND</u>
<u>(Needs) or (needs and received) or (need met) Turning/repositioning program</u>	<u>AND</u>
<u>Need for AROM or need for PROM</u> <u>and</u> <u>Provider code of:</u> <u>03 = Individual provider or agency provider</u> <u>04 = Self-directed care (individual provider only)</u> <u>10 = Private duty nurse</u>	<u>AND</u>

<u>IV nutrition support or tube feeding</u> <u>and</u> <u>Total calories received per IV or tube was greater than 50%</u> <u>and</u> <u>Fluid intake greater than 2 cups</u>	<u>AND</u>
<u>Needs dialysis (with provider code of 03, 04, or 10</u> <u>or</u> <u>Needs ventilator/respirator (with provider code or 30, 04, or 10)</u>	

NEW SECTION

WAC 388-72A-0086 How is the information in WAC 388-72A-0081 through 388-72A-0084 used to determine the client's classification payment group for residential settings? The information in WAC 388-72A-0081 through 388-72A-0084 is used to place an applicant or recipient into one of the twelve residential classification groups, as shown in the table below.

<u>Classification</u>	<u>ADL Score</u>	<u>Group</u>
Group D Cognitive performance score = 4-6 and Clinically complex = yes and Mood/behavior = yes or no	ADL Score 18-28	D High (12)
	ADL Score 13-17	D Med (11)
	ADL Score 2-12	D Low (10)
Group C Cognitive performance score = 0-3 and Clinically complex = yes and Mood/behavior = yes or no	ADL Score 18-28	C High (9)
	ADL Score 9-17	C Med (8)
	ADL Score 2-8	C Low (7)
Group B Mood & behavior = Yes and Clinically complex = no and Cognitive performance score = 0-6	ADL Score 15-28	B High (6)
	ADL Score 5-14	B Med (5)
	ADL Score 0-4	B Low (4)
Group A Mood & behavior = No and Clinically complex = No and Cognitive performance score = 0-6	ADL Score 10-28	A High (3)
	ADL Score 5-9	A Med (2)
	ADL Score 0-4	A Low (1)

NEW SECTION

WAC 388-72A-0087 How is the information in WAC 388-72A-0081 through 388-72A-0085 used to determine the classification payment group for in-home clients? You are placed in a classification group based upon the criteria outlined in WAC 388-72A-0081 through 388-72A-0085.

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The in-home classification system is comprised of fourteen classification groups as shown in the table below.

Classification	ADL Score	Group	Base Hours of Group
Group E Exceptional care = yes and Mood and behavior = yes or no and Cognitive performance score = 0-6	ADL Score 26-28	E High (14)	420
	ADL Score 22-25	E Med (13)	350
Group D Cognitive performance score = 4-6 and Clinically complex = yes and Mood and behavior = yes or no OR Cognitive performance score = 5-6 and Clinically complex = no and Mood and behavior = yes or no	ADL Score 18-28	D High (12)	240
	ADL Score 13-17	D Med (11)	190
	ADL Score 2-12	D Low (10)	145
Group C Cognitive performance score = 0-3 and Clinically complex = yes and Mood and behavior = yes or no	ADL Score 18-28	C High (9)	180
	ADL Score 9-17	C Med (8)	140
	ADL Score 2-8	C Low (7)	83
Group B Mood and behavior = yes and Clinically complex = no and Cognitive performance score = 0-4	ADL Score 15-28	B High (6)	155
	ADL Score 5-14	B Med (5)	90
	ADL Score 0-4	B Low (4)	52
Group A Mood and behavior = no and Clinically complex = no and Cognitive performance score = 0-4	ADL Score 10-28	A High (3)	78
	ADL Score 5-9	A Med (2)	62
	ADL Score 0-4	A Low (1)	29

DETERMINING HOURS FOR IN-HOME SERVICES

AMENDATORY SECTION (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

WAC 388-72A-0090 What are the maximum hours that I can receive for in-home services? The maximum hours that you can receive for in-home services ((is)) are determined through the CARE tool. The maximum hours are

based upon your classification group. The highest hours attached to an in-home classification group is four hundred twenty per month. These hours are based on criteria outlined in WAC 388-72A-0095.

NEW SECTION

WAC 388-72A-0092 How are my in-home hours determined? (1) A base number of hours is assigned to each classification group as described in WAC 388-72A-0087.

(2) In accordance with WAC 388-72A-0095 and 388-71-0460, the base hours are adjusted to account for informal support, paid by individual(s) or group(s) other than the department and support shared living circumstances.

AMENDATORY SECTION (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

WAC 388-72A-0095 ((How are)) What additional criteria are considered to determine the number of hours I ((can)) will receive for in-home services ((determined))? (1) In addition to criteria defined in WAC ((388-72A-0075, 388-72A-0080, and 388-72A-0085)) 388-72A-0081, 388-72A-0082, 388-72A-0083, 388-72A-0084, 388-72A-0087, or 388-71-0460, CARE will take into account ((your):

(a) ((Assistance available to meet your needs. This is defined as:

- (i) Met;
- (ii) Unmet;
- (iii) Partially met.

~~NOTE: Home and community programs (HCP) services may not replace other available resources the department identified when completing CARE. The hours will be adjusted to account for tasks that are either fully or partially met by other available resources. These resources may be unpaid or paid for by other state or community sources.~~

- (b) Environment, such as whether you:
- (i) Have laundry facilities out of home; and/or
 - (ii) Use wood as a primary source of heat and/or;
 - (iii) The time it takes to access essential shopping services.

(c) Living arrangement. The department will adjust payments to a personal care provider who is doing household tasks at the same time (e.g., essential shopping, meal preparation, laundry, and wood supply) if:

- (i) There is more than one client living in the same household; or
- (ii) You and your paid provider live in the same household.

(2)) The amount of informal supports available to fully or partially meet your needs as described in WAC 388-72A-0041.

(i) As shown in the following table, CARE determines the adjustment by placing a numeric value on the amount of assistance available to meet your needs and reduces the base hours assigned to the classification group using the values listed below for each ADL and IADL.

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<u>Meds</u>	<u>Self Performance</u>	<u>Status</u>	<u>Assistance Available</u>	<u>Value Percentage</u>
<u>Self administration of medications</u>	Rules for all codes apply except independent is not counted	<u>Unmet</u>	N/A	1
		<u>Met</u>	N/A	0
		<u>Decline</u>	N/A	0
		<u>Partially met</u>	<1/4 time	.9
			1/4 to 1/2 time	.7
> 1/2 to 3/4 time	.5			
> 3/4 time	.3			
<u>Unscheduled ADLs</u>	<u>Self Performance</u>	<u>Status</u>	<u>Assistance Available</u>	<u>Value Percentage</u>
<u>Bed mobility, transfer, walk in room, eating, toilet use</u>	Rules apply for all codes except: Did not occur/client not able and Did not occur/no provider= 1; Did not occur/client declined and independent are not counted.	<u>Unmet</u>	N/A	1
		<u>Met</u>	N/A	0
		<u>Decline</u>	N/A	0
		<u>Partially met</u>	<1/4 time	.9
			1/4 to 1/2 time	.7
>1/2 to 3/4 time	.5			
>3/4 time	.3			
<u>Scheduled ADLs</u>	<u>Self Performance</u>	<u>Status</u>	<u>Assistance Available</u>	<u>Value Percentage</u>
<u>Dressing personal hygiene bathing</u>	Rules apply for all codes except: Did not occur/client not able and Did not occur/no provider= 1; Did not occur/client declined and independent are not counted.	<u>Unmet</u>	N/A	1
		<u>Met</u>	N/A	0
		<u>Decline</u>	N/A	0
		<u>Partially met</u>	<1/4 time	.75
			between 1/4 to 1/2 time	.55
between 1/2 to 3/4 time	.35			
> 3/4 time	.15			
<u>IADLs</u>	<u>Self Performance</u>	<u>Status</u>	<u>Assistance Available</u>	<u>Value Percentage</u>
<u>Meal preparation Ordinary housework Essential shopping</u>	Rules for all codes apply except independent is not counted.	<u>Unmet</u>	N/A	1
		<u>Met</u>	N/A	0
		<u>Decline</u>	N/A	0
		<u>Partially met</u>	< 1/4 time	.3
			between 1/4 to 1/2 time	.2
between 1/2 to 3/4 time	.1			
> 3/4 time	.05			

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(ii) The value percentage assigned to each specified ADL/IADL is summed and carried two decimal places. The resulting number is then divided by the number of qualifying ADL and IADL needs. If self-performance is coded as independent or did not occur/client declined then they are not qualifying ADLs and IADLs. The result is value A. Value A is then subtracted from one. This is value B. Value B is

divided by three. This is value C. Value A and value C are summed. This is value D. Value D is multiplied by the "base hours" assigned to the client's classification group in WAC 388-72A-0087.

(b) Your environment, as described in the diagrams below.

<u>Condition</u>	<u>Assessment</u>	<u>Status</u>	<u>Assistance Available</u>	<u>Ad On Hours</u>
<u>Offsite laundry facilities, which means the client does not have facilities in own home and the caregiver is not available to perform any other personal or household tasks while laundry is done.</u>	<u>Yes.</u>	<u>N/A</u>	<u>N/A</u>	<u>8</u>
<u>Client is > 45 minutes from essential services (which means he/she lives more than 45 minutes one-way from a full-service market.)</u>	<u>If yes, then the assistance available for this task is assessed by the response to essential shopping.</u>	<u>Unmet</u>	<u>N/A</u>	<u>5</u>
		<u>Met</u>	<u>N/A</u>	<u>0</u>
		<u>Partially met</u>	<u><1/4 time</u>	<u>5</u>
			<u>between 1/4 to 1/2 time</u>	<u>4</u>
			<u>between 1/2 to 3/4 time</u>	<u>2</u>
<u>>3/4 time</u>	<u>2</u>			
<u>Wood supply used as only source of heat.</u>	<u>Yes</u>	<u>Unmet</u>	<u>N/A</u>	<u>8</u>
		<u>Met</u>	<u>N/A</u>	<u>0</u>
		<u>Declines</u>	<u>N/A</u>	<u>0</u>
		<u>Partially met</u>	<u>< 1/4 time</u>	<u>8</u>
			<u>between 1/4 to 1/2 time</u>	<u>6</u>
			<u>between 1/2 to 3/4 time</u>	<u>41</u>
<u>> 3/4 time</u>	<u>2</u>			

(c) Your living arrangement.

(i) If there is more than one client living in the same household, the status cannot be unmet for the following IADLs:

- (A) Meal preparation.
- (B) Housekeeping.
- (C) Shopping.
- (D) Wood supply.

(ii) If you and your paid provider live in the same household, the status must be met for the following IADLs:

- (A) Meal preparation.
- (B) Housekeeping.
- (C) Shopping.
- (D) Wood supply.

(2) The ~~((CARE tool will provide a))~~ hours identified in WAC 388-72A-0095(1)(b) are added to the resulting hours in WAC 388-72A-0095(1)(a). The result is the maximum number of hours that can be used to develop your care plan. The assessor must take into account cost effectiveness, client health and safety, and program limits in determining how hours can be used to meet identified client needs.

(3) Within the limits of subsection (2) of this section, you and your case manager will work to determine what services you choose to receive if you are eligible. The hours may be used to authorize:

- (a) Personal care services (per WAC 388-72A-0055, 388-72A-0060, or 388-72A-0065);
- (b) Home delivered meals (per WAC 388-72A-0055);
- (c) Adult day care (per WAC 388-72A-0055 or 388-15-652);
- (d) ~~((Adult day health (per WAC 388-72A-0055 or 388-15-653);~~
- (e)) A home health aide (per WAC 388-72A-0055).

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

NEW SECTION

WAC 388-72A-0115 **When the department adjusts an algorithm, when does the adjustment become effective? When the department adjusts an algorithm used to evaluate the information gathered by the CARE tool, the effective date of any change generated by the adjustment(s) shall be:**

- (1) Immediate for applicants;**
- (2) The first of the month following the month in which the adjustment was made when the adjustment may reduce the care level or hours; or**
- (3) At the time of the client's yearly review when the adjustment may increase the care level or hours.**

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-72A-0040 What information does the assessor gather?
- WAC 388-72A-0075 What does the CARE computerized assessment tool do with the client information entered by department staff?

EMERGENCY

WSR 04-10-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-81—Filed April 22, 2004, 10:13 a.m., effective May 1, 2004,
 12:01 a.m.]

Date of Adoption: April 21, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-24-04000L; and amending WAC 220-24-040.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: A harvestable surplus of salmon is available for the troll fleet. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 1, 2004, 12:01 a.m.

April 21, 2004

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-24-04000L All-citizen commercial salmon troll. Notwithstanding the provisions of WAC 220-24-040, effective immediately until further notice it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided for in this section:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3 and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude open May 1 through June 30, 2004. The Cape Flattery and Columbia River Control Zones are closed.

(2) Minimum size for chinook salmon is 28 inches in length. No minimum size for pink, sockeye or chum salmon. It is unlawful to possess coho salmon.

(3) Lawful troll gear is restricted to all legal troll gear with single point, single shank barbless hooks.

(4) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section, and must land and deliver within the Salmon Management and Catch Reporting Areas 1, 2, 3 or 4.

(5) The Cape Flattery Control Zone is defined as the area from Cape Flattery (48°23'00" N latitude) to the northern boundary of the U.S. EEZ: and the area from Cape Flattery south to Cape Alava, 48°10'00" N latitude and west of 125°05'00" W longitude.

(6) Columbia Control Zone - An area at the Columbia River mouth, bounded on the west by a line running north-east/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" West. long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°14'48" N. lat., 124°05'20" W. long.) and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(7) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon, and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(8) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279 or faxing the information to (360) 902-2949 or E-mailing to trollfishtickets@dfw.wa.gov. Report the dealer name, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species. The total number for each species and the total weight for each species including halibut.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. July 1, 2004:

WAC 220-24-04000L All-citizen commercial
 salmon troll.

WSR 04-10-002
EMERGENCY RULES

ENVIRONMENTAL HEARINGS OFFICE

[Filed April 22, 2004, 10:30 a.m., effective April 30, 2004]

Date of Adoption: April 22, 2004.

Purpose: During the 2003 session, the legislature adopted ESSB 5776 creating the new Environmental and Land Use Hearings Board (ELUHB) in the Environmental Hearings Office (EHO). The statute requires that the EHO adopt implementing rules. This filing provides a set of emergency implementing rules pending final rule adoption.

Citation of Existing Rules Affected by this Order: These are new rules. No existing rules are affected.

Statutory Authority for Adoption: Chapter 43.21L RCW (ESSB 5776) and RCW 34.05.360.

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: During the 2003 session, the legislature adopted ESSB 5776 creating the new ELUHB in the EHO. The statute requires that the EHO adopt implementing rules. This filing provides a set of emergency implementing rules pending final rule adoption.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 49, 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 49, 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.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The ELUHB rules are procedural. Procedural rules are exempt from prenotice inquiry (CR-101). RCW 34.05.310 (4)(g)(i). The emergency rules took over six months to develop after consultation with stakeholder groups. It was thought probable to adopt those emergency rules, as permanent rules without change or further stakeholder negotiations. Shortly after the emergency rules were developed the membership of the EHO board changed. At the last EHO agency meeting it was decided to open up the section on record review to further stakeholder comment - thus changing the process and timing for permanent rule adoption. RCW 34.05.350(2). These circumstances constitute changed conditions necessitating rescission of the emergency rules.

Effective Date of Rule: April 30, 2004.

April 22, 2004
 Eric Z. Lucas
 Administrative Appeals Judge
 EHO Rules Coordinator

Chapter 199-08 WAC

**PRACTICE AND PROCEDURE—BEFORE THE
 ENVIRONMENTAL AND LAND USE HEARINGS
 BOARD**

**PART A
 GENERAL**

NEW SECTION

WAC 199-08-300 Purpose of this chapter and applicability of the board's rules of practice to the civil rules of procedure and the rules of evidence. (1) The purpose of chapter 199-08 WAC is to provide rules of practice before the environmental and land use hearings board (hereinafter "board"). The interpretation of these rules may be guided, where relevant, by the civil rules of superior court (hereinafter "civil rules") and the rules of evidence for the superior courts of the state of Washington, as those rules have been construed by Washington state courts.

(2) Except where in conflict with the board's rules, Washington statutes regarding pretrial procedures, civil rules and rules of evidence shall be followed in proceedings before the board unless the presiding officer determines that the evidence, although in conflict with the rules, is admissible pursuant to WAC 199-08-515.

(3) This chapter shall govern practice before the board. The rules in this chapter are consistent with the model rules of procedure issued by the office of administrative hearings, chapter 10-08 WAC except where specifically noted.

NEW SECTION

WAC 199-08-305 Definitions. As used in this chapter the following terms shall have the following meanings:

(1) "Agency" means any state or local governmental entity.

(2) "Adjudicative proceeding" means a proceeding involving an opportunity for hearing before the board as defined in chapter 34.05 RCW. The terms "appeal," "adjudicative proceeding" and "case" are used interchangeably in this chapter.

(3) "Board" means the environmental and land use hearings board, a quasi-judicial body created pursuant to chapter 43. RCW ESSB 5776 and described in WAC 199-08-315.

(4) "Filing" of a document means actual receipt by the board during regular office hours. Any document filed with the board shall contain an affirmation that copies were served on the appropriate agency, local government and parties. Filing by facsimile is permitted of documents ten pages or less if the original document is concurrently mailed or submitted to a commercial delivery service.

(5) "Final decision" means the highest and last decision available within the permit agency with respect to a permit application to the agency, including, but not limited to, decisions resulting from internal appeals available within the agency for the permit decision.

(6) "Local government" means any county, incorporated city or town, which has approved, denied or conditioned any

economic development project subject to ESSB 5776 and as further defined in subsection (9) of this section.

(7) "Participating permit agency" means any permit agency in which the applicant for a qualifying project has filed an application for an environmental or land use permit that is required for the qualifying project.

(8) "Party" means:

(a) A person to whom any local government or agency decision is specifically directed;

(b) A person named as a party to the appeal, or allowed to intervene or joined as a party by the board;

(c) Any participating permit agency.

(9) "Permit" means any license, permit, certificate, certification, approval, compliance schedule, or other similar document pertaining to any regulatory or management program related to the protection, conservation, use of, or interference with the land, air, or water in the state. This document must be required to be obtained from a state agency or local government, including, but not limited to, counties, cities, and air agencies, prior to constructing or operating a qualifying project. Local government permits include, but are not limited to, subdivisions, binding site plans, planned unit developments, shoreline permits or other approvals under RCW 90.58.140, master plan approvals, site plan approvals, permits or approvals required by critical area ordinances, conditional use permits, variances, and site-specific rezones authorized by a comprehensive plan or subarea plan or other equivalent documents however titled or denominated. Local government permits excluded under this definition include the adoption or amendment of a comprehensive plan, subarea plan, legislative actions or development regulations, certifications by local health districts of water and sewer availability, and building, grading, flood hazard, utility connection, and other nondiscretionary construction permits.

(10) "Permit agency" means any state agency or local government, including, but not limited to, air agencies, authorized by law to issue permits.

(11) "Person" means any individual, partnership, corporation, association, organization, governmental subdivision, agency or entity of any character.

(12) "Petition for review" is a document that when properly filed with the board initiates an adjudicative proceeding before the board.

(13) "Presiding officer" means any member of the board or an administrative appeals judge who is assigned to conduct a conference or hearing by the chairperson or the vice-chairperson.

(14) "Service" of a document means delivery of the document to the other parties to the appeal. Service may be made in any of the following ways:

(a) Personally, in accordance with the laws of the state, with a return of service or affidavit of service completed.

(b) First-class, registered or certified mail. Service is complete upon deposit in the United States mail properly stamped and addressed.

(c) Facsimile transmission with mailing or submission to a commercial delivery service of copies on the same day. Service by facsimile is regarded as complete by production of the confirmation of transmission and evidence of mailing or submission to a delivery service of the copies.

(d) Commercial delivery service. Service by commercial delivery service is regarded as complete upon delivery to the delivery company with charges prepaid.

(15) "Qualifying project" means an economic development project that is:

(a) Located within a county that in its entirety qualifies as a distressed area as defined in RCW 43.168.020(3), and a rural natural resources impact area as defined in RCW 43.160.020;

(b) Designed to provide at least thirty full-time year-round jobs; and

(c) Designated as a qualifying project by the office of permit assistance established under chapter 43.42 RCW if a request for a determination of such designation is made to the office by the project applicant as provided by law.

NEW SECTION

WAC 199-08-310 Computation of time. (1) In computing any period of time prescribed or allowed by these rules or applicable statute, the day of the act after which the designated period of time begins to run is not to be included. The time within which any act shall be done, as provided by these rules, shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or a legal holiday, and then it is excluded and the next succeeding day which is neither a Saturday, Sunday nor a legal holiday is included. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(2) This section also pertains to the period for filing with the board any petition for review, petition for declaratory ruling or any other adjudication which this chapter authorizes.

PART B

BOARD ADMINISTRATION AND JURISDICTION

NEW SECTION

WAC 199-08-315 Board membership, function and jurisdiction. (1) **Members.** An environmental and land use hearings board is established within the environmental hearings office created under RCW 43.21B.005. The environmental and land use hearings board shall be composed of six members, as provided in RCW 90.58.170. The chairperson of the pollution control hearings board shall be the chairperson of the environmental and land use hearings board. The members of the environmental and land use hearings board shall receive the compensation, travel, and subsistence expenses as provided in RCW 43.03.050 and 43.03.060.

(2) **Function and jurisdiction.** This board is a quasi-judicial body with powers of de novo review as authorized by chapter 43. __ RCW (ESSB 5776) to adjudicate or determine appeals from any person aggrieved by the granting, denying or rescinding of a permit issued pursuant to chapter 43. RCW (ESSB 5776);

(3) **Expedited review.** The board shall provide expedited review of petitions filed under this chapter. Any matter reviewed on the decision record must be set for hearing within sixty days of the date set for submitting the decision

record of all participating permit agencies, absent a showing of good cause for a different date or a stipulation of the parties. Any matter reviewed de novo must be set for hearing or trial no later than one hundred twenty days after the initial hearing date. The board shall issue a final decision and order within thirty days after the final hearing required in this section.

(4) **Administrative appeals judges.** The chairperson may appoint any member of the board or an administrative appeals judge from the environmental hearings office to be the presiding officer.

(5) This section is intended to be general and informational only and failure herein to list matters over which the board has jurisdiction shall not constitute a waiver or withdrawal of that jurisdiction.

NEW SECTION

WAC 199-08-320 Office hours, telephone number, telefacsimile number and address of the board. (1) The administrative business of the board, except rule making, is performed by the environmental hearings office. To the extent necessary for rule making, the appeals board holds regular meetings at 10:00 a.m. on the second Tuesday of each month at the address set forth below.

(2) The board is organized within the Environmental Hearings Office, 4224 6th Avenue S.E., Building No. 2 Rowe Six, Lacey, Washington. The mailing address is:

Environmental and Land Use Hearings Board
4224 6th Avenue S.E., Building No. 2, Rowe Six
P.O. Box 40903
Lacey, WA 98504-0903

(3) The telephone number of the board is 360-459-6327. The telefacsimile number is 360-438-7699.

(4) The office hours of the environmental hearings office are 8:00 a.m. to 5:00 p.m., Monday through Friday, except for legal holidays.

NEW SECTION

WAC 199-08-325 Public information about practice before the board and public records. (1) Questions about board procedures may be directed to the environmental hearings office by e-mail at eho@eho.wa.gov, by regular mail or, during regular office hours, by telephone or by telefacsimile. The board's website address is: www.eho.wa.gov.

(2) Case files of appeals pending before the board, past written opinions of the board and other public records maintained by the board under chapter 198-12 WAC are available for public inspection and copying during regular office hours at the environmental hearings office. The form for requests for public records is set forth in WAC 198-12-140. Any person seeking to make copies of such public records may copy the documents at the environmental hearings office for a reasonable charge per page.

PART C FILING AN APPEAL WITH THE BOARD AND SERVICE

NEW SECTION

WAC 199-08-335 Types of petitions before the board. The board is empowered to hear and decide the following:

Petitions for review of final decisions made by state agencies and local governments on permit applications for qualifying economic development projects.

NEW SECTION

WAC 199-08-340 Where to file a petition for review and number of copies. (1) Proceedings for review under this chapter shall be commenced by filing a petition with the environmental and land use hearings board. An adjudicative proceeding before the board shall be begun by filing a petition for review and one copy at the environmental hearings office. The board shall acknowledge filing of the petition for review by a stamp and the board's stamp on the petition shall be prima facie evidence of the date of filing. The board may thereafter require that additional copies be filed.

(2) Such petition is barred, and the board may not grant review, unless the petition is timely filed with the board and timely served on the following persons who shall be parties to the review of the petition:

(a) The participating permit agencies, which for purposes of the petition shall be:

(i) If a state agency, the director thereof; and

(ii) If a local government, the jurisdiction's corporate entity which shall be served as provided in RCW 4.28.080; and

(b) Each of the following persons if the person is not the petitioner:

(i) Each person identified by name and address as applicant in the application to the participating permit agencies;

(ii) Each person identified in project application documents as an owner of the property at issue or, if none, each person identified as a taxpayer for the property at issue in the records of the county assessor.

(3) The petition is timely if it is filed and served on all parties listed in subsection (2) of this section within twenty-one days of the issuance by the permit agency of the permit for the qualifying project.

(4) For the purposes of this section, the date on which a permit decision is issued is:

(a) Three days after a written decision is mailed by the permit agency to the project applicant or, if not mailed, the date on which the permit agency provides notice that a written decision is publicly available; or

(b) If (a) of this subsection does not apply, the date the decision is entered into the public record.

(5) Service on all parties shall be by personal service or by mail. Service by mail is effective on the date of mailing. Proof of service shall be by affidavit or declaration under penalty of perjury.

NEW SECTION

WAC 199-08-350 Contents of the petition for review. Petitions for review to the board pursuant to chapter 43. RCW (ESSB 5776) and shall contain:

(1) The name, mailing address, telephone number and telefacsimile number (if available) of the appealing party, and of the representative, if any;

(2) Identification of the parties, by listing in the caption or otherwise. In every case, the agency and/or the local government whose decision is being appealed and the person to whom the decision is directed shall be named as parties;

(3) A copy of the application form without attachments, which was filed with the local government pursuant to legal requirements;

(4) A copy of the decision or permit appealed from;

(5) A short and plain statement showing the grounds upon which the appealing party considers such decision or permit to be unjust or unlawful;

(6) A clear and concise statement upon which the appealing party relies to sustain his or her grounds for appeal;

(7) A clear and concise statement of fact demonstrating that the petitioner has standing to seek board review;

(8) A separate and concise statement of each error alleged to have been committed;

(9) The relief sought, including the specific nature and extent;

(10) The signature of the representative of the appealing party or of the appealing party. The signature of the representative or the appealing party shall constitute a certificate by the signatory that the signatory has read the petition and that it is consistent with civil rule 11;

(11) All pleadings shall be so construed as to do substantial justice.

PART D**APPEARANCE AND PRACTICE BEFORE THE BOARD**NEW SECTION

WAC 199-08-385 Persons who may appear before the board. (1) Any person has the right to represent himself or herself in a proceeding before the board.

(2) The only persons who are qualified to represent another person or entity before the board are the following:

(a) Attorneys at law duly qualified and entitled to practice before the highest court of record of any state.

(b) An authorized officer, partner, owner, employee or member of an association, partnership, corporation, organization, government agency or local government.

(c) Legal interns admitted to practice under the applicable admission to practice rules of the Washington state court rules as long as the conditions and limitations of the applicable rules are satisfied.

(d) Any other individual designated by an entity to serve as a spokesperson in a case with the approval of the board's presiding officer.

(3) When an active part, as a representative of a participating agency, was taken in the same case or proceeding by a former employee, said former employee of:

(a) Any participating agency; or

(b) A member of the legal staff of a local governmental agency; or

(c) The attorney general's staff, may not appear in a representative capacity on behalf of other parties in a formal board proceeding, except when permitted by applicable state conflict of interest laws.

(4) No former member of the board shall, for a period of one year after the termination of his or her membership, represent a party before the board on any matter.

NEW SECTION

WAC 199-08-390 Appearance by representative. (1) An attorney or authorized representative as defined in WAC 199-08-385 may appear for a party by either of the following actions:

(a) Filing a written notice of appearance, a petition for review or another pleading containing the name of the party to be represented, and the name, address and telephone number of the representative; or

(b) Entering an appearance at the time and place of a conference or hearing on the appeal, and notifying the presiding officer conducting the same of the party to be represented and the name, address and telephone number of the representative.

(2) Copies of every written notice of appearance or pleading that identifies the representative shall be served by the representative on all other parties or their representatives of record at the time the original is filed with the board.

(3) Where a petition for review has been filed with the board by the department of ecology or attorney general, the attorney general shall, unless the department or attorney general notifies the board otherwise, be deemed to have entered an appearance for the department, and the attorney general shall be exempt from the requirement of filing and serving a written notice of appearance.

(4) After a representative appears on behalf of a party, the board shall serve all future notices, orders and correspondence upon such representative. Service upon the representative shall constitute service upon the party, except for final orders, which shall be served on both the party and the representative.

(5) After a representative appears on behalf of a party, and gives notice to all other parties to the appeal, all future pleadings and correspondence shall be served upon that representative. Service upon the representative shall constitute service upon the party.

NEW SECTION

WAC 199-08-395 Withdrawal or substitution of representatives. An attorney or other representative withdrawing from a case shall immediately so notify the board and all parties of record in writing, or shall state such withdrawal for the record at a conference or hearing. Any substitution of an attorney or representative shall be accomplished by written notification to the board and to all parties of record, together with the written consent of the prior attorney or representative, and if such consent cannot be obtained, a written statement of the reason therefor shall be supplied.

NEW SECTION

WAC 199-08-400 Conduct before the board by representatives. All persons who are representing parties before the board shall conform to the standards of ethical conduct required of attorneys before the courts of Washington even if the representative is not an attorney. Representatives who, in the opinion of the presiding officer, violate those ethical standards may be reprimanded or sanctioned. Sanctions may include, among other measures, the imposition of costs and the exclusion of the representative from the proceedings. The board may, after notifying the representative and holding a hearing, take appropriate disciplinary action including, but not limited to, barring such person from representing another party in any future board proceedings.

NEW SECTION

WAC 199-08-405 Parties not represented by legal counsel—Waiver of rules to prevent manifest injustice. The presiding officer may waive any of these rules, other than a rule relating to jurisdiction, for any party not represented by legal counsel where necessary to avoid manifest injustice.

NEW SECTION

WAC 199-08-410 Presiding officer duties and powers. It shall be the duty of the presiding officer to conduct conferences or hearings in cases assigned in an impartial and orderly manner. The presiding officer shall have the authority, subject to the other provisions of these rules:

- (1) To administer oaths and affirmations.
- (2) To issue subpoenas and protective orders as provided in the Administrative Procedure Act.
- (3) To rule on all procedural matters, objections and motions.
- (4) To rule on all offers of proof and receive relevant evidence.
- (5) To question witnesses called by the parties in an impartial manner to develop any facts deemed necessary for a fair and adequate decision.
- (6) To secure and present in an impartial manner such evidence, in addition to that presented by the parties, as deemed necessary to decide the matter fairly and equitably.
- (7) To take appropriate disciplinary action with respect to representatives of parties appearing before the board.
- (8) To issue orders joining other parties, on motion of any party, or in the judgment of the presiding officer, when it appears that such other parties may have an interest in, or may be affected by, the proceedings.
- (9) To consolidate matters for hearing when such consolidation will expedite disposition of the matters and avoid duplication of testimony and when the rights of the parties will not be prejudiced thereby.
- (10) To hold prehearing and settlement conferences.
- (11) To permit and regulate the taking of discovery.
- (12) To regulate the course of the hearing.
- (13) To dismiss a petition for review or take other appropriate disciplinary actions, where a party or representative

fails to appear or participate in a prehearing conference, hearing or at any other stage of the appeal proceeding.

(14) To take any other action necessary and authorized by these rules and the law.

NEW SECTION

WAC 199-08-415 Mediation. The board may, on occasion, recommend that the parties to an appeal engage in mediation. One or more parties may also recommend to the other parties or the presiding officer that mediation occur. Subject to availability, an administrative appeals judge from the environmental hearings office may serve as the mediator for the board. In the event that the mediation proves unsuccessful and the case proceeds to hearing, any administrative appeals judge who served as a mediator will neither preside over the hearing nor have any contact with the board members regarding the case other than to inform them that the mediation did not result in a settlement.

NEW SECTION

WAC 199-08-420 Subpoenas. (1) **Issuance.** Subpoenas may be issued by any member of the board, the presiding officer assigned to the case or by the attorney of record, as provided in the Administrative Procedure Act. Each subpoena shall be subscribed with the signature of the issuing person. Parties desiring subpoenas to be signed by the presiding officer or a board member shall make a showing of general relevance and reasonable scope of the testimony or evidence sought, shall prepare the subpoenas for issuance, shall send them to the board's office for signature, and, upon return, shall make arrangements for service.

(2) **Form.** Every subpoena shall name the environmental and land use board and the title of the proceedings, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under that person's control at a specified time and place.

(3) **Service.** Service of subpoenas to a witness who is not party to the case shall be made by personally serving a copy of the subpoena to such person, in accordance with civil rule 45, and tendering on demand, where entitled to make such a demand, the fees for one day's attendance and the mileage allowed by law. All costs shall be paid by the party seeking the attendance of the witness.

(4) **Proof of service.** The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit or acknowledgment of service with the board or presiding officer of the case. Failure to make proof of service does not affect the validity of the service.

(5) **Quashing.** Upon motion made promptly (at or before the time specified in the subpoena for compliance) by the person subpoenaed and upon notice to the party for whom the subpoena was issued, the board or its presiding officer may:

- (a) Quash; or
- (b) Modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue; or
- (c) Condition denial of the motion upon just and reasonable conditions.

(6) **Geographical scope.** Attendance of witnesses and production of evidence may be required from any place in the state of Washington, at any designated place of hearing.

PART E PREHEARING PRACTICE

NEW SECTION

WAC 199-08-425 Dismissal of petitions for review on jurisdictional grounds. (1) Timely filing of the petition for review, and other petitions within the board's jurisdiction is required for the board to acquire jurisdiction.

(2) Any party may challenge the jurisdiction of the board to hear a petition for review on jurisdictional grounds, and the board may independently raise the jurisdictional issue. The board may, when satisfied that it does not have jurisdiction, dismiss the petition for review.

NEW SECTION

WAC 199-08-426 Certification of permit applications. (1) Within seven days after receipt of service of the petition filed pursuant to law, the project applicant shall file with the board and serve on all parties an affidavit certifying all applications for permits that the project applicant has filed with participating permit agencies for the qualifying project, provided, however, that no permit may be included that has been issued and appealed to an administrative hearings board or to court prior to the date of service of the petition filed with the board under this chapter. The board shall request verification from the participating agencies of the permit applications certified in the project applicant's affidavit and of the expected date for final decision on the permit applications. Filing of the affidavit shall toll the schedule for hearing by the board until twenty-one days after issuance of the final permit decision on the last permit required for the qualifying project that has been certified in the project applicant's affidavit and verified by a participating agency as applied for, unless the petition filed and served by the petitioner relates to the final permit decision.

NEW SECTION

WAC 199-08-427 Initial hearing, jurisdictional motions and case scheduling.

Initial hearing.

(1) Within seven days after the expiration of the appeal period for the final permit decision on the last permit required for the qualifying project, the petitioner shall note an initial hearing on jurisdictional and other preliminary matters, and, if applicable, on other pretrial matters. This initial hearing shall be set no sooner than thirty-five days and not later than fifty days after the expiration of the appeal period for the final permit.

(2) The parties shall note all motions on jurisdictional and procedural issues for resolution at the initial hearing, except that a motion to allow discovery may be brought sooner.

(3) The defenses of lack of standing, untimely filing or service of the petition, lack of good faith or improper purpose

in filing, and failure to join persons needed for just adjudication are waived if not raised by timely motion noted to be heard at the initial hearing, unless the board allows discovery on such issues.

(4) The parties may waive the initial hearing by scheduling with the board a date for the hearing or hearings on the merits and filing a stipulated order that resolves the jurisdictional and procedural issues raised by the petition, including the issues identified in subsections (3) and (5) of this section.

Case schedule order.

(5) The petitioner shall move the board for an order at the initial hearing that sets the date on which the permit decision record or records of the applicable permit agency or agencies, if any, must be submitted, sets a briefing schedule, sets a discovery schedule if discovery is to be allowed, and schedules a hearing or hearings on the merits.

NEW SECTION

WAC 199-08-428 Stays. (1) Any party may request the board to stay or suspend an action by a participating permit agency or another party to implement the decision under review. The request must set forth a statement of grounds for the stay and the factual basis for the request.

(2) The board may grant a stay only if the board finds that:

(a) The party requesting the stay is likely to prevail on the merits;

(b) Without the stay the party requesting it will suffer irreparable harm;

(c) The grant of a stay will not substantially harm other parties to the proceedings; and

(d) The request for the stay is timely in light of the circumstances of the case.

(3) The board may grant the request for a stay upon such terms and conditions, including the filing of security, as are necessary to prevent harm to other parties by the stay.

NEW SECTION

WAC 199-08-429 Discovery. The parties may not conduct pretrial discovery except with the prior permission of the board, which may be sought by motion, subject to any applicable rules adopted by the board and RCW 34.05.446(3), at any time after service of the petition. The party requesting discovery must make a prima facie showing of need. The board shall strictly limit discovery to what is necessary for equitable and timely review of the issues.

NEW SECTION

WAC 199-08-430 Correction or amendment of notice. (1) Within thirty days of receipt by the board, if any petition for review is found to be defective or insufficient, the board may require the party filing the petition for review to correct, clarify or amend the same to conform to the requirements of any relevant statutes and the board's rules. The board may refuse to schedule any conference or hearing thereon until compliance with such requirements, or may issue an appropriate order which may include providing for

dismissal of the petition upon failure to comply within a specified time.

(2) Other amendments and supplemental pleadings shall conform to civil rule 15.

NEW SECTION

WAC 199-08-435 Intervention. (1) The presiding officer may grant a petition for intervention by any person at any time, upon determining that the petitioner qualifies as an intervenor pursuant to civil rule 24, that the intervention will serve the interests of justice and that the prompt and orderly conduct of the appeal will not be impaired.

(2) The presiding officer may impose conditions upon the intervenor's participation in the proceedings.

NEW SECTION

WAC 199-08-440 Joinder of parties. The presiding officer shall order the joinder of the permittee, permitting agency or any other interested person or entity in accordance with civil rule 19. The presiding officer may also permit the joinder of persons who are not necessary to the determination of the appeal in accordance with civil rule 20.

NEW SECTION

WAC 199-08-445 Answers to petitions for review. (1) A party need not file an answer to a petition for review filed pursuant to these rules.

NEW SECTION

WAC 199-08-450 Initial hearing and case scheduling. (1) Upon receipt of petitioner's request for an initial hearing, which complies with the requirements of these regulations, the board shall promptly mail to each party a scheduling letter which sets the time and location of the initial hearing.

(2) In those cases where the presiding officer does not order a prehearing conference, the letter setting the initial hearing date and time will be mailed at least thirty-five days before the initial hearing date. The letter may also set the schedule for filing motions and prehearing briefs, and will notify the parties that an interpreter can be made available, upon reasonable notice to the board, for a witness or party who does not speak English or is hearing-impaired. The scheduling letter will control the subsequent proceedings, unless modified for good cause by the presiding officer.

(3) In cases where the presiding officer decides to hold a prehearing conference, the scheduling letter will also notify the parties of the time and location of the prehearing conference. The scheduling letter will be mailed at least seven days before the prehearing conference.

NEW SECTION

WAC 199-08-455 Prehearing conferences. (1) The purpose of a prehearing conference shall be:

(a) To determine the feasibility of a settlement of the appeal or, failing settlement;

(b) To prepare the case for hearing by scheduling prehearing deadlines and by identifying the issues, and if possible, witnesses, exhibits, stipulations, and admissions.

(2) Appearance by a party or by the party's representative at a prehearing conference is mandatory. If a party fails to attend a prehearing conference, that is not justified by good cause, the presiding officer may issue an order of default against the absent party or other appropriate action.

NEW SECTION

WAC 199-08-460 Case scheduling and prehearing orders. After an initial hearing or prehearing conference which has not resulted in settlement, the presiding officer shall enter a prehearing order. Normally, this will include a statement of issues, a schedule for filing motions and briefs, and lists of witnesses and exhibits or provide for filing such lists, as well as other matters which may bear on the preparation for hearing. The issues stated in the prehearing order shall control the subsequent course of the proceedings, unless modified for good cause by subsequent order.

NEW SECTION

WAC 199-08-465 Settlement and mediation agreements. (1) Where the parties settle an appeal before hearing, the parties shall prepare a written order of dismissal to which the settlement agreement is attached, and submit that order to the board. If the agreement is in accordance with the law, the board shall enter the order and dispose of the case.

(2) This section also pertains to settlement agreements reached after mediation.

NEW SECTION

WAC 199-08-470 Use of telephone conferences, motion hearings and hearings. Upon the motion of any party or independently, the presiding officer may decide to conduct any conference, motion hearing or hearing by telephone conference call to promote the fair, speedy and economical processing of a matter. If the presiding officer grants the party's request for a telephone conference, the requesting party shall initiate and pay for the conference call.

NEW SECTION

WAC 199-08-475 Motions. (1) An application to the board for an order shall be by motion which, unless made during a hearing, shall be in writing, state with particularity the grounds therefor and set forth the relief sought. Each written motion shall have appended to it the order which the motion seeks.

(2) For motions for continuance or for schedule changes, or other motions that are likely to be uncontested, the moving party shall affirmatively seek the stipulation of all parties and present a stipulated order wherever possible.

(3) If the motion is contested, any party may request that the board hold a motion hearing. At a motion hearing, the board will consider the arguments of the parties but will not take evidence. Unless a motion hearing is requested by one or more parties, or the board independently sets a motion

hearing date, the board will normally decide the motion exclusively on the parties' written submissions. The motion, proposed order and other relevant materials shall be filed and served. Where the hearing coordinator specifies that the hearing shall be telephonic, the moving party shall originate the telephonic hearing conference call. The presiding officer will decide whether or not a motion hearing will be held, and notify the parties accordingly.

(4) Unless a scheduling letter or order provides otherwise, the following schedule governs all written motions (including any supporting affidavits, memoranda of law, or other documentation):

(a) All responses to any motion shall be filed and served ten days from the date the motion is received. The moving party shall then have seven days from receipt of the response to file and serve a reply.

(b) In cases where the moving party requests a motion hearing, all dispositive motions shall be filed and served not later than twenty-eight days before the motion hearing.

(c) All dispositive motions shall be filed and served not later than two months before the hearing date, unless the presiding officer by order allows otherwise.

(d) In exigent or exceptional circumstances, a party may at any time request the board to modify the above schedules by requesting a scheduling conference (which may be telephonic) with the presiding officer.

(5) The board will decide a motion on the written record unless the presiding officer orders a motion hearing.

NEW SECTION

WAC 199-08-480 Postponements and continuances of hearings. (1) Postponement or continuance of a hearing is within the discretion of the presiding officer, whether contested or uncontested by the parties. The board may postpone or continue a hearing on its own motion.

(2) The postponement or continuance of a hearing shall be sought by written motion and according to the procedure set forth in WAC 199-08-475.

NEW SECTION

WAC 199-08-485 Dismissal, default or withdrawal of appeal. (1) If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties a default or other dispositive order which shall include a statement of the grounds for the order. Within seven days after service of a default or dismissal order for failure to attend or participate, the party against whom it was entered may file a written motion requesting that the order be vacated and stating the grounds relied upon.

(2) A petitioner may request to withdraw a petition for review. Requests before the petitioner rests its case-in-chief during the hearing are mandatory and afterwards are permissive.

PART F HEARINGS

NEW SECTION

WAC 199-08-490 Hearing briefs. Hearing briefs, if filed, should be submitted to the board at least seven days before the time of hearing or other such time as the board may prescribe. An original and six copies must be filed. In all cases where briefs are filed, a copy shall also be served on the other parties or their attorneys. The board may permit or require the filing of additional briefs.

NEW SECTION

WAC 199-08-495 Procedures at hearings. (1) **Presiding officer.** All hearings shall be conducted by a presiding officer who shall conduct the hearing in an orderly manner and rule on all procedural matters, objections and motions.

(2) **Testimony under oath.** Oaths shall be administered by the presiding officer or other officer with authority to administer oaths. All testimony to be considered by the board shall be sworn or affirmed.

(3) **Recording.**

(a) An official recording of all evidentiary hearings shall be made by manual, electronic, or other type of recording device.

(b) Unofficial use of photographic and recording equipment is permitted at hearings; however, the presiding officer shall be consulted first and may impose conditions on their use as necessary to prevent disruption of the hearing.

(4) **Order of presentation of evidence.**

(a) The presiding officer shall determine the proper order of presentation of evidence. As a general rule, the petitioning party shall initially introduce its evidence.

(b) The opposing party shall introduce its evidence after the petitioner has rested. Rebuttal and surrebuttal evidence will be received only at the discretion of the presiding officer.

(c) Witnesses may be called out of turn in contravention of this rule by agreement of all parties.

(5) **Opening statements.** Unless the presiding officer rules otherwise, parties shall present an oral opening statement setting out briefly a statement of the basic facts, disputes and issues of the case.

(6) **Written statement of qualifications of expert witnesses.** Any party who plans to introduce the testimony of any expert witness at the hearing shall submit as an exhibit to the board and all parties at the hearing a written statement of the qualifications, experience, and expertise of each such expert witness.

(7) **Former employee as an expert witness.** No former employee of a participating permit agency, its legal staff or legal representative, or the board or the attorney general shall at any time after leaving the employment with a participating permit agency appear, except when permitted by applicable state conflict of interest law, as an expert witness on behalf of other parties in a formal proceeding in which an active part in the investigation as a representative of the department or board was taken.

(8) **Objections and motions to strike.** Objections to the admission or exclusion of evidence shall be in short form, stating the legal grounds of objection relied upon, and the transcript shall not include extended argument or debate.

(9) **Rulings.** The presiding officer, on objection or independently, shall exclude all irrelevant or unduly repetitious evidence and all rulings upon objections to the admissibility of evidence shall be made in accordance with WAC 199-08-515 through 199-08-535.

NEW SECTION

WAC 199-08-500 Scope and standard of review. (1) Hearings upon petitions for review shall be quasi-judicial in nature. The scope and standard of review shall be as follows:

(2) For all permit decisions being reviewed that were made by quasi-judicial bodies or permit agency officers who made factual determinations in support of the decisions, after the conduct of proceedings in which the parties had an opportunity consistent with due process to make records on the factual issues, board review of factual issues and the conclusions drawn from the factual issues shall be confined to the records created by the quasi-judicial bodies or permit agency officers, except that:

(3) For decisions described in subsection (2) of this section, the records may be supplemented by additional evidence only if the additional evidence relates to:

(a) Grounds for disqualification of a member of the body or of the officer that made the permit decision, when such grounds were unknown by the petitioner at the time the record was created;

(b) Matters that were improperly excluded from the record after being offered by a party to a permit decision proceeding; or

(c) Matters that were outside the jurisdiction of the body or officer that made the permit decision.

(4) For permit decisions other than those described in subsection (2) of this section, the board review of the permit decision shall be de novo on issues presented as error in the petition.

(5) The board may require or permit corrections of ministerial errors or inadvertent omissions in the preparation of the record.

NEW SECTION

WAC 199-08-510 Provision of interpreters and of reasonable accommodations to individuals with special needs. (1) Whenever any person involved in an adjudicative proceeding before the board is eligible for an interpreter, as that eligibility is defined in WAC 10-08-150, or qualifies for reasonable accommodations as an individual with disabilities, that person shall request an interpreter or other reasonable accommodations from the presiding officer not later than three weeks before the date of the hearing, conference or other situation for which the interpreter or assistance is needed. The board shall comply with WAC 10-08-150 and 10-08-160(2) regarding the provision of interpreters.

(2) Information about proceedings before the board is available in alternate format upon request.

NEW SECTION

WAC 199-08-515 Rules of evidence—Admissibility criteria. (1) Evidence, including hearsay evidence, is admissible if in the judgment of the presiding officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. All relevant evidence is admissible which, in the opinion of the presiding officer, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the presiding officer shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in matters not involving trial by jury in the superior courts of the state of Washington.

(2) The presiding officer shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state.

NEW SECTION

WAC 199-08-520 Rules of evidence—Official notice—Matters of law. The board and its hearing officers, upon request made before or during a hearing, will officially notice:

(1) **Federal law.** The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register.

(2) **State law.** The Constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of Washington state courts and administrative agencies; executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

(3) **Governmental organization.** Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, the several states and foreign nations.

(4) **Agency organization.** Participating permit agency, commission or board organization, administration, officers, personnel, official publications, and practitioners before its bar.

NEW SECTION

WAC 199-08-525 Rules of evidence—Official notice—Material facts. (1) In the absence of controverting evidence, the board and its hearing officers, upon request made before or during a hearing, or in a proposed decision, may officially notice:

(a) **Board proceedings.** The pendency of, the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the board;

(b) **Business customs.** General customs and practices followed in the transaction of business;

(c) **Notorious facts.** Facts so generally and widely known to all well informed persons as not to be subject to rea-

sonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including, but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency;

(d) **Technical knowledge.** Matters within the technical knowledge of the board as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction.

(2) **Request or suggestion.** Any party may request, or the presiding officer may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision.

(3) **Statement.** Where an initial or final decision of the board rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the hearing officer may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence.

(4) **Controversion.** Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert, any party may controvert such fact by appropriate exceptions if such notice be taken in a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision.

(5) **Evaluation of evidence.** Nothing herein shall be construed to preclude the board or its authorized agents from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

NEW SECTION

WAC 199-08-535 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The officer conducting the hearing may, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered.

PART G

DECISIONS BY THE BOARD AFTER HEARING

NEW SECTION

WAC 199-08-540 Contents of the record. The record before the board in any adjudicative proceeding shall consist of the decision or order appealed from, the petition for review therefrom, responsive pleadings, if any, and notices of appearances, and any other written applications, motions, stipulations or requests duly filed by any party and written reports or orders of the presiding officer. Such record shall also include all depositions, if they are admitted at the hearing, the transcript of testimony as provided in WAC 199-08-545, and other proceedings at the hearing, together with all exhibits admitted.

NEW SECTION

WAC 199-08-545 Preparation of transcripts. (1) The board, in its discretion, may at any time cause a transcript to be printed, but will not normally do so.

(2) When the board does not cause a transcript to be printed, it shall be the obligation of the party wishing a transcript, or portions of it, to order the same from the board reporter and assume the printing costs.

NEW SECTION

WAC 199-08-550 Preparation of findings, conclusions and orders. Upon request of the board or presiding officer proposed findings, conclusions and orders shall be prepared by counsel and the same shall be based upon the board's oral or memorandum opinion. The board or presiding officer may adopt, in whole or in part, the proposed findings, conclusions and orders or the board may prepare its own findings, conclusions and orders.

NEW SECTION

WAC 199-08-555 Final decisions and orders. (1) Upon completion of the record and submission of the issues for decision and order, a written final decision and order concurred in by a majority of the board may be adopted which shall contain findings and conclusions as to each contested issue of fact and law: Provided, That in the event that the board considers the record and that four of the members cannot agree on a decision, the substantive decision under appeal will control. The board will formally adopt its final decision and order.

(2) Copies of the final decision and order shall be mailed by the board to each party to the petition for review and to the attorney or representative of record, if any.

NEW SECTION

WAC 199-08-565 Petitions for reconsideration. (1)(a) After issuance of a final decision, any party may file a petition for reconsideration with the board. Such petition must be filed within ten days of mailing of the final decision. The board may require an answer to the petition. Copies of the

petition for reconsideration, and an answer, if required, shall be served on the other parties of record.

(b) The filing of a petition for reconsideration does not stay the effectiveness of the final decision of the board.

(c) In response to a petition for reconsideration, the board may deny it, or may reverse or modify its decision or may reopen the hearing. The board is deemed to have denied the petition if, within twenty days from the date the petition is filed, the board does not act on the petition or specify a date by which it will act on the petition.

(2) The time for filing a petition for judicial review does not commence until disposition of any timely petition for reconsideration. However, the filing of a petition for reconsideration is not a prerequisite for seeking judicial review.

(3) Copies of the final decision and order and of the board's disposition of any petition for reconsideration shall be mailed by the board to each party to the appeal and to the attorney or representative of record.

PART H APPEALS FROM BOARD DECISIONS

NEW SECTION

WAC 199-08-570 Time for filing petitions for review to superior court and court of appeals. (1) Superior court review. In order to obtain judicial review of a final decision of the environmental and land use hearings board, a party to the board case as consolidated shall timely file a petition for judicial review in the superior court for Thurston County and timely serve the board and all parties to the proceedings before the board by personal service or by mail. Such petition is timely filed and served only if it is filed and served on all parties within thirty days after the filing of the final decision and order of the board. Service by mail shall be deemed effective on the date of deposit with the United States Postal Service.

(2) Direct review. Any party may apply for direct review by the court of appeals. An application for direct review must be filed with the superior court within ten days after the filing of the petition for judicial review. In considering an application for direct review under this chapter, it shall be presumed that:

(a) The qualifying project presents fundamental and urgent issues affecting the public interest which require a prompt determination; and

(b) Delay in obtaining a final and prompt determination of such issues would be detrimental to a party and the public interest.

NEW SECTION

WAC 199-08-580 Certification of record. Within thirty days of receipt of a copy of the petition for judicial review to the superior court or notice of acceptance of the certificate of appealability by the court of appeals, the board shall certify and transmit to the reviewing court the record made before the board. Additional time for certification and transmission of the record may be allowed by the reviewing court. Normally the record will not include a transcript of the

testimony. Unless the board has caused a transcript to be printed, arrangements for and costs of the written transcript shall be the obligation of the party seeking judicial review.

WSR 04-10-005 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 04-85—Filed April 22, 2004, 4:47 p.m., effective April 24, 2004, 12:01 a.m.]

Date of Adoption: April 22, 2004.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900Z and 232-28-61900B; 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: Closes the area from the I-5 Bridge upstream to Bonneville Dam. This modification to the mainstem sport fishery is necessary in order to stay within impact guidelines and continue the fishery as long as possible, in as much of the river as possible. This action is consistent with the preseason fishery plan. Conforms Washington and Oregon state rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: April 24, 2004, 12:01 a.m.

April 22, 2004

J. P. Koenings

Director

NEW SECTION

WAC 232-28-61900B Exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 232-28-619:

EMERGENCY

(1) Effective immediately 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 immediately 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) 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.

b) The Dalles Reservoir.

c) 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 immediately 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. April 24, 2004:

WAC 232-28-61900Z Exceptions to statewide rules—Columbia River. (04-80)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 16, 2004:

WAC 232-28-61900B Exceptions to statewide rules—Columbia River.

WSR 04-10-016

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed April 26, 2004, 4:10 p.m.]

Date of Adoption: April 20, 2004.

Purpose: The Division of Developmental Disabilities is continuing the emergency rules previously adopted as WSR 04-02-010 to implement the 2003-2005 state operating budget bill (section 205, chapter 25, Laws of 2003 1st sp.s.), in which the state legislature provided funds for residential habilitation centers (RHC) consolidation and downsizing at the Fircrest School. In the budget detail documents, the legislature stated its intent that: "The department shall consolidate vacancies across all residential habilitation centers (RHCs) in order to downsize Fircrest School."

Citation of Existing Rules Affected by this Order: Repealing WAC 388-835-0135; and amending WAC 388-835-0085, 388-835-0090, 388-835-0100, 388-835-0115, and 388-835-0140.

Statutory Authority for Adoption: Chapter 71A.20 RCW, RCW 71A.12.080, 71A.20.140.

Other Authority: Section 205, chapter 25, Laws of 2003 1st sp.s.

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: In the 2003-2005 state operating budget bill (section 205, chapter 25, Laws of 2003 1st sp.s.) the state legislature provided funds for RHC consolidation and downsizing at the Fircrest School. In the budget detail documents, the legislature stated its intent that: "The department shall consolidate vacancies across all residential habilitation centers (RHCs) in order to downsize Fircrest School." The department has determined that the process of downsizing of Fircrest School must begin immediately in order for the department to remain within its budget allocation. Emergency rules are needed to assure the safety and welfare of residents of Fircrest School as the department establishes procedures to transfer residents of the school to other facilities or care settings. The department has filed a notice of intent to adopt permanent rules as WSR 04-02-009. The permanent rules are being drafted, and will be shared with interested parties for informal comment prior to formal proposal.

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 5, Amended 5, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

EMERGENCY

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 5, Amended 5, Repealed 1.

Effective Date of Rule: Immediately.

April 20, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

Chapter 388-837 WAC

RESIDENTIAL HABILITATION CENTER (RHC) ICF/MR PROGRAM

NEW SECTION

WAC 388-837-9005 What is the purpose of this chapter? (1) The purpose of this chapter is to establish rules authorized by Title 71A RCW for RHC ICF/MR, developmental disabilities that:

(a) Regulate the purchase and provision of services in state operated intermediate care facility for the mentally retarded (ICF/MR); and

(b) Assure adequate ICF/MR care, service, and protection are provided through certification procedures; and

(c) Establish standards for providing habilitative training, health-related care, supervision, and residential services to eligible persons.

(2) Except where specifically referenced, this chapter supersedes and replaces any and all sections affecting ICF/MR facilities or programs contained in chapter 388-96 WAC.

NEW SECTION

WAC 388-837-9015 What does a transfer from one RHC to another RHC mean? A transfer means the discharge of a resident from the existing RHC and the admission to another RHC.

NEW SECTION

WAC 388-837-9020 Do residents have a right to a hearing when transferring from a residential habilitation center (RHC) to another RHC? Advance notice and planning does not include a right to a hearing for a resident when the department concludes that the facility where the resident resides cannot provide services due to:

- (1) Decertification of the RHC;
- (2) Revocation of the RHC's certification; or
- (3) An emergency suspension of the RHC's certification;
- (4) Partial closure of the RHC; or
- (5) Closure of the RHC.

NEW SECTION

WAC 388-837-9030 What rights are available to a resident regarding a proposed transfer from one RHC to another RHC? (1) A resident, their guardian, next-of-kin, or responsible party must be notified in writing at least thirty days before any transfer occurs.

(2) The transfer notice must include the reason for the proposed transfer.

(3) A resident, their guardian, next of kin, or responsible party has a right to an informal administrative review before the division director or designee.

NEW SECTION

WAC 388-837-9040 What rights are available to a resident regarding a proposed transfer from an RHC to the community, per RCW 71A.20.080? DSHS must send a hearing request form with the notice of transfer.

(1) If the resident requests a hearing within the thirty-day time period, DSHS must not transfer the resident until a hearing decision is reached or appeal rights have been exhausted unless the transfer is warranted by the resident's health or safety needs or the welfare of the other residents.

(2) If the secretary or the secretary's designee concludes that the transfer is not appropriate, no further action is to be taken to transfer unless there is a change in the situation or circumstances surrounding the transfer request. If there is a change in the situation or circumstances, the request may be resubmitted.

(3) If the secretary or the secretary's designee affirms the decision to transfer the resident and no judicial review is filed within thirty days of the receipt of notice of transfer, DSHS must proceed with the planned action.

(4) If the secretary or secretary's designee affirms the decision to transfer the resident and a request for judicial review has been filed, any proposed transfer must be delayed until the appeal process is complete unless a delay jeopardizes the resident's health or safety or the welfare of other residents.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

WAC 388-835-0085 Why is an individual transferred or discharged? An individual admitted to a facility can be transferred or discharged only for:

- (1) Medical reasons;
- (2) A change in the individual's habilitation needs;
- (3) The individual's welfare;
- (4) The welfare of other residents; ((or))
- (5) At the request of the resident or legal guardian;
- (6) Partial closure of the facility; or
- (7) Closure of the facility.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

WAC 388-835-0090 What is the basis of the decision to transfer or discharge an individual? The decision to transfer or discharge an individual must be based on:

- (1) An assessment of the resident in consultation with the service provider and the parent or guardian; and
- (2) A review of the relevant records; or
- (3) Partial closure of the facility; or
- (4) Closure of the facility.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

WAC 388-835-0100 Why would an individual move?

An individual may move if:

- (1) The services provided to an individual do not meet their needs;
- (2) A facility's ICF/MR certification or license is revoked or suspended;
- (3) Medical reasons dictate relocation;
- (4) A resident's welfare would be improved;
- (5) The welfare of the other residents would be enhanced;
- (6) There is no payment for services provided to the resident during their stay at the facility; ((~~or~~))
- (7) The resident and/or guardian make a formal request;
- (8) The facility is partially closing; or
- (9) The facility is closing.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

WAC 388-835-0115 Can a facility request that an individual be transferred? Facilities can request that a resident be transferred for the following reasons:

- (1) Medical reasons;
- (2) A change in the individual's habilitation needs;
- (3) The individual's welfare;
- (4) The welfare of the other residents; ((~~or~~))
- (5) Nonpayment for services provided to the resident during the resident's stay at the facility;
- (6) The facility is partially closing; or
- (7) The facility is closing.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

WAC 388-835-0140 Do residents always have a right to a hearing? Advance notice and planning does not include a right to a hearing for a resident when the department concludes that the facility where the resident resides cannot provide Title XIX services due to:

- (1) Termination of the facility's contract;
- (2) Decertification of the facility;
- (3) Nonrenewal of the facility's contract;
- (4) Revocation of the facility's license; ((~~or~~))
- (5) An emergency suspension of the facility's license;
- (6) Partial closure of the facility; or
- (7) Closure of the facility.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-835-0135

What are DSHS responsibilities when it decides to transfer a resident?

**WSR 04-10-025
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-86—Filed April 27, 2004, 12:04 p.m.]

Date of Adoption: April 26, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100P; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The 2004 state/tribal Strait of Juan de Fuca shrimp harvest management plan requires adoption of harvest seasons, harvest reporting areas, and the prohibition on night time fishing contained in this emergency rule. 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.

April 26, 2004

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-05100Q Puget Sound shrimp pot and beam trawl fishery—Season. Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Marine Fish-Shellfish Management and Catch and Reporting Areas 23C and 29, are open to harvest of all shrimp species from 6:00 a.m. May 1, 2004 until further notice.

(b) All waters of Shrimp Management Areas 1B, 1C, Crustacean Management Regions 2, 3, 4 and 6 are open to the harvest of all non-spot shrimp species from 6:00 a.m. May 1, 2004 until further notice, except as provided in this section:

i) In Marine Fish/Shellfish Management and Catch Reporting Area 22A, closed through June 15 in waters inside and bounded by a line projected from Blakely Marina on the northwest corner of Blakely Island to Upright Head on Lopez Island following the shoreline southerly on Lopez Island to intersect a line projected due west from Bald Bluff on Lopez Island.

ii) Marine Fish/Shellfish Management and Catch Reporting Area 25D (Port Townsend Bay) is closed south of the 48.06' North latitude line, north of the 48.04' North latitude line and east of the 122.46' west longitude line.

iii) Those waters defined in this section as 23A-E, 23A-W and 23A-C are closed.

(c) All waters of Shrimp Management Area 1A are closed to shrimp fishing until further notice, except that portion of Marine Fish/Shellfish Management and Catch Reporting Area 22A in San Juan Channel south the 48.30.50' North latitude line and north of a line from Cattle Pass to Davis Point is open to the harvest of all non-spot shrimp species from 6:00 a.m. May 1, 2004 until further notice.

(d) The shrimp accounting week is Monday through Sunday.

(e) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear in more than one Marine Fish-Shellfish Management and Catch Reporting Area per day. Fishers may move all of their shellfish pot gear from one Marine Fish-Shellfish Management and Catch Reporting Area to another Marine Fish-Shellfish Management and Catch Reporting Area if a harvest report is made before the shellfish pot gear is moved. The harvest activity report must be made consistent with the provisions of WAC 220-52-075 and must also include the following additional information.

(i) The number of pots being moved to a new area and the Marine Fish-Shellfish Management and Catch Reporting Area that the pots are being moved to.

(f) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Management and Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Management and Catch Reporting Area except shellfish pots may be set in a new fishing area subsequent to making a report as indicated in Section 1(e) above.

(g) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Marine Fish-Shellfish Catch and Reporting Area 23A is divided into four subareas: 23A-E (east) is those waters of Catch Area 23A north of a line projected 48.22.50' °N latitude east of a line projected 122.57°W longitude. 23A-W (west) is those waters of Catch Area 23A north of a line projected 48.22.50' °N latitude and west of a line projected 122.57°W longitude. 23A-C (central) is those

waters of Catch Area 23A south of a line projected 48.22.50' °N latitude and east of a line projected 335 degrees true from the Dungeness lighthouse. 23A-S (south) is those waters of Catch Area 23A west of a line projected 335 degrees true from the Dungeness lighthouse.

(2) Shrimp beam trawl gear:

Crustacean Management Region 3 outside of the shrimp districts is open immediately, until further notice.

(a) It is unlawful to set or pull shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

(3) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100P Puget Sound shrimp pot and beam trawl fishery—Season (04-73)

**WSR 04-10-027
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-88—Filed April 27, 2004, 3:15 p.m., effective May 1, 2004, 12:01 a.m.]

Date of Adoption: April 26, 2004.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-56-255.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Federal rules for halibut seasons have changed and this emergency rule is needed to have state regulations conform to federal regulations. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 1, 2004, 12:01 a.m.

April 26, 2004

J. P. Koenings

Director

NEW SECTION

WAC 220-56-25500K Halibut—Seasons—Daily and possession limits. Notwithstanding the provisions of WAC 220-56-255, it is unlawful to fish for or possess halibut taken for personal use except as provided for in this section:

(a) Catch Record Card Area 1: Open May 1 until further notice. Minimum size 32 inches in length.

(b) Catch Record Card Area 2:

(i) Those waters south of the Queets River, north of 47° and east of 124°40'W - Open May 2 until further notice.

(ii) All other open waters in Area 2 - Open May 2 until further notice - closed to fishing for halibut 12:01 a.m. of each Friday through 11:59 p.m. of each Saturday until 11:59 pm on June 30. Effective 12:01 a.m. on July 1, these waters will be open seven days per week.

(c) Catch Record Card Areas 3 and 4: Open May 11 until further notice - closed to fishing for halibut 12:01 a.m. of each Sunday through 11:59 p.m. of each Monday. The following area southwest of Cape Flattery is closed to halibut fishing at all times: Those waters within an eastward facing "C" shaped closed area defined as: Beginning at 48°18'N, 125°18'W, thence to 48°N18', 124°59'W, thence to 48°11'N, 124°59'W, thence to 48°11'N, 125°11'W, thence to 48°04'N, 125°11'W, thence to 48°04'N, 124°59'W, thence to 48°00'N, 124°59'W, thence to 48°00'N, 125°18'W, thence to the point of origin.

(d) Catch Record Card Area 5: May 27 through August 14 - Closed 12:01 a.m. Tuesday through 11:59 p.m. Wednesday of each week during the open period.

(e) Catch Record Card Areas 6-13: May 6 through July 24 - Closed 12:01 a.m. Tuesday through 11:59 p.m. Wednesday of each week during the open period.

(2) Daily limit one halibut. The daily limit in Area 1 is the first halibut over 32 inches in length brought aboard the vessel.

(3) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

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 04-10-028

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 04-90—Filed April 27, 2004, 3:18 p.m.]

Date of Adoption: April 27, 2004.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500M; and amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. The state recreational share of spot shrimp has been taken in Marine Area 10, and enough quota remains to reopen for one weekday in Marine Areas 8-1, 8-2 and 9. 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.

April 27, 2004

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-56-32500N Shrimp—Areas and Seasons. Notwithstanding the provisions of WAC 220-56-325:

1) Effective immediately, the following area shall be defined as a shrimp fishing district: Port Townsend Shrimp District - All waters of Port Townsend Bay south and west of a line from Marrowstone Point to Point Hudson (including Kilisut Harbor).

2) Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of the Port Townsend Shrimp District, except as provided for in this section:

(a) All waters of the Port Townsend Shrimp District south of a line from Kala Point to Walan Point are open to the harvest of all shrimp, except Spot shrimp.

(b) It is unlawful to possess spot shrimp and all spot shrimp must immediately be returned to the water unharmed.

3) Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Area 11.

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4) Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Area 10.

5) Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 8-1, 8-2 and Marine Area 9 outside of the Port Townsend Shrimp District, except as provided for in this section:

(a) Effective 5:00 a.m. through 9:00 p.m., Friday, May 14, 2004, open to the harvest of all shrimp harvest of all shrimp species.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-32500M Shrimp—Areas and seasons (04-83)

**WSR 04-10-034
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-87—Filed April 29, 2004, 11:17 a.m., effective May 1, 2004, 12:01 a.m.]

Date of Adoption: April 28, 2004.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-16-470, 220-56-100, 220-56-128, 220-56-180, 220-56-195, 232-12-619, 232-28-619, 232-28-620, and 232-28-621.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 9, 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: May 1, 2004, 12:01 a.m.

April 28, 2004

J. P. Koenings

Director

NEW SECTION

WAC 220-16-47000B Wild—2004 North of Falcon. Effective immediately until further notice:

(1) "Wild" when used to describe the difference between a hatchery salmon and a nonhatchery salmon means a fish with the adipose fin intact. A fish with a clipped adipose fin and having a healed scar at the site is not a wild fish.

(2) "Wild" when used to describe the difference between a hatchery trout or steelhead and a nonhatchery trout or steelhead means a fish with all fins intact. A fish with a clipped adipose fin or ventral fin and having a healed scar at the site is not a wild fish.

NEW SECTION

WAC 220-56-10000C Definitions—Personal-use fishing—2004 North of Falcon. Effective immediately until further notice, the following definition applies to personal use fishing in Titles 220 and 232 WAC:

(1) "Hatchery" when used to describe the difference between a hatchery salmon and a nonhatchery salmon means a fish with a clipped adipose fin and having a healed scar at the location of the fin.

(2) "Hatchery" when used to describe the difference between a hatchery trout or steelhead and a nonhatchery trout or steelhead means a fish with a clipped adipose fin or ventral fin and having a healed scar at the location of the fin.

NEW SECTION

WAC 220-56-12800H Food fish fishing—Closed areas—2004 North of Falcon. Notwithstanding the provisions of WAC 220-56-123, it is unlawful to violate the following provisions:

(1) Freshwater Bay: Effective July 1 until further notice, waters south of a line from Angeles Point westerly to Observatory Point are closed to food fish angling.

(2) Tulalip Bay: Effective May 1 until further notice, waters of Tulalip Bay east of a line from Hermosa Point to Mission Point are closed to food fish angling.

NEW SECTION

WAC 220-56-18000C Statewide salmon rules—2004 North of Falcon. Notwithstanding the provisions of WAC 232-28-620, in Marine Areas 1 through 4, chinook salmon must be not less than 26 inches in length, coho salmon must be not less than 16 inches in length, but there is no minimum size on other salmon.

NEW SECTION

WAC 220-56-19500M Closed saltwater salmon areas—2004 North of Falcon. Notwithstanding the provisions of WAC 220-56-195:

EMERGENCY

(1) **Kydaka Point:** effective July 1 until further notice, waters of Areas 4 and 5 southerly of a line from Kydaka Point to Shipwreck Point are closed to salmon angling.

(2) **Port Angeles Harbor:** effective July 1 until further notice, waters of Port Angeles Harbor west of a line from the tip of Ediz Hook to the ITT Rayonier Dock are closed to salmon angling.

NEW SECTION

WAC 232-12-61900V Permanent Washington statewide game fish rules—2004 North of Falcon. Notwithstanding the provisions of WAC 232-28-619, it is unlawful to violate the following provisions:

(1) **Freshwater Bay:** Effective July 1 until further notice, waters south of a line from Angeles Point westerly to Observatory Point are closed to game fish angling.

(2) **Tulalip Bay:** Effective May 1 until further notice, waters of Tulalip Bay east of a line from Hermosa Point to Mission Point are closed to game fish angling.

NEW SECTION

WAC 232-28-61900C Exceptions to statewide rules—2004 North of Falcon. Notwithstanding the provisions of WAC 232-28-619, it is unlawful to violate the following provisions, provided that unless otherwise amended all permanent rules remain in effect:

Baker River (Skagit County): Mouth to Highway 20 Bridge: Salmon: Open only July 1 through July 31, except closed from 12:01 a.m. July 6 through 2:00 p.m. July 7, and from 12:01 a.m. July 12 through 2:00 p.m. July 13. Daily limit 2 sockeye only.

Bogachiel River (Clallam County), from mouth to Olympic National Park boundary: Salmon: Open July 1 until further notice, from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult coho and unmarked adult chinook. Unmarked chinook are those chinook with intact adipose and ventral fins.

Calawah River (Clallam County), from mouth to forks: Salmon: Open July 1 until further notice, from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult coho and unmarked adult chinook. Unmarked chinook are those chinook with intact adipose and ventral fins.

Cedar River (King County): June 1 until further notice, selective gear rules for all species.

Dickey River (includes all forks) (Clallam County): Salmon: Open July 1 until further notice, from mouth to East Fork Dickey, outside Olympic National Park. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult coho and unmarked adult chinook. Unmarked chinook are those chinook with intact adipose and ventral fins.

Elwha River (Clallam County): From mouth to two hundred feet below the south spillway on the Aldwell Lake Dam: Open June 1 until further notice, except closed - mouth to

marker at outfall of rearing channel at about river mile 3.2. Trout: Minimum length fourteen inches.

Johns River, from mouth upstream, including North and South Forks (Grays Harbor County): Open June 1 until further notice. Single point barbless hooks required August 16 until further notice, from mouth to Ballon Creek. Trout: Minimum length fourteen inches.

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 from two hundred feet upstream of the Naselle Salmon Hatchery water supply intake barrier to four hundred feet downstream of the entrance to the Naselle Salmon Hatchery adult attraction channel.

Newaukum River, main river and South Fork upstream to Highway 508 Bridge near Kearny Creek (Lewis County): Open June 1 until further notice. Night closure and single point barbless hooks required August 16 until further notice from mouth to Leonard Road near Onalaska. Trout: Minimum length fourteen inches mouth to Highway 508 Bridge near Kearny Creek.

Nooksack River (Whatcom County), from mouth to forks, Middle Fork to Dam and North Fork to Nooksack Falls: Open June 1 until further notice except closed in mainstem from yellow marker at the FFA high school barn in Deming to confluence of the North and South Forks. Non-buoyant lure restriction and night closure August 1 until further notice on mainstem and North Fork to Maple Creek. Trout: Minimum length fourteen inches.

Puyallup River (Pierce County): Effective August 1 until further notice, from mouth to the Electron power plant outlet, it is unlawful to fish for salmon.

Quillayute River (Clallam County): Salmon: Open immediately until further notice. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult coho and unmarked adult chinook. Unmarked chinook are those chinook with intact adipose and ventral fins.

Skagit River (Skagit/Whatcom counties): From Gilligan Creek to Bacon Creek: Open June 1 until further notice, except closed June 1 through June 30 and August 1 until further notice 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.

Skokomish River (Mason County), mouth to forks: Open June 1 until further notice, except closed August 1 until further notice from mouth to Highway 101. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Effective August 1 until further notice, it is unlawful to fish for salmon.

Skykomish River (Snohomish County): Effective June 1 until further notice, from Lewis Street Bridge in Monroe to Wallace River, it is unlawful to fish for salmon.

Snohomish River (Snohomish County), including all channels, sloughs, and interconnected waterways, but

excluding all tributaries: Selective gear rules August 1 until further notice. Salmon: Open only August 1 until further notice. Daily limit 2 pink only.

Sol Duc River (Clallam County): Salmon: Open immediately until further notice from mouth to concrete pump station. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult coho and unmarked adult chinook. Unmarked chinook are those chinook with intact adipose and ventral fins.

NEW SECTION

WAC 232-28-62000P Coastal salmon seasons—2004 North of Falcon. Notwithstanding the provisions of WAC 232-28-620, effective May 1 until further notice, it is unlawful to fish for salmon in coastal waters during 2004 except as provided in this section, provided that unless otherwise amended all permanent rules remain in effect:

(1) **Area 1** - Open June 27 until further notice - Open Sunday through Thursday of each week, daily limit 2 salmon, not more than 1 of which may be a chinook, except release wild coho.

(2) **Areas 2, 2-1, and 2-2:**

(a) **Area 2** - Open June 27 until further notice, open Sunday through Thursday of each week, daily limit 2 salmon, not more than 1 of which may be a chinook, except release wild coho.

(b) **Area 2-1** - Open June 27 through August 15, open Sunday through Thursday of each week, daily limit 2 salmon, not more than 1 of which may be a chinook, except release wild coho. Open August 16 until further notice, daily limit 6 salmon, not more than two of which may be adult salmon.

(c) **Area 2-2 west of the Buoy 13 line** - Open June 27 until further notice, Sunday through Thursday of each week, daily limit 2 salmon, not more than 1 of which may be a chinook, except release wild coho.

(3) **Area 3** - Open June 27 until further notice - Daily limit 2 salmon, not more than one of which may be a chinook, except release wild coho.

(4) **Area 4:**

(a) Open June 27 until further notice - Daily limit 2 salmon not more than one of which may be a chinook, except release wild coho, release chinook east of the Bonilla-Tatoosh Line, and effective beginning August 1, release chum.

(i) Effective June 27 through July 31, lawful to retain chinook east of the Bonilla-Tatoosh Line and west of a true north-south line through Sail Rock.

(ii) Effective July 1 through July 31 closed to salmon angling east of a true north/south line through Sail Rock.

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

NEW SECTION

WAC 232-28-62100N Puget Sound salmon seasons—2004 North of Falcon. Effective May 1 until further notice, it is unlawful to fish for salmon in Puget Sound.

**WSR 04-10-036
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-93—Filed April 29, 2004, 11:25 a.m., effective May 1, 2004, 12:01 a.m.]

Date of Adoption: April 28, 2004.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900B and 232-28-61900D; 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: This closure of the mainstem Columbia River sport fishery in this area is necessary in order to stay within impact guidelines. 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: May 1, 2004, 12:01 a.m.

April 28, 2004

J. P. Koenings

Director

NEW SECTION

WAC 232-28-61900D Exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 232-28-619:

1. Effective immediately 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) 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.

b) The Dalles Reservoir.

c) 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.

2. Effective immediately 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:

WAC 232-28-61900B Exceptions to statewide rules—Columbia River. (04-85)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 16, 2004:

WAC 232-28-61900D Exceptions to statewide rules—Columbia River.

WSR 04-10-041
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-89—Filed April 29, 2004, 3:28 p.m.]

Date of Adoption: April 29, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-88C-030 and 220-88C-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: These rules were adopted on April 27, 2004, and are interim until permanent rules take effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

April 29, 2004

Evan Jacoby

for Jeff Koenings

Director

NEW SECTION

WAC 220-88C-03000D Eligibility to participate in the coastal pilchard fishery. Notwithstanding the provisions of WAC 220-88C-030:

(1) Beginning 2004, a coastal pilchard experimental fishery permit will be issued only to a person who:

(a) Held such a permit the previous year;

(b) Has purchased an emerging commercial fisheries license by April 1st; and

(c) Has no outstanding observer fees owed to the department.

(2) 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.

(3) If less than twenty permits are issued to persons who meet the permit renewal requirements specified in subsection (2) 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 can demonstrate by valid Washington fish receiving tickets that a minimum of forty metric tons (cumulative round weight) of pilchard were landed under the person's emerging commercial fishery license in 2000, 2001, and 2002, and who have submitted a completed replacement permit application to the Department by June 1, 2004.

(c) If more than twenty-five persons meet the criteria specified in (b) of this subsection, the replacement permits will be issued to the persons with the highest landings, in order, until twenty-five permits are issued.

(4) Coastal pilchard experimental fishery permits are only valid for the year issued

(5) Permit holders must designate a vessel to be used in the coastal pilchard emerging commercial fishery at least 48 hours before their first pilchard fishing trip of the season each year. Once designated, permit holders may not change vessel designation for the remainder of the season.

(6) A vessel can be designated only on one permit.

NEW SECTION

WAC 220-88C-04000D Coastal pilchard fishery—Seasons and lawful catch. (1) The coastal pilchard fishery season is open to purse seine fishing May 15 until further notice. 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. 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.

**WSR 04-10-042
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-92—Filed April 29, 2004, 3:30 p.m., effective May 1, 2004, 12:01 a.m.]

Date of Adoption: April 29, 2004.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25000G; and 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: Levels of dissolved oxygen are at very low levels in Hood Canal and are detrimental to fish health. An emergency order in February 2004 closed recreational fishing for bottomfish, other than lingcod in the canal. The permanent rules allow recreational fishing for lingcod in Hood Canal from May 1 through June 15. This emergency closure is needed to prevent additional stress mortality to the lingcod during the period of adverse water conditions. 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: May 1, 2004, 12:01 a.m.

April 29, 2004

Evan Jacoby

for Jeff Koenings

Director

NEW SECTION

WAC 220-56-25000G Lingcod—Areas and seasons. Notwithstanding the provisions of WAC 220-56-250, effective 12:01 a.m. May 1 through June 15, 2004, it is unlawful to fish for and possess lingcod for personal use in those waters of Marine Area 12.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. June 16, 2004:

WAC 220-56-25000G Lingcod—Areas and seasons.

**WSR 04-10-043
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-95—Filed April 29, 2004, 3:32 p.m.]

Date of Adoption: April 29, 2004.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25500K; and amending WAC 220-56-255.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Levels of dissolved oxygen in Area 12 (Hood Canal) are low and detrimental to fish health. Allowing angling for halibut would increase the possibility of bycatch of bottomfish in the halibut fishery. Current regulations prohibit retention of bottomfish in Hood Canal due to the adverse effects of the low dissolved oxygen. This rule is needed to conserve the bottomfish resources of Hood Canal. 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

EMERGENCY

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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.

April 29, 2004

Evan Jacoby

for Jeff Koenings

Director

NEW SECTION

WAC 220-56-25500L Halibut—Seasons—Daily and possession limits. Notwithstanding the provisions of WAC 220-56-255, it is unlawful to fish for or possess halibut taken for personal use except as provided for in this section:

(a) Catch Record Card Area 1: Open May 1 until further notice. Minimum size 32 inches in length.

(b) Catch Record Card Area 2:

(i) Those waters south of the Queets River, north of 47° and east of 124°40'W - Open May 2 until further notice.

(ii) All other open waters in Area 2 - Open May 2 until further notice - closed to fishing for halibut 12:01 a.m. of each Friday through 11:59 p.m. of each Saturday until 11:59 p.m. on June 30. Effective 12:01 a.m. on July 1, these waters will be open seven days per week.

(c) Catch Record Card Areas 3 and 4: Open May 11 until further notice - closed to fishing for halibut 12:01 a.m. of each Sunday through 11:59 p.m. of each Monday. The following area southwest of Cape Flattery is closed to halibut fishing at all times: Those waters within an eastward facing "C" shaped closed area defined as: Beginning at 48°18'N, 125°18'W, thence to 48°N18', 124°59'W, thence to 48°11'N, 124°59'W, thence to 48°11'N, 125°11'W, thence to 48°04'N, 125°11'W, thence to 48°04'N, 124°59'W, thence to 48°00'N, 124°59'W, thence to 48°00'N, 125°18'W, thence to the point of origin.

(d) Catch Record Card Area 5: May 27 through August 14 - Closed 12:01 a.m. Tuesday through 11:59 p.m. Wednesday of each week during the open period.

(e) Catch Record Card Areas 6-11 and Catch Record Card Area 13: May 6 through July 24 - Closed 12:01 a.m. Tuesday through 11:59 p.m. Wednesday of each week during the open period.

(f) Catch Record Card Area 12: Closed until further notice.

(2) Daily limit one halibut. The daily limit in Area 1 is the first halibut over 32 inches in length brought aboard the vessel.

(3) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-25500K Halibut—Seasons—Daily and possession limits.

WSR 04-10-061

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed April 30, 2004, 2:31 p.m., effective May 1, 2004]

Date of Adoption: April 27, 2004.

Purpose: Amend WAC 388-414-0001 Do I have to meet all eligibility requirements for Basic Food? The change to this rule is necessary to adopt federal requirements for the food stamp program related to income and resource eligibility for clients who are eligible for another department benefit or service.

Citation of Existing Rules Affected by this Order: Amending WAC 388-414-0001 Do I have to meet all eligibility requirements for Basic Food?

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Other Authority: 7 C.F.R. 273.2(j).

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 United States Department of Agriculture, Food and Nutrition Service (FNS) publishes regulations related to the food stamp program administered by DSHS under the Washington Basic Food program. In accordance with 7 C.F.R. 273.2(j), this rule change in this filing is necessary to extend categorical eligibility to Washington residents who meet the gross income test for the food stamp program. If the changes were not adopted, some income-eligible clients would be prevented from participating in the Basic Food program.

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.

April 27, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-07-139, filed 3/22/04, effective 5/1/04)

WAC 388-414-0001 Do I have to meet all eligibility requirements for Basic Food? (1) What is "categorical eligibility" (CE)?

(a) **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:

- (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.

(c) Your AU's income that we don't exclude under WAC 388-450-0015 is not over the maximum gross monthly income under WAC 388-478-0060. If your income is not over the gross monthly income limit, we provide your AU information about department programs and referral to resources in the community.

(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.

WSR 04-10-062

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed April 30, 2004, 2:33 p.m., effective May 1, 2004]

Date of Adoption: April 27, 2004.

Purpose: Amending chapters 388-71 WAC, Home and community services and programs; chapter 388-72A WAC, Comprehensive assessment reporting evaluation (CARE) tool; and adding a new section to chapter 388-515 WAC, Alternative living—Institutional medical, to establish the medically needy (MN) in-home waiver program. The department is adopting rules to establish eligibility criteria, applicable income standards, specific waiver services, and amending other sections as needed.

Citation of Existing Rules Affected by this Order: Amending WAC 388-71-0194, 388-71-0202, 388-71-0405, 388-71-0410, 388-71-0415, 388-71-0420, 388-71-0425, 388-71-0440, 388-71-0465, 388-71-0470, 388-71-0480, 388-71-0510, 388-71-05665, 388-71-0700, 388-71-0708, 388-71-0915, 388-71-0960, 388-71-1105, 388-72A-0060, 388-72A-0065, and 388-72A-0100.

Statutory Authority for Adoption: ESHB 2459, section 206 (6)(b), chapter 276, Laws of 2004; RCW 74.09.700, 74.09.575.

Other Authority: *Townsend v. DSHS*, United States District Court, Western District of Washington, No. C 00-0944Z.

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: Adoption of emergency rules are necessary to comply with ESHB 2459, section 206 (6)(b), chapter 276, Laws of 2004, and United States District Court, Western District of Washington, No. C 00-0944Z, stipulated agreement and order staying proceedings, requiring the implementation of an in-home medically needy Medicaid waiver program.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 21, 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 4, Amended 21, Repealed 0.

Effective Date of Rule: May 1, 2004.

April 27, 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 04-11 issue of the Register.

WSR 04-10-063
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-97—Filed April 30, 2004, 3:48 p.m., effective May 1, 2004, 12:01 a.m.]

Date of Adoption: April 30, 2004.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 1, 2004, 12:01 a.m.

April 30, 2004

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-28-61900E Exceptions to statewide rules—2004 North of Falcon Notwithstanding the provisions of WAC 232-28-619, it is unlawful to violate the following provisions:

Columbia River

1. **from Rocky Point - Tongue Point line to I-5:** Salmon: Open only May 16 through June 15, daily limit 6 hatchery chinook jacks.

2. **from Rocky Point - Toungue Point line to Priest Rapids Dam:** Salmon: Open only June 16 through July 31, daily limit 6 fish, of which no more than 2 may be adults. Release wild Chinook, and Sockeye.

3. **from Priest Rapids Dam to Wells Dam:** Salmon: Open only July 16 until further notice. Daily limit 6 fish, of which no more than 2 may be adults. Release Coho and Sockeye.

4. **from Wells Dam to Chief Joseph Dam:** Salmon: Open only July 16 until further notice, from Highway 173 bridge at Brewster to Highway 17 bridge at Bridgeport. Daily limit 6 fish, of which no more than 2 may be adults. Release Coho and Sockeye.

Cowlitz River (Cowlitz/Lewis County)

1. **from boundary markers at mouth to Mayfield Dam:** Salmon: Open only May 1 until further notice, daily limit 6 fish, of which no more than 2 may be adults. Release wild Coho, and Chum. Release wild Chinook through July 31.

2. **from posted PUD sign on Peters Road to mouth of Ohanepecosh River and mouth of Muddy Fork:** Salmon: Effective May 1 until further notice, salmon minimum size 12 inches.

Kalama River (Cowlitz County), 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 Modrow Bridge downstream to one thousand five hundred feet below the rack are closed waters.

Lewis River (Clark Co.), from boundary markers at mouth to mouth of the East Fork: Salmon: Open only May 1 until further notice, daily limit 6 fish, of which no more than 2 may be adults. Release wild Coho, and Chum. Release wild Chinook through July 31.

Lewis River, North Fork (Cowlitz Co.) from mouth to Colvin Creek:

1. All species: Effective May 1 until further notice, lawful to fish from a floating device.

2. Salmon: Open only May 1 until further notice, daily limit 6 fish, of which no more than 2 may be adults. Release wild Coho, and Chum. Release wild Chinook through July 31.

Lewis River, North Fork (Cowlitz Co.) from Colvin Creek to overhead powerlines below Merwin Dam: Salmon: Open only May 1 until further notice, daily limit 6 fish, of which no more than 2 may be adults. Release wild Coho, and Chum. Release wild Chinook through July 31.

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

WSR 04-10-064
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-96—Filed April 30, 2004, 3:51 p.m.]

Date of Adoption: April 30, 2004.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100S and 220-32-06000B; and amending WAC 220-32-051 and 220-32-060.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Sets initial treaty Indian spring season commercial fishery. Allows the sale of fish caught in platform and hook and line fishery to be sold. Allows the sale of fish caught in Yakama Nation tributary fisheries to be sold during open tributary fisheries. The fishery catches are expected to remain within the allocation and guidelines of the 2001 management agreement and will be consistent with the biological opinion. Rule is consistent with action of the Columbia River compact on April 29, 2004. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 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: Immediately.

April 30, 2004

J. P. Koenings

Director

NEW SECTION

WAC 220-32-05100S Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, and the Wind River, White Salmon River and the Klickitat River except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, shad, carp, or sturgeon under the following provisions, pursuant to lawfully enacted tribal rules:

1) Open Periods: 6:00 a.m. May 4 to 6:00 p.m. May 6, 2004

a) Open Areas: SMCRA 1F, 1G, 1H

b) Gear: Gillnets. No mesh restriction

2) Open Periods: 6:00 a.m. May 4 to 6:00 p.m. May 9, 2004

a) Open Areas: SMCRA 1F, 1G, 1H,

b) Gear: hoop nets, dip bag nets, and rod and reel with hook and line.

3) Open Periods: 6:00 a.m. April 24 to 6:00 p.m. May 8, 2004 only during lawfully enacted Yakama Nation tribal subsistence fisheries.

a) Open Areas: Klickitat River, Drano Lake, Wind River, White Salmon

b) Gear: hoop nets, dip bag nets, and rod and reel with hook and line. Gill nets may be used in Drano Lake.

4) Allowable sale includes: salmon, steelhead, walleye, shad, and carp. Sturgeon between 45 inches and 60 inches in length may be retained in the Bonneville Pool (SMCRA 1F) for subsistence purposes only. Sturgeon between 4 feet and 5 feet in length may be retained in The Dalles and John Day pools (SMCRA 1G, 1H) for subsistence purposes only. Commercial sales of platform and hook and line caught fish are allowed during commercial gillnet openings. Fish may also be sold from Washington tributaries during the open Yakama Nation fishing periods within those areas, as described in item #3.

5) There will be no sanctuary in effect at Spring Creek National Fish Hatchery.

6) 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.

7) 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.

NEW SECTION

WAC 220-32-06000B Columbia River off-reservation treaty Indian ceremonial fishing. Notwithstanding the provisions of WAC 220-32-060, effective 6:00 a.m. May 4, 2004 through May 31, 2004, it is lawful to engage in ceremonial fishing during any portion of a week within a commercial fishing season.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. May 9, 2004:

WAC 220-32-05100S Columbia River salmon seasons above Bonneville Dam.

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. May 31, 2004:

WAC 220-32-06000B Columbia River off-reservation treaty Indian ceremonial fishing.

WSR 04-10-070

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 04-99—Filed May 3, 2004, 4:33 p.m., effective May 5, 2004, 12:01 a.m.]

Date of Adoption: May 3, 2004.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000A; 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 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 Razor Clam Area 2 and those portions of Razor Clam Area 3 opened for harvest. Washington Department of Health has certified clams from these beaches to be safe for human consumption.

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: May 5, 2004, 12:01 a.m.

May 3, 2004

Evan Jacoby

for Jeff Koenings

Director

NEW SECTION

WAC 220-56-36000A 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 a.m. May 5, 2004 through 11:59 a.m. May 7, 2004, razor clam digging is allowed in Razor Clam Area 2. Digging is allowed from 12:01 a.m. to 11:59 a.m. each day only.

(2) Effective 12:01 a.m. May 5, 2004 through 11:59 a.m. May 7, 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 a.m. to 11:59 a.m. each day only.

(3) It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:00 noon May 7, 2004:

WAC 220-56-36000A Razor clams—Areas and seasons.

WSR 04-10-071

EMERGENCY RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed May 3, 2004, 4:45 p.m.]

Date of Adoption: May 2, 2004.

Purpose: To implement changes to the unemployment insurance program adopted by 2ESB 6097, passed by the 2003 legislature. The rules clarify issues related to job separations, job search requirements, penalties for failure to meet reporting requirements, the filing by employers of wage and tax reports, penalties for filing late or incomplete reports,

penalties to employers for willfully misrepresenting their payroll, benefit charging and conditions for relief of benefit charges.

Citation of Existing Rules Affected by this Order: [No information supplied by agency.]

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.12.042.

Other Authority: RCW 50.20.010.

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: 2ESB 6097 was signed by the governor on June 20, 2003. Most of the provisions related to the payment of unemployment insurance benefits, and a number of the provisions related to unemployment insurance taxes, took effect on January 4, 2004. The department has conducted several meetings with stakeholders and other interested parties, and has drafted proposed rules for filing in the near future. In the interim, emergency rules are necessary to provide guidance to employers, unemployment insurance claimants, and the general public of the department's interpretation of the changes to the statute.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 1, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 42, Amended 23, Repealed 26.

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 23, Repealed 26.

Effective Date of Rule: Immediately.

May 3, 2004

Dr. Sylvia P. Mundy
Commissioner

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 04-12 issue of the Register.

WSR 04-10-107

EMERGENCY RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed May 5, 2004, 9:55 a.m., effective May 12, 2004]

Date of Adoption: May 5, 2004.

Purpose: After the department adopted rules protecting flaggers in construction sites in January 2001, WISHA received requests from stakeholders to review the rules regu-

lating protection of construction workers on the construction sites. There have been six fatalities since 1999 that could have been prevented with rules that are more protective of construction workers. The rule is intended to reduce or eliminate the number of serious injuries and fatalities by increasing worker protection from vehicular traffic on construction sites.

Citation of Existing Rules Affected by this Order: Amending WAC 296-155-610 Motor vehicles.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

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

Reasons for this Finding: There have been six fatalities over the past five years that could have been prevented with this rule. The rule is intended to reduce or eliminate the number of serious injuries and fatalities while the department is conducting rule making on a permanent rule to protect workers from vehicular traffic on construction sites. An emergency rule is necessary to ensure protection of workers during the months of March through October, when construction work is being conducted with greater frequency.

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: May 12, 2004.

May 5, 2004

Paul Trause

Director

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-610 Motor vehicles. (1) Coverage. Motor vehicles as covered by this part include any vehicles that operate on a construction site. The requirements of this section do not apply to equipment for which rules are prescribed in WAC 296-155-615.

(2) General requirements.

(a) All vehicles shall have a service brake system, an emergency brake system, and a parking brake system. These systems may use common components, and shall be maintained in operable condition.

(b) Before leaving a motor vehicle unattended:

(i) The motor shall be stopped.

(ii) Parking brake engaged and wheels turned into curb or berm when parked on an incline.

(iii) When parking on an incline and there is no curb or berm, the wheels shall be chocked or otherwise secured.

(c)(i) Whenever visibility conditions warrant additional light, all vehicles, or combinations of vehicles, in use shall be equipped with at least two headlights and two taillights in operable condition.

(ii) All vehicles, or combination of vehicles, shall have brake lights in operable condition regardless of light conditions.

(d) All vehicles shall be equipped with an adequate audible warning device at the operator's station and in an operable condition.

(e) ~~(No employer shall allow the use of any motor vehicle equipment having an obstructed view to the rear unless:~~

~~(i) Vehicles other than passenger cars and pickups shall have an automatic reverse signal alarm audible above the surrounding noise level no less than fifteen feet from the rear of the vehicle or:~~

~~(ii) The vehicle is backed up only when an observer signals that it is safe to do so.~~

~~(f) Operating vehicles other than passenger cars and pickups, with an obstructed view to the rear.~~

Employers must prohibit the use of any motor vehicle equipment that has an obstructed view to the rear unless the vehicle meets one of the following:

• Has an operable automatic reverse signal alarm audible above the surrounding noise level and audible no less than fifteen feet from the rear of the vehicle;

OR

• Is backed up when an observer signals that it is safe to do so.

Reference: For requirements on operating dump trucks in reverse, see subsection (2)(f) of this section. Operating dump trucks in reverse.

Note: • If the surrounding noise level is so loud that reverse signal alarms are not effective, then an observer must be used.

• An observer can be any individual at the construction site, except a person performing the duties of a flagger.

• The observer must:

– Be in direct line-of-sight or able to communicate with the driver.

– Be able to see the entire backing zone.

– Continue to provide direction to the driver until:

■ The driver reaches the destination and stops;

OR

■ There are no longer employees in the backing zone and it is reasonable to expect that no employee(s) will enter the backing zone.

(f) Operating dump trucks in reverse.

Before backing a dump truck the driver must determine that no one is currently in the backing zone and it is reasonable to expect that no employee(s) will enter the backing zone while operating the dump truck in reverse.

If employee(s) are in the backing zone or it is reasonable to expect that an employee(s) will enter the backing zone, you must make sure the truck is backed up only when:

(i) The vehicle has an operable automatic reverse signal alarm:

- Audible above the surrounding noise level;

AND

• Audible no less than fifteen feet from the rear of the vehicle;

AND

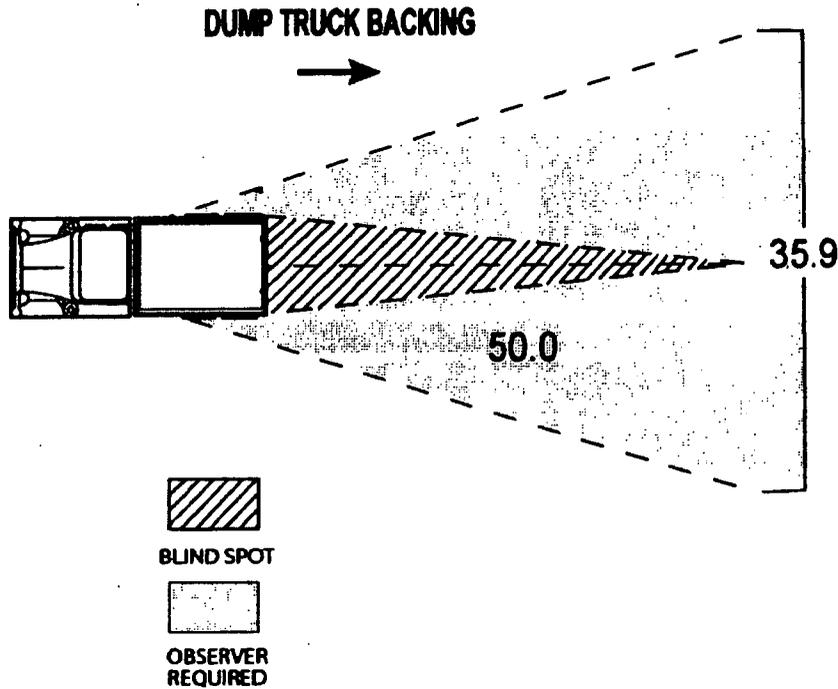
(ii) You must make sure that:

- An observer signals that it is safe to back;

OR

• An operable mechanical device that provides the driver a full view behind the dump truck.

Note: The following diagram defines the backing zone. Distances are reported in feet.



Exemption: • Employees are considered protected when they are on the opposite side of a fixed barrier such as:

- A jersey barrier;
- Heavy equipment (such as a paving machine);

OR

- A six-inch concrete curb.

Note: The term "dump trucks" includes both belly and rear dump trucks with a minimum pay load of four yards.

(g) All vehicles with cabs shall be equipped with windshields, powered wipers, and rear view mirrors. Cracked and broken glass shall be replaced. Vehicles operating in areas or under conditions that cause fogging or frosting of the windshields shall be equipped with operable defogging or defrosting devices.

((g)) (h) All haulage vehicles, whose pay load is loaded by means of cranes, power shovels, loaders, or similar equipment, shall have a cab shield and/or canopy adequate to protect the operator from shifting or falling materials.

((h)) (i) Tools and material shall be secured to prevent movement when transported in the same compartment with employees.

((i)) (j) Vehicles used to transport employees shall have seats firmly secured and adequate for the number of employees to be carried.

((j)) (k) Seat belts and anchorages meeting the requirements of 49 CFR Part 571 (Department of Transportation, Federal Motor Vehicle Safety Standards) shall be installed in all motor vehicles.

((k)) (l) Trucks with dump bodies or raiseable platforms, beds, or boxes shall be equipped with positive means of support, permanently attached, and capable of being locked in position to prevent accidental lowering of the body while maintenance or inspection work is being done.

((l)) (m) Operating levers, controlling hoisting or dumping devices on haulage bodies, shall be equipped with a latch or other device which will prevent accidental starting or tripping of the mechanism.

((m)) (n) Trip handles for tailgates of dump trucks shall be so arranged that, in dumping, the operator will be in the clear.

((n)) (o) All rubber-tired motor vehicle equipment manufactured on or after May 1, 1972, shall be equipped with fenders. All rubber-tired motor vehicle equipment manufactured before May 1, 1972, shall be equipped with fenders not later than October 1, 1974. Mud flaps may be used in lieu of fenders whenever motor vehicle equipment is not designed for fenders.

((o)) (p) All vehicles in use shall be checked at the beginning of each shift to assure that the following parts, equipment, and accessories are in safe operating condition and free of apparent damage that could cause failure while in use: Service brakes, including trailer brake connections; parking system (hand brake); emergency stopping system (brakes); tires; horn; steering mechanism; coupling devices;

seat belts; operating controls; and safety devices. All defects shall be corrected before the vehicle is placed in service. These requirements also apply to equipment such as lights, reflectors, windshield wipers, defrosters, fire extinguishers, steps and handholds for vehicle access, etc., where such equipment is necessary.

EMERGENCY

WSR 04-10-004**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF REVENUE**

[Filed April 22, 2004, 4:22 p.m.]

Subject of Possible Rule Making: WAC 458-20-263 Fuel cell, wind, landfill gas, and solar energy electric generating facilities sales and use tax exemption.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The statutes creating the alternative energy sales and use tax exemptions have been amended. These amendments added fuel cells as an additional qualifying source of electric energy and reduced the overall generating capacity threshold from 200 kilowatts to 200 watts. The rule needs to be amended to reflect the current statutory provisions.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Although the Washington Utilities and Transportation Commission and the Federal Energy Regulatory Commission regulate the related areas of generation, transmission, and sale of electricity generally, neither is involved in regulating the specific tax exemptions discussed in this rule.

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, e-mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary discussion draft of a possible new or revised rule(s) is available upon request. Written comments on and/or requests for copies of the draft may be directed to Gilbert Brewer, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6133, e-mail gilb@dor.wa.gov, fax (360) 664-0693.

Date and Location of Public Meeting: Capital Plaza Building, 4th Floor Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on June 8, 2004, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact April Thompson no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7500.

April 22, 2004

Alan R. Lynn

Rules Coordinator

Legislation and Policy Division

WSR 04-10-007**PREPROPOSAL STATEMENT OF INQUIRY
HORSE RACING COMMISSION**

[Filed April 23, 2004, 8:56 a.m.]

Subject of Possible Rule Making: WAC 260-32-200 When suspensions commence.

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: WAC 260-32-200 is not consistent with the period being provided licensees to appeal a stewards' ruling.

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.

April 22, 2004

R. M. Leichner

Executive Secretary

WSR 04-10-009**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed April 23, 2004, 8:58 a.m.]

Subject of Possible Rule Making: Pull-tabs.

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 ZDI Gaming, Inc., requesting a change in the way pull-tabs are authorized to be manufactured.

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 Neal Nunamaker, 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 May 14, 2004, at the Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000; on July 9, 2004, at the LaConner Maple Hall, 108 Commercial Street, LaConner, WA 98257, (360) 466-3101; and on August 13, 2004, at The Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662.

April 22, 2004

Susan Arland

Rules Coordinator

PREPROPOSAL

**WSR 04-10-010
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY**

[Filed April 23, 2004, 11:53 a.m.]

The Department of Ecology withdraws WSR 99-07-093, chapters 173-400, 173-405, 173-410, 173-433, and 173-434 WAC.

Jerry Thielen
Rules Coordinator

**WSR 04-10-011
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed April 23, 2004, 3:54 p.m.]

Subject of Possible Rule Making: Amending chapter 196-23 WAC, Stamping and seals and chapter 196-26A WAC, Registered engineers and land surveyors fees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.43.035.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendments to WAC 196-23-020 are necessary to address public agency review of engineering plans.

Amendments to chapter 196-26A WAC are necessary to make a reduction in fees charged to licensees. These adjustments are being made to assure revenue collections are consistent with expenditures and do not result in an overcollection.

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 Joe Vincent Jr., P.O. Box 9025, Olympia, WA 98507-9025, phone (360) 664-1567, fax (360) 664-2551, e-mail engineers@dol.wa.gov. Comments may be submitted through regular mail, phone, fax or e-mail. Draft language of rule amendments will be distributed to the board's list of interested persons.

April 23, 2004
George A. Twiss, PLS
Executive Director

**WSR 04-10-012
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

[Filed April 26, 2004, 9:56 a.m.]

This memo serves as notice that the department would like to withdraw the following notices of inquiry (CR-101) as listed in the table below:

WAC NUMBER	WSR NUMBER	WSR DATE	SUBJECT
246-930-330	99-14-001	6/23/1999	Minimum standards of treatment
246-930-010, 246-930-030, 246-930-040, 246-930-200, 246-930-410	00-08-099	4/5/2000	Definitions, professional experience, application, continuing education
246-930-050, 246-930-075, 246-930-310, 246-930-320	01-24-103	12/5/2001	Housekeeping

Individuals requiring information on these rules should contact Kitty Slater, Program Manager, Sex Offender Treatment Provider Program at (360) 236-4925.

Mary C. Selecky
Secretary

**WSR 04-10-015
PREPROPOSAL STATEMENT OF INQUIRY
HORSE RACING COMMISSION**

[Filed April 26, 2004, 4:08 p.m.]

Subject of Possible Rule Making: Chapter 260-88 WAC, Appeals to the commission.

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 intends to amend WAC 260-24-510 Stewards, to designate the stewards ruling conferences as the initial agency determination. WAC 260-88-010 will need to be amended to establish a process for applicants and licensees to challenge initial determination rather than appealing the stewards ruling.

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.

April 23, 2004
R. M. Leichner
Executive Secretary

WSR 04-10-023**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed April 27, 2004, 11:56 a.m.]

Subject of Possible Rule Making: Commercial catch reporting and accountability.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department will review commercial fish reporting by the state of Washington fish receiving ticket mechanism. Concerns have been raised over catch accounting, accommodation of existing industry practices, and enforceability.

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 Jim Lux, Business Services Program Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2444. Contact by June 17, 2004. Expected filing June 18, 2004.

April 27, 2004

Evan Jacoby

Rules Coordinator

WSR 04-10-024**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed April 27, 2004, 12:00 p.m.]

Subject of Possible Rule Making: Dealers fees for recreational licenses.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047, 77.32.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The 2004 legislature created new razor clam licenses, for which the dealer fees need to be set. Additionally a review will be made of existing dealer fees.

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 Jim Lux, Business Services Program Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2444. Contact by June 17, 2004. Expected filing June 18, 2004.

April 27, 2004

Evan Jacoby

Rules Coordinator

WSR 04-10-040**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed April 29, 2004, 3:26 p.m.]

Subject of Possible Rule Making: Recreational fishing rules.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department will review appropriate measures for the protection and management of fish resources, specifically including wild steelhead.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lew Atkins, Fish Program Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2651. Contact by June 17, 2004. Expected filing June 18, 2004.

April 29, 2004

Evan Jacoby

Rules Coordinator

WSR 04-10-044**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed April 30, 2004, 9:26 a.m.]

Subject of Possible Rule Making: (1) Workers' compensation employer, worker, and health care provider fraud and abuse following the enactment of chapter 243, Laws of 2004 (ESHB 3188). Possible rules include those elaborating (a) liability of general construction contractors for workers' compensation premiums owed by their subcontractors; (b) liability of individuals for the unpaid workers' compensation premiums of a dissolved company's workers' compensation premiums; (c) when a person or entity is a successor to an employer who owes workers' compensation premiums, (d) defining terms necessary to implement to "willful misrepresentation by a workers' compensation claimant or beneficiary that could result in penalties"; and (e) when liens would be imposed on health care providers that have not repaid an overpayment after a final order;

(2) Immediate suspensions of health care providers following the enactment of chapter 259, Laws of 2004 (SSB 6428); and

(3) The department may also update rules regarding employer audits and recordkeeping and how premiums are estimated when employers fail to maintain adequate records or cooperate with department auditors.

The department may promulgate rules implementing the two statutes separately, but every effort will be made to coor-

dinate the hearings and comment periods to facilitate participation by those affected.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Rules implementing chapter 243, Laws of 2004 (ESHB 3188) are authorized by section 10 of the act; rules implementing chapter 259, Laws of 2004 (SSB 6428) are authorized by RCW 51.04.030(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule making would assist in the implementation of ESHB 3188 and SSB 6428 passed by the legislature in the 2004 session.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Board of Industrial Insurance Appeals (BIIA), while the BIIA does not "regulate this subject" it reviews L&I's decision upon appeal. L&I will keep the BIIA informed of the rule-making developments.

Department of Health (DOH) licensing and disciplinary boards. L&I will keep DOH informed of rule-making developments related to provider immediate suspensions.

Process for Developing New Rule: Parties interested in participating in the development of these rules may contact the person listed below. The public may also participate by providing written comments during the comment period or giving oral testimony at public hearings.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Doric Olson, Department of Labor and Industries, Insurance Services Division, P.O. Box 44100, Olympia, WA 98504-4100, e-mail OLSD235@LNI.wa.gov, phone (360) 902-6639, fax (360) 902-4940.

April 30, 2004
Paul Trause
Director

WSR 04-10-047

PREPROPOSAL STATEMENT OF INQUIRY HORSE RACING COMMISSION

[Filed April 30, 2004, 11:18 a.m.]

Subject of Possible Rule Making: WAC 260-14-050 Ownership interest in race horses.

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 is considering prohibiting a commissioner or employee of the commission from having any ownership interest in any race horse running in any race meet under the jurisdiction of the commission.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Robert M. Leichner, Executive Secretary, Washington Horse Racing Commission, 6326 Martin

Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462, fax (360) 459-6461.

April 29, 2004
R. M. Leichner
Executive Secretary

WSR 04-10-048

PREPROPOSAL STATEMENT OF INQUIRY HORSE RACING COMMISSION

[Filed April 30, 2004, 11:19 a.m.]

Subject of Possible Rule Making: Chapter 260-48 WAC, Mutuels—Common pools.

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 is considering amending WAC 260-48-700, 260-48-710 and 260-48-720, to comply with model rule language and to establish a process, if at the close of wagering a guest racetrack's wagers cannot be successfully merged in the multijurisdictional common pool via data circuit or manual merge, to refund or pay winning wagers.

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.

April 29, 2004
R. M. Leichner
Executive Secretary

WSR 04-10-049

PREPROPOSAL STATEMENT OF INQUIRY HORSE RACING COMMISSION

[Filed April 30, 2004, 11:20 a.m.]

Subject of Possible Rule Making: Chapter 260-75 WAC, Satellite locations.

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: To eliminate the requirement in WAC 260-75-030(3) that a commission official review the log of cash balances, including conducting a physical count of the cash, and to specify where appropriate in chapter 260-75 WAC that the reference to a racing association means a class 1 racing association.

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.

April 29, 2004

R. M. Leichner
Executive Secretary

WSR 04-10-054

PREPROPOSAL STATEMENT OF INQUIRY WASHINGTON STATE PATROL

[Filed April 30, 2004, 2:12 p.m.]

Subject of Possible Rule Making: Chapter 204-91A WAC, Towing businesses.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.37.005.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To update and clarify the WAC. The anticipated effect of the amendments to chapter 204-91A WAC are to clarify procedures for inspections; applying for a letter of appointment; issuance of a letter of appointment; suspension or revocation of a letter of appointment; hearing procedures; business hours; handling personal property; fees; tow truck equipment standards; and to make some necessary changes in the wording.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Licensing.

Process for Developing New Rule: Worked with the towing industry and WSP inspectors to update the current WAC to reflect how the towing industry has changed and further define expectations of the industry.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Washington State Patrol Equipment and Standards Review, P.O. Box 42614, Olympia, WA 98504-2614, christine.fox@wsp.wa.gov, (360) 753-3697, fax (360) 586-8233.

April 30, 2004

Lowell Porter
Chief

WSR 04-10-066

PREPROPOSAL STATEMENT OF INQUIRY SECRETARY OF STATE

[Filed May 3, 2004, 8:42 a.m.]

Subject of Possible Rule Making: Electronic voting requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 29.33.041.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The changing technology of voting systems requires a more detailed approach to the certification process. These rules will define the process clearly.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The federal Election Commission, and now the Election Administration Commission, set standards by which voting systems are tested at designated independent testing authorities. These standards are changing as the technology changes. Washington state requires that any voting system be tested at the federal level before it is certified in this state. These rules bring the state's standards more in line with the changing federal standards.

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 Pamela Floyd or Paul Miller, P.O. Box 40237, Olympia, WA 98504-0237, phone (360) 586-0400, fax (360) 664-2971.

May 3, 2004

Steve Excel
Assistant Secretary of State

WSR 04-10-069

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF FISH AND WILDLIFE

[Filed May 3, 2004, 4:31 p.m.]

Subject of Possible Rule Making: Rules regulating commercial fishing for herring.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current rules regarding the reporting of herring catches are inadequate and need revision. Recent investigations have indicated that the current rules do not provide accurate accounting of the herring catch. Changes in the rules will be proposed which would strengthen reporting requirements for herring fisheries in Washington waters.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lew Atkins, Fish Program Assistant

Director, 600 Capitol Way North, Olympia, WA 98501-1091. Contact by June 17, 2004. Expected proposal filing June 18, 2004.

May 3, 2004
Evan Jacoby
Rules Coordinator

WSR 04-10-080

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed May 4, 2004, 12:19 p.m.]

Subject of Possible Rule Making: Recreational hunting rules.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Current rules are confusing and may not be consistent with state authority.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Indian tribes on their respective reservations. The tribes will be involved in the rule making.

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 Phil Anderson, Intergovernmental Resource Management Program, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2720. Contact by June 17, 2004. Rule proposal filing expected to be June 18, 2004.

May 4, 2004
Evan Jacoby
Rules Coordinator

WSR 04-10-081

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed May 4, 2004, 12:22 p.m.]

Subject of Possible Rule Making: Public safety cougar hunting and public safety cougar removal rules. Cougar and bear seasons, permits, and damage; furbearer trapping seasons; waterfowl seasons, regulations, decoys, game reserves/closures; nontoxic shot; game management units; small game seasons and regulations. Clarification to language for protected wildlife.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.020, 77.12.047, and chapter 264, Laws of 2004.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The 2004 legislature enacted a pilot program for cougar control and instructed the commission to adopt rules allowing the pursuit and killing of cougars with the use of dogs. The department will additionally

review current public safety cougar removal rules. Provides clarification recreational opportunity.

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 Dave Brittell, Wildlife Program Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2504. Contact by June 17, 2004. Expected filing June 18, 2004.

April 29, 2004
Evan Jacoby
Rules Coordinator

WSR 04-10-082

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed May 4, 2004, 12:24 p.m.]

Subject of Possible Rule Making: Oiled wildlife care standards: Rehabilitation requirements for birds.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 90.56.110 and 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The success of oiled bird rehabilitation activities is dependent on the standards of care provided. Some of the key elements critical to successful rehabilitation include the availability of adequate quantities and qualities of water, space, air, and specialized supplies. For oiled bird rehabilitation operations to be most successful, these critical components must be available in a timely manner and in quantities commensurate with the numbers of birds oiled. Rules reflecting the necessary thresholds of these critical components are needed. Standards developed in rule that are based on the best available science will provide the guidance necessary to ensure a significantly greater level of success when engaging in oiled bird rehabilitation activities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington Department of Ecology (DOE) is responsible for the state's "Oil and Hazardous Substance Spill Prevention and Response Program," per chapter 90.56 RCW. This statute does not stipulate specific requirements for oiled bird rehabilitation, but the Department of Ecology's contingency plan rules require contingency plan holders to meet the requirements of rules that may be adopted by the Washington Department of Fish and Wildlife (WDFW).

The USFWS has authority to issue federal permits for the rehabilitation of birds, and special permits for taking and rehabilitating oiled birds. The WDFW has included the DOE and the USFWS as stakeholders in this rule-making process.

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. Interested parties can participate in the decision to

adopt the new rule and during the formulation of the proposed rule. WDFW will solicit input by holding a public meeting, a public hearing, and by use of e-mail, voicemail, or other avenues of information dissemination. Three stakeholder workshops have been held prior to the filing of this CR-101. WDFW will be following the standard rule-making process as required by the Administrative Procedure Act and the Regulatory Fairness Act. WDFW is actively soliciting science-based information which will refute or support proposed bird rehabilitation care standards and will review all information received when developing these standards.

For more information contact Eric Larsen, Oil Spill Section Manager, Washington Department of Fish and Wildlife, Habitat Program, 600 Capitol Way North, Olympia, WA 98501, phone (360) 902-8123, fax (360) 902-8126, lar-seeml@dfw.wa.gov. Expected proposal filing June 18, 2004.

May 4, 2004
Evan Jacoby
Rules Coordinator

WSR 04-10-086

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed May 4, 2004, 2:58 p.m.]

Subject of Possible Rule Making: WAC 180-27-100.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.525.200.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A technical change is needed to bring the existing rule in line with state practice.

Process for Developing New Rule: Negotiated rule making; and early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 586-2357, TTY (360) 664-3631. For telephone assistance contact Larry Davis at (360) 725-6024.

May 4, 2004
Larry Davis
Executive Director

WSR 04-10-089

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Aging and Disability Services Administration)

[Filed May 4, 2004, 3:16 p.m.]

Subject of Possible Rule Making: Chapter 388-105 WAC, Medicaid rates for contracted home and community residential care services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 74.39A RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Adopting rules to implement a policy on when an adult family home or boarding home with a contract to provide assisted living (AL), adult residential care (ARC), or enhanced adult residential care (EARC) services may accept: An additional payment from the client, the client's friend or family for a unit/bedroom amenity; or an item or service that is not covered by the Medicaid payment rate.

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

Process for Developing New Rule: By publishing in the Washington State Register this CR-101 preproposal statement of inquiry and later publishing a CR-102 proposed rule making. ADSA welcomes public participation in developing its rule(s). Anyone interested in participating should contact the staff person indicated below. At a later date, ADSA will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making, and will send a copy of the proposal to everyone currently on the Home and Community Services and Residential Care Services mailing list and 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. If you would like to be personally notified when draft rules are ready for review, please contact Patricia Hague by fax (360) 728-2641, e-mail HaguePE@dshs.wa.gov, or write to Patricia Hague, Home and Community Rates, P.O. Box 45600, Olympia, WA 98504-5600.

May 4, 2004
Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-10-090

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

[Filed May 4, 2004, 3:17 p.m.]

Subject of Possible Rule Making: WAC 388-517-0300 Medicare savings programs and related WAC. Amending the rule to reflect federal law and rules with regard to copayments, and program eligibility. The WAC will be reorganized into smaller sections by adding two or more WAC under chapter 388-517 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530; 42 U.S.C. 1396a (a) Section 1902 (n)(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule change is necessary to comply with federal program rules and to achieve clear and concise WAC.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The department will coordinate development of this rule with federal Centers for Medicare and Medicaid Services. The rule will be consistent with requirements in the state plan for medical assistance.

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 rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Carole McRae, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1250, fax (360) 664-0910, e-mail mcraeca@dshs.wa.gov, TDD 1-800-848-5429.

May 4, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-10-091
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed May 4, 2004, 3:18 p.m.]

Subject of Possible Rule Making: The Division of Employment and Assistance Programs will amend WAC 388-442-0010 How being a felon impacts your eligibility for benefits.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.500 and 74.04.510; 2004 SB 6411.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The revision will remove the ban on convicted drug felon eligibility for the Basic Food program per SB 6411, and will give additional information about when a client is eligible for temporary assistance to needy families/state financial assistance (TANF/SFA) if the client has a drug felony conviction.

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 these rules. Anyone interested should contact the staff person identified below. At a

later date, DSHS will file proposed rules 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 Rebecca Henrie, Program Manager, Division of Employment and Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98507-5470, phone (360) 413-3074, fax (360) 413-3493, e-mail henrira@dshs.wa.gov.

May 4, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-10-092
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health and Rehabilitative Services Administration)
[Filed May 4, 2004, 3:19 p.m.]

Subject of Possible Rule Making: Amendment to chapter 388-885 WAC permitting the secretary, DSHS, to establish and maintain, with stakeholder input and biennial legislative review, a fee schedule by which attorneys and others are reimbursed for allowable activities pursuant to chapter 71.09 RCW.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71.09.800.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently, fees are stated in rule. The present dollar amount has not changed in about ten years and is inconsistent with prevailing rates. The legislature has recently passed an increase in funding to permit payment of fees at a higher rate than stated in the present rule. Any adjustment in allowances responsive to legislative intent and funding requires a change in rule. Certain expenses, paralegal costs among them, are not specified in rule; provision for reimbursement for paralegal work, as proposed to the same work performed by attorneys or at the attorney rate, is desirable.

The proposed amendment would accomplish the following: (1) Allowable fees would be adjusted more efficiently, (2) fee adjustments would be more responsive to changes in prevailing rates, (3) the schedule could incorporate cost-saving components as they are identified without a change in rule, (4) stakeholder and legislative review would assure scrutiny similar to that applied to rule revision, and (5) response to legislative expenditure authorization would be more immediate, there being no further change required in 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: A work group composed of DSHS staff and administrators, attorneys from the Office of the Attorney General, defense attorney organiza-

tions and other stakeholders will contribute to the development of the proposed draft. They and other interested parties will be included among the reviewing parties during the adoption process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lee Mosley, Policy and Staff Training Manager, The Special Commitment Center, P.O. Box 88450, Steilacoom, WA 98388, moslele@dshs.wa.gov, (253) 588-5281, ext. 1843.

May 4, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-10-093

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

[Filed May 4, 2004, 3:20 p.m.]

Subject of Possible Rule Making: Chapter 388-542 WAC, Children's health insurance program (CHIP), and related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.510, 74.09.522, and 74.09.450 and 2003-05 Revised Omnibus Operating Budget - 2004 Supplement (ESSB 2459).

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

- The monthly premium for a child will increase from \$10 to \$15.
- The maximum monthly premium paid per family will increase from \$30 to \$45.
- A client's eligibility for the program will end after three consecutive months of nonpayment of premiums; the current rule allows four consecutive months.
- The wait period before CHIP coverage can be reinstated for a client, whose coverage was terminated for not paying the premiums for three consecutive months, is being reduced from four months to three months.

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 Kevin Sullivan, MAA Rules Coordinator, P.O. Box 45533, Olympia, WA 98504-5533, phone (360)

725-1344, fax (360) 586-9727, e-mail sullikm@dshs.wa.gov, TDD 1-800-848-5429.

May 4, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-10-094

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

[Filed May 4, 2004, 3:22 p.m.]

Subject of Possible Rule Making: The Division of Employment and Assistance Programs will amend WAC 388-450-0005 Income—Ownership and availability.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.500, and 74.04.510.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Current WAC does not include income exclusion for payments specified by a court order or other legally binding agreement to go directly to a third party rather than the household.

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 Rebecca Henrie, Program Manager, Division of Employment and Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98507-5470, phone (360) 413-3074, fax (360) 413-3493, e-mail HenriRA@dshs.wa.gov.

May 4, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-10-111

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed May 5, 2004, 11:13 a.m.]

Subject of Possible Rule Making: Chapter 16-752 WAC, Noxious weed control. The department is reviewing current rule language and is considering amending the current list of plants prohibited from transportation, purchase, offer for sale or distribution in Washington state.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 17.10, 17.24, and 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The intrusion into this state of nonnative, invasive weed species continues to be a concern. The spread of these weeds presents a risk to the economic well-being of the agricultural, forest, horticultural, and floricultural industries, and the environmental quality and natural resources of the state. Initiating quarantines forbidding entry or distribution of weed species may be critical for their exclusion or control.

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

Process for Developing New Rule: Department staff will discuss any proposed amendments 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, Plant Protection Division, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094; or Tom Wessels, Plant Services Program Manager, Plant Protection Division, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094.

May 5, 2004

Mary A. Martin Toohey
Assistant Director

for the state capitol grounds and will be consulted throughout the preparation of the new rules.

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 the Department of General Administration Rules Coordinator, Martin D. Casey, Legislative and Business Relations Manager, P.O. Box 41000, Olympia, WA 98504-1000, phone (360) 902-7208, fax (360) 586-5898.

May 5, 2004

R. D. Fukai
Director

WSR 04-10-112

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF GENERAL ADMINISTRATION

[Filed May 5, 2004, 11:29 a.m.]

Subject of Possible Rule Making: Carrying firearms on state capitol grounds.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department has granted a rule-making petition to amend WAC 236-12-470 to repeal existing prohibitions on carrying firearms on state capitol grounds. RCW 9.41.290, enacted some years after the adoption of WAC 236-12-470, gives exclusive authority to the legislature to regulate firearms, including the registration and possession of firearms. Recent bills presented to the legislature would have prohibited firearms on the state capitol grounds, however, the legislature declined to pass this legislation in both the 2000 and 2004 sessions.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington State Patrol provides law enforcement

WSR 04-10-003
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed April 22, 2004, 11:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-03-003.

Title of Rule: Chapter 308-96A WAC, Vehicle licenses.

Purpose: 1. To implement qualifying for individuals with disabilities SSB 6325, chapter 222, Laws of 2004.

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

Statutory Authority for Adoption: RCW 46.16.381.

Summary: Amending WAC 308-96A-095 Terminology—Definitions, 308-96A-306 Definitions, 308-96A-311 General provisions, 308-96A-312 Temporary parking placard and identification card, 308-96A-313 Parking placard and identification card—For permanent disabilities, 308-96A-314 Special license plates—Individual, and 308-96A-316 Permanent placard and special license plates for organizations.

Reasons Supporting Proposal: Meet criteria and language as a result of SSB 6325, chapter 222, 58th legislative session, Laws of 2004, as well as clarify the readability of various sections of rule WAC 308-96A-311.

Name of Agency Personnel Responsible for Drafting: Katherine Iyall Vasquez, 1125 Washington Street S.E., Olympia, (360) 902-3718; Implementation and Enforcement: Lynda Henriksen, 1125 Washington Street S.E., Olympia, (360) 902-3811.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The anticipated effects will be a clarification of the above mentioned requirements.

Proposal Changes the Following Existing Rules: Clarify sections needed and repeal those no longer required.

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 are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 413, 1125 Washington Street S.E., Olympia, WA 98507, on June 9, 2004, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Katherine Iyall Vasquez by June 8, 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 June 8, 2004.

Date of Intended Adoption: July 6, 2004.

April 21, 2004

Steve Borchowitz, Manager
Policy and Projects Office

AMENDATORY SECTION (Amending WSR 02-17-024, filed 8/12/02, effective 9/12/02)

WAC 308-96A-005 Terminology—Definitions.

Terms used in chapter 46.16 RCW and this chapter will have the following meanings except where otherwise defined, and where the context clearly indicates the contrary:

(1) "Affidavit of loss" means a department form used by an applicant, to indicate that a title, registration, license tab, or decal has been lost, stolen, mutilated or destroyed. The form is completed and signed under oath in the presence of an official, such as a notary public, or certified by a license clerk or the authorized agent for a dealership, when a vehicle is in their inventory for resale.

(2) "Agent" means any county auditor, or other individual or business entity other than a subagent appointed to carry out vehicle licensing and titling functions for the department. (RCW 46.01.140.)

(3) "Application" means a form provided or approved by the department to apply for different types of services and documents.

(4) "Cab and chassis" is a truck manufactured and sold with only a cab and the frame and running gear. (WAC 308-96A-145.)

(5) "Certificate of license registration" means a document issued by the department and required by RCW 46.16.260 to be carried in the vehicle to operate legally on the roadways of Washington and described in RCW 46.12.050. The certificate of license registration is renewed annually.

(6) "Collector vehicle license plate" is a special license plate that may be assigned to a vehicle that is more than thirty years old as authorized by RCW 46.16.305(1).

(7) "Confidential" and "undercover" license plates are standard issue license plates assigned to vehicles owned or operated by public agencies. These license plates are used as specifically authorized by RCW 46.08.066.

(8) "Current year" means the current registration year unless otherwise stated. (WAC 308-96A-260.)

(9) "Department" means the department of licensing. (RCW 46.04.162.)

(10) "~~((Disabled persons))~~ Individual with disabilities parking placard expiration date" means:

(a) The last day of the month specified on a temporary placard; or

(b) Not less than five years from the end of the month and year of issuance of a permanent placard, as specified by the department on the placard. (RCW 46.16.381.)

(11) "Expiration day and month."

(a) "Date of expiration" or "expiration date" means the day of the month on which the vehicle registration, gross weight license, decal or tabs expire.

(b) "Month of expiration" or "expiration month" means the calendar month during which a registration period ends. (WAC 308-96A-260.)

(12) "Fleet" means a group of vehicles registered in the same owner name and which have been assigned the same fleet identifier code by the department.

(13) "Fixed load vehicle" is specified in RCW 46.16.079 and described in WAC 308-96A-099.

(14) "Gross weight" means gross weight defined in RCW 46.16.070, 46.16.090, 46.16.111 and chapter 46.44 RCW.

(15) "Hybrid motor vehicle" means a vehicle that uses multiple power sources or fuel types for propulsion and meets the federal definition of a hybrid motor vehicle.

(16) "Identification card" means the identification card referred to in RCW 46.16.381(3) for disabled parking privileges and is used for identification of persons with disabilities.

(17) "Indian country" means all lands, notwithstanding the issuance of any patent, within the exterior boundaries set aside by the United States for the use and occupancy of Indian tribes by treaty, law or executive order and which are areas currently recognized as "Indian country" by the United States Department of the Interior as referenced in 18 U.S.C. 1151 and CFR 25.

(18) "Indian tribe" means an Indian nation, tribe, band, or community recognized as an "Indian tribe" by the United States Department of the Interior.

(19) "Indian" means a person on the tribal rolls of the Indian tribe occupying Indian country.

(20) "Jurisdiction" as used in the parking ticket system means any district, municipal, justice, superior court, or authorized representative.

(21) "Jurisdiction seal" means a method of verifying authenticity of court documents, which is provided by the jurisdiction that issued the citation. A jurisdiction seal is an embossed seal or stamp provided by the jurisdiction.

(22) "License or licensing" and "register or registering" are synonymous and mean the act of registering a vehicle under chapter 46.16 RCW.

(23) "License fee" means the fees required for the act of licensing a vehicle under chapter 46.16 RCW. License fee does not include license plate fees identified as taxes, and fees collected by the department for other jurisdictions.

(24) "License tab fees" means the same as described in RCW 46.16.0621.

(25) "Licensed physician" for the purpose of ~~((disabled person))~~ individual with disabilities parking privileges, means: Chiropractic physicians, naturopaths, medical doctors, advanced registered nurse practitioners, osteopathic physicians and podiatric physicians. Licensed physician does not include persons licensed in the professions of dentistry and optometry. (RCW 46.16.381(1).)

(26) "Motor home" means a vehicle designed or altered for human habitation as described in RCW 46.04.305.

(27) "Municipality" in reference to parking tickets, means every court having jurisdiction over offenses committed under RCW 46.20.270.

(28) "NCIC number" means the numeric code assigned by the National Crime Information Center to identify a jurisdiction.

(29) "One hundred twenty-day notice" in reference to parking violations means a notice of parking violations that must be satisfied prior to the registration renewal date. (RCW 46.16.216.)

(30) "Parking ticket disposition" means the requested action as determined by the jurisdiction to add failure-to-pay

parking violations, or to remove paid parking violations from a vehicle record. (RCW 46.16.216.)

(31) "Parking violation" means any standing, stopping or parking violation per RCW 46.20.270(3).

(32) "Parking violation list" means a computerized list containing all outstanding parking violations, which have been processed by the department (RCW 46.16.216(1).)

(33) "Permanent" in reference to ~~((disabled person))~~ individual with disabilities parking privileges, means a licensed physician has certified that a qualifying condition is expected to last at least five years. (RCW 46.16.381. WAC 308-96A-306.) ~~((Disabled persons))~~ Individual with disabilities parking privileges must be renewed every five years.

(34) "Permit" in reference to ~~((disabled person))~~ individual with disabilities parking privileges means the proof provided by the department in the form of placard(s), special license plate(s) and an identification card indicating eligibility for ~~((disabled person))~~ individual with disabilities parking privileges. (RCW 46.16.381.)

(35) "Personalized license plates" are plates denoting the registered owner's chosen format or designation and are limited to those described in RCW 46.16.560, 46.16.570, and 46.16.580. (WAC 308-96A-065.)

(36) "Personal use vehicle" in reference to disabled veteran's, prisoners of war and congressional medal of honor plates, means vehicles not used for commercial purpose including: Passenger vehicles, motor homes, motorcycles, and trucks with designated gross vehicle weight not exceeding twelve thousand pounds. Registration ownership must be in the name of the individual and not in the business name. (WAC 308-96A-046.)

(37) "Placard" means a document issued to ~~((persons))~~ individuals who qualify for special ~~((disabled person))~~ individual with disabilities parking privileges under RCW 46.16.381 and are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and individual serial number.

(38) "Private carriers" means those entities contracting with public transportation authorities to transport persons with disabilities described in RCW 46.16.381. (WAC 308-96A-316.)

(39) "Privilege" in reference to ~~((disabled person's))~~ individual with disabilities parking privileges means permission to utilize the benefits associated with the permit. (RCW 46.16.381, 46.61.582 and 70.84.090. WAC 308-96A-306.)

(40) "Public transportation authorities" means those entities operating motor vehicles owned or leased by Washington state, or a town, city, county, municipality, or metropolitan or municipal corporation within the state, or United States government agencies or Indian nations used for the primary purpose of transporting persons with disabilities described in RCW 46.16.381.

(41) "Regular fleet" means a group of five or more vehicles registered in the same owner(s) name and which have been assigned the same fleet identifier code by the department and has an expiration date of December 31st of each year. (WAC 308-96A-161.)

(42) "Rental car" means a car that is rented as defined in RCW 46.04.465.

(43) "Renewal notice" means the notice to renew a vehicle license provided by the department approximately sixty days prior to the current expiration year.

(44) "Salvage title" means a certificate of title issued by another jurisdiction designating a motor vehicle as a "salvage vehicle."

(45) "Scale weight" means the weight of a vehicle as it stands without a load. (RCW 46.16.070 and 46.16.111.)

(46) "Signature" means any memorandum, mark, sign or subscriptions made with intent to authenticate an application. (RCW 9A.04.110(23).)

(47) "Special mailer" means the notice sent by the department in lieu of a renewal notice. The special mailer indicates additional or corrective information that must be provided at the time of registration renewal.

(48) "Subagent" means individual(s), business, organization, or political entity appointed by the director to provide vehicle and vessel licensing and titling services under contract with the agent as described in RCW 46.01.140.

(49) "Tab(s)" means decals, issued by the department, affixed to the rear license plate to identify the registration expiration month or year for a specific vehicle.

(50) "Tonnage," "declared gross weight" and "declared combined gross weight" are used interchangeably when referring to the amount of weight declared by an owner when licensing a vehicle as described in RCW 46.16.070 and 46.16.111.

(51) "Transit permit" means a document that authorizes an individual to operate a vehicle on a public highway of this state solely for the purpose of obtaining necessary documentation to complete and apply for a Washington certificate of ownership or registration, and does not allow unrestricted use of the vehicle. (WAC 308-96A-026.)

(52) "Unprocessed" as used in parking ticket system means no update of the computer record has occurred.

(53) "Use classes" means those vehicles described in WAC 308-96A-099.

(54) "Vehicle data base record" means the electronic record stored on the department's motor vehicle data base reflecting vehicle and ownership information.

AMENDATORY SECTION (Amending WSR 02-04-002, filed 1/23/02, effective 2/23/02)

WAC 308-96A-306 Definitions—((Disabled person)) Individual with disabilities special parking privileges. For the purposes of determining eligibility for special ((disabled person)) individual with disabilities parking placards and license plates, the following definitions apply:

(1) For the purposes of determining a disability that limits a person's abilities as defined in RCW 46.16.381 and for determining eligibility for certifying ((disabled person)) individual with disabilities parking privileges under RCW 46.16.381, "licensed physician" is a health care provider to include: Chiropractor (DC), naturopath (ND), physician or surgeon (MD or DO), podiatrist (DPM), advanced registered nurse practitioner (ARNP). Licensed physician does not include persons licensed in the professions of dentistry and optometry.

(2) "Permanent" means a licensed physician has certified that the qualifying disability condition is expected to last at least five years.

(3) "Permit" means the eligibility for the temporary or permanent placard or special license plate(s) and identification card.

(4) "Identification card" means the identification card referred to in RCW 46.16.381(3).

(5) "Private carriers" means those entities contracting with public transportation authorities to transport persons with disabilities described in RCW 46.16.381.

(6) "Privilege" means the right to utilize the benefits associated with the permit.

(7) "Public transportation authorities" means those entities operating motor vehicles owned or leased by Washington state, or a town, city, county, municipality, or metropolitan or municipal corporation within the state, or United States government agencies or Indian nations used for the primary purpose of transporting persons with disabilities described in RCW 46.16.381.

(8) "Signature" means any memorandum, mark, stamp, or sign made with intent to authenticate an application for a placard, or the subscription of any person thereto as provided in RCW 9A.04.110(23).

(9) "Application" means the form provided by the department that must be completed by the individual and physician or the form that must be completed by the organization.

AMENDATORY SECTION (Amending WSR 02-04-002, filed 1/23/02, effective 2/23/02)

WAC 308-96A-311 General provisions. ((1) How do I qualify for a disabled person parking privilege?

~~In order to qualify for a disabled person parking privilege, a licensed physician as identified in WAC 308-96A-306(1) must certify that you have a disability that limits or impairs the ability to walk and that you meet one of the requirements listed in RCW 46.16.381 (1)(a) through (g). The physician's certification is required for all original applications and renewal applications submitted between June 1, 1998, and June 10, 2003. After June 10, 2003, only original permanent privilege applications and all temporary applications will require the licensed physician's certification.~~

~~(2) What types of placards are issued?~~

~~The types of placards you may receive are:~~

~~(a) Temporary; or~~

~~(b) Permanent.~~

~~(3) How do I apply for a disabled person parking privilege?~~

~~To apply for the disabled person parking privilege, a licensed physician must complete and certify his or her portion of the application. Then, you must complete and sign your portion of the application and submit it to the department as provided in WAC 308-96A-312 (temporary placard), WAC 308-96A-313 (permanent placard) or WAC 308-96A-314 (special license plates).~~

~~(4) Who may sign the application for the disabled person that is unable to sign or is a minor?~~

PROPOSED

~~When the disabled person is unable to sign or is a minor. The application may be signed by an authorized representative of the disabled person. The application must then be accompanied by a copy of one of the following:~~

- ~~(a) A power of attorney;~~
- ~~(b) A Washington state court order or certification from the clerk of court confirming the court's action; or~~

~~(c) An affidavit explaining why the applicant is unable to sign and explaining the signing person's association with the applicant. Example: Signature, Jane Doe, daughter.~~

~~(5) When is the disabled person parking privilege no longer valid?~~

~~The disabled person parking privilege is no longer valid:~~

- ~~(a) Upon expiration of the privilege;~~
- ~~(b) Upon death of the disabled person;~~
- ~~(c) If the disability no longer exists; or~~
- ~~(d) If the privilege was issued in error.~~
- ~~(6) Why is the identification card issued?~~

~~The identification card is issued to assist law enforcement in determining that the person who is using the disabled person parking placard or disabled person special license plate is the person to whom the privilege was issued.~~

~~(7) Must I present the identification card upon request of law enforcement? Yes.~~

~~(a) Your identification card must be shown upon request of any law enforcement officer, parking enforcement officer or volunteer appointed for purposes of issuing notices of parking infractions.~~

~~(b) If you have just applied for and not yet received an ID card, show the receipt you received at the time of application.)~~ **(1) How do I qualify for an individual with disabilities parking privilege?**

In order to qualify for a temporary or permanent individual with disabilities parking privilege, a licensed physician or advanced registered nurse practitioner (ARNP) must certify, on a department approved application form, that you have a disability that limits or impairs your ability to walk and that you meet the requirements listed in RCW 46.16.381(1). For the purpose of implementing this rule, a physician is defined as a health care provider to include: Chiropractor (DC), naturopath (ND), physician or surgeon (MD or DO), podiatrist (DPM). Licensed physician does not include persons licensed in the professions of dentistry and optometry. The physician or ARNP as defined above must certify that you have a disability that limits or impairs the ability to walk and that you meet one of the following criteria allowed by RCW 46.16.381:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Are severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Are so severely disabled, that you cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Use portable oxygen;

(e) Are restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry, is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Are impaired by cardiovascular disease or cardiac condition to the extent that your functional limitations are classified as class III or IV under standards accepted by the American Heart Association; or

(g) Have a disability resulting from an acute sensitivity to automobile emissions which limits or impairs your ability to walk. Your personal physician or advanced registered nurse practitioner must document that your disability is comparable in severity to the others listed in this subsection.

The certification is required for all original applications for permanent and temporary disabilities and for permanent disability privileges that have been expired more than thirty days. Certification is not required for renewal of existing Washington privileges for an individual with disabilities.

(2) How do I apply for an individual with disabilities parking privilege?

Once the licensed physician or ARNP portion of the application is completed, you must complete and sign your portion of the application and submit it to the department or file the form in person at most Washington vehicle licensing offices as noted on the application.

(3) Who may sign the application for an individual with disabilities who is unable to sign or is a minor?

When an individual with disabilities is unable to sign or is a minor, the application may be signed by an authorized representative of the individual with disabilities. The application must then be accompanied by a copy of one of the following:

(a) A power of attorney;

(b) A Washington state court order or certification from the clerk of court confirming the court's action; or

(c) An affidavit explaining why the applicant is unable to sign and explaining the signing person's association with the applicant. Example: Signature, Jane Doe, daughter.

(4) When is the individual with disabilities parking privilege no longer valid?

The individual with disabilities parking privilege is no longer valid:

(a) Upon expiration of the privilege;

(b) Upon death of the individual with disabilities;

(c) If the disability no longer exists; or

(d) If the privilege was issued in error.

(5) What happens if I do not renew my permanent parking privilege prior to the expiration date?

When an individual with disabilities parking privilege is expired for more than thirty calendar days, a new original application with physician or ARNP's certification will be required.

(6) What will I receive once my application is approved?

You will receive an individual with disabilities identification card and:

(a) If you have a temporary disability you will receive one red temporary placard;

(b) If you have a permanent disability you may choose to receive:

(i) Up to two blue permanent placards; or

(ii) One blue permanent placard and one set of individual with disabilities license plates. The individual with disabili-

ties must be a registered owner to receive these special license plates.

(7) When can the individual with disabilities parking privileges be used?

The parking privileges may only be used when the person to whom the plate or placard is issued is being transported.

(8) Why is the individual with disabilities identification card issued?

The individual with disabilities identification card must be available for law enforcement or parking enforcement officials to verify the identity of the individual with disabilities and to ensure the parking privilege is only used by those who qualify for that privilege.

If you have just applied for and not yet received an individual with disabilities identification card, show the receipt you received at the time of application.

AMENDATORY SECTION (Amending WSR 02-04-002, filed 1/23/02, effective 2/23/02)

WAC 308-96A-312 Temporary ~~((disabled person)) individual with disabilities~~ parking placard and identification card. (1) Where and how may I obtain a temporary ~~((disabled person)) individual with disabilities~~ parking placard and identification card issued to a person with a temporary disability?

You may obtain a temporary ~~((disabled person)) individual with disabilities~~ parking placard issued to a person with a temporary disability at Washington vehicle licensing offices by submitting a completed and signed application certified by a licensed physician or ARNP. Identification cards are automatically ~~((issued)) generated~~ at the time the ~~((disabled)) placard~~ is issued and will be mailed to you.

(2) How long is the temporary ~~((disabled person)) individual with disabilities~~ parking privilege valid?

The temporary ~~((disabled person)) parking placard and identification card~~ issued to ~~((a person)) an individual~~ with a temporary disability is valid for up to six months from the date of issuance by the department.

(3) Can my temporary ~~((disabled person)) individual with disabilities~~ parking privilege be extended?

If your condition continues beyond the expiration date, you may obtain a new temporary ~~((disabled person)) individual with disabilities~~ parking placard and identification card by submitting a new application completed and certified by a licensed physician or ARNP.

(4) What happens if the temporary ~~((disabled person)) individual with disabilities~~ parking placard or identification card is lost, mutilated, destroyed, or stolen?

If you wish to replace your temporary ~~((disabled person)) individual with disabilities~~ parking placard or identification card, complete and sign a statement explaining what happened to the placard or identification card. A new temporary ~~((disabled person)) individual with disabilities~~ parking placard or identification card will be issued indicating the original expiration date.

(5) When is the temporary ~~((disabled person)) individual with disabilities~~ parking placard and identification

card issued to a person with a temporary disability no longer valid?

The placard and identification card are no longer valid:

- (a) Upon expiration of the privilege;
- (b) Upon death of the ~~((disabled person)) individual with disabilities~~;
- (c) If the disability no longer exists;
- (d) If a replacement placard and identification card has been issued; or
- (e) If the privilege was issued in error.

(6) What should I do when my temporary placard and identification card issued to ~~((a person)) an individual~~ with a temporary disability are no longer valid?

When your temporary placard and identification card are no longer valid, they should be destroyed.

AMENDATORY SECTION (Amending WSR 02-04-002, filed 1/23/02, effective 2/23/02)

WAC 308-96A-313 ~~((Disabled person)) Individual with disabilities~~ parking placard and identification card—For permanent disabilities. (1) Where are ~~((disabled person)) individual with disabilities~~ parking placard(s) and identification cards issued to persons with a permanent disability?

~~((Disabled persons)) Individuals with disabilities~~ parking placards for persons with a permanent disability are issued at Washington vehicle licensing offices. Identification cards may be applied for at the time the disabled placard is issued and will be mailed to you.

(2) When do ~~((disabled person)) individual with disabilities~~ parking placard(s) expire?

~~((Disabled person)) Individual with disabilities~~ parking placard(s) issued to persons with a permanent disability are issued for five years and expire on the last day of the month specified on the placard. Example: If a permanent placard is marked to expire in May ~~((2003)) 2008~~, it expires on May 31, ~~((2003)) 2008~~.

(3) What happens if the ~~((disabled person)) individual with disabilities~~ parking placard or identification card issued to persons with a permanent disability is lost, mutilated, destroyed, or stolen?

If you wish to replace your permanent ~~((disabled person)) parking placard or identification card~~, complete and sign a statement explaining what happened to the placard or identification card. A replacement ~~((disabled person)) individual with disabilities~~ parking placard or identification card will be issued indicating the original expiration date. The identification card will be mailed to you. Upon replacement of the placard and/or identification card, the original is no longer valid and should be destroyed if located.

(4) How do I renew my permanent ~~((disabled person)) individual with disabilities~~ parking placard(s)?

The department will mail you a renewal notice to qualifying individuals prior to privilege expiration. You may submit a completed renewal notice or new application to a Washington vehicle licensing office to renew the parking placard. A new ~~((disabled person)) individual with disabilities~~ parking placard(s) and a new identification card will be sent to you in the mail.

(5) When are the ~~((disabled person))~~ individual with disabilities parking placard(s) issued to persons with a permanent disability no longer valid?

The ~~((disabled person))~~ parking placard issued to persons with a permanent disability is no longer valid:

- (a) Upon expiration of the placard;
- (b) Upon death of the ~~((disabled person))~~ individual with disabilities;
- (c) If the disability no longer exists;
- (d) If the privilege was issued in error; or
- (e) If a replacement parking placard issued to persons with a permanent disability has been issued.

(6) What do I receive when I apply for a ~~((disabled person))~~ individual with disabilities parking privilege?

You may receive:

- (a) One placard; or
- (b) One set of special license plates for one vehicle which is registered in the name of the ~~((disabled person))~~ individual with disabilities; or
- (c) One placard and one set of special license plates; or
- (d) Two placards.

(7) How do I obtain a second ~~((disabled person))~~ individual with disabilities parking placard?

If you have only one permanent ~~((disabled person))~~ parking placard and no special ~~((disabled))~~ license ~~((plate))~~ plates issued for this parking privilege, you may obtain a second placard upon written request.

AMENDATORY SECTION (Amending WSR 03-05-082, filed 2/19/03, effective 3/22/03)

WAC 308-96A-314 ~~((Disabled person))~~ Individual with disabilities special license plates—Individual. (1) Where can I obtain ~~((a disabled person))~~ an individual with disabilities special license plate and identification card?

You may apply for ~~((a disabled person))~~ an individual with disabilities special license plate at most Washington vehicle licensing offices. You will receive the identification card and ~~((disabled person))~~ individual with disabilities special license plates in the mail.

(2) How do I ~~((obtain disabled person))~~ qualify for individual with disabilities special license plates?

To receive ~~((disabled person))~~ special license plates:

- (a) Your name must be shown on the department's record as being a registered owner of the vehicle; and
- (b) You must be certified by a licensed physician or ARNP as having a permanent disability or have already been granted a permanent ~~((disabled person))~~ individual with disabilities parking privilege established with the department.

(3) When do the ~~((disabled person))~~ individual with disabilities special license plates and identification card expire?

~~((The disabled person))~~ These special license plates ~~((earries))~~ carry the expiration date of your vehicle registration and must be renewed annually. The privilege to use the ~~((disabled person))~~ individual with disabilities special license plate must be renewed every fifth year from the month of issuance of the privilege.

(4) When are the ~~((disabled person))~~ individual with disabilities special license plates no longer valid?

~~((The disabled person))~~ These special license plates are no longer valid when:

- (a) The plates expire;
- (b) The privilege expires;
- (c) Upon death of the ~~((disabled person))~~ individual with disabilities;
- (d) If the disability no longer exists;
- (e) The ~~((disabled person))~~ special license plates have been canceled by department administrative action;
- (f) If the privilege was issued in error; or
- (g) If the ~~((disabled person))~~ individual with the disability is no longer shown on the department's record as being a registered owner of the vehicle.

(5) How do I replace a ~~((disabled person))~~ individual with disabilities special license plates if they become lost, mutilated, destroyed, or stolen?

You shall complete and sign a statement explaining what happened to the ~~((disabled person))~~ individual with disabilities special license plate(s) and pay replacement plate fees. Replacement special ~~((disabled person))~~ individual with disabilities license plates will be issued indicating the current expiration date. See note following subsection (6) of this section.

(6) When I am required to replace my ~~((disabled person))~~ individual with disabilities special license plate(s), will I receive the same number/letter combination? Yes. Upon request and with payment of the plate retention fee in RCW 46.16.233, you will receive replacement ~~((disabled person))~~ individual with disabilities parking special license plate(s) with the same number/letter combination as shown on the vehicle computer record.

Note: If the license plate(s) has been reported stolen or if the department record indicates the vehicle has been stolen, the same number/letter combination will not be used. This is a law enforcement issue and is for the protection of the public.

AMENDATORY SECTION (Amending WSR 03-05-082, filed 2/19/03, effective 3/22/03)

WAC 308-96A-316 Permanent placard and ~~((disabled person))~~ individual with disabilities special license plates for organizations. (1) When can a qualifying organization use disabled person special license plates or special ~~((disabled person))~~ individual with disabilities parking placards?

Qualifying organizations may only use ~~((disabled person))~~ these special license plates or ~~((disabled person))~~ parking placards when transporting any person who meets the criteria under RCW 46.16.381(1).

(2) How does an organization qualify for ~~((disabled person))~~ individual with disabilities special license plates and permanent ~~((disabled person))~~ parking placards?

The organization must:

- (a) Meet the criteria in RCW 46.16.381(3); and
- (b) Report the status of each permanent ~~((disabled person))~~ individual with disabilities parking placard or ~~((disabled person))~~ special license plate to the department by April 30th each year.

(3) How does a qualifying organization apply for ~~((disabled person))~~ individual with disabilities special license plates and permanent ~~((disabled person))~~ parking placards?

The organization must submit a properly completed ~~((disabled person))~~ individual with disabilities parking privileges organization application to the department with appropriate documentation as indicated on the application.

(4) What may a qualifying organization receive when approved for ~~((disabled person))~~ individual with disabilities parking privileges?

(a) ~~((Disabled person))~~ Individual with disabilities special license plates may be issued for vehicles registered to the organization which regularly transport persons who have qualified or would qualify for ~~((disability))~~ this special parking privilege; or

(b) ~~((Disabled person))~~ Individual with disabilities parking placard(s) which may be used only when the vehicle in which they are displayed is transporting persons who have or would qualify for the ~~((disability))~~ special parking privilege.

An organization may receive up to ninety-nine placards based on their legitimate business requirements. The department may approve exceptions.

(5) Where does a qualifying organization obtain ~~((disabled person))~~ individual with disabilities parking placard(s) or ~~((disabled person))~~ special license plates?

A qualifying organization may obtain permanent ~~((disabled person))~~ individual with disabilities parking placard(s) and ~~((disabled persons))~~ special license plates at a Washington vehicle licensing office.

(6) Is a qualifying organization issued an identification card?

No. An identification card will not be issued for an organization.

(7) When does the permanent ~~((disabled person))~~ individual with disabilities parking placard(s) issued to a qualifying organization expire?

The permanent ~~((disabled person))~~ individual with disabilities parking placard(s) expires five years from the date of issuance. On the last day of the month specified on the placard. Example: If the placard is marked to expire in May ~~((2003))~~ 2008, it expires May 31, ~~((2003))~~ 2008.

(8) When are the ~~((disabled person))~~ individual with disabilities special license plates issued to a qualifying organization no longer valid?

The ~~((disabled person))~~ individual with disabilities special license plates are no longer valid when:

- (a) The plates expire;
- (b) The privilege expires;
- (c) The vehicle is no longer being used for the purpose of transporting ~~((disabled persons))~~ individual with disabilities;
- (d) The ~~((disabled person))~~ individual with disabilities special license plates have been canceled by department administrative action;
- (e) The organization no longer qualifies;
- (f) The organization's business license is canceled or expires;
- (g) If the privilege was issued in error; or
- (h) If the organization fails to return the annual report.

(9) How does a qualifying organization replace permanent ~~((disabled person))~~ individual with disabilities parking placards or ~~((disabled person))~~ special license plates if they become lost, mutilated, destroyed, or stolen?

The organization shall complete and sign a statement explaining what happened to the placards or ~~((disabled person))~~ individual with disabilities special license plates and pay replacement fees. Replacement permanent ~~((disabled person))~~ parking placards or ~~((disabled person))~~ special license plates will be issued indicating the original expiration date. This voids the previously issued permanent placards or plates. See note following subsection (10) of this section.

(10) When I am required to replace my ~~((disabled person))~~ individual with disabilities special license plate, will I receive the same license plate number/letter combination? Yes. Upon request and with payment of the plate retention fee in RCW 46.16.233, you will receive replacement ~~((disabled person))~~ individual with disabilities parking special license plates with the same number/letter combination as shown on the vehicle computer record.

Note: If the license plate has been reported as stolen or if the department record indicates the plate has been stolen, the same number/letter combination will not be issued. This is a law enforcement issue and is for the protection of the public.

(11) How does a qualifying organization renew their permanent ~~((disabled person))~~ individual with disabilities parking placard?

The department will send ~~((a disabled person))~~ an individual with disabilities parking renewal notice to the qualifying organization before the privilege expires. The privilege is renewed by submitting the completed and signed renewal notice or a new application may be submitted in lieu of the renewal notice. Upon approval of the properly completed and signed renewal notice or application the department will issue new placards.

(12) When are the ~~((disabled person))~~ individual with disabilities parking placards, issued to qualifying organizations, no longer valid?

~~((Disabled persons))~~ Individual with disabilities parking placards are no longer valid when:

- (a) The organization no longer qualifies;
- (b) The organization's business license is canceled or expires;
- (c) The placard was issued in error;
- (d) A replacement has been issued; or
- (e) If the organization fails to return the annual report.

WSR 04-10-006

WITHDRAWAL OF PROPOSED RULES HORSE RACING COMMISSION

[Filed April 23, 2004, 8:55 a.m.]

The Washington Horse Racing Commission (WHRC) wishes to withdraw CR 102 WSR 04-07-144. The WHRC intends to file another proposal for rule making at a future date.

R. M. Leichner
Executive Secretary

PROPOSED

WSR 04-10-013
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed April 26, 2004, 9:58 a.m.]

Continuance of WSR 04-06-046.

Title of Rule: WAC 246-290-990 Water system evaluation and project review and approval fees and 246-292-160 Water works certification fees.

Purpose: To continue the hearing to amend the fee schedules for the Office of Drinking Water programs for Group A drinking water systems and water works operator certification.

Hearing Location: Department of Health, Office of Drinking Water, 7171 Cleanwater Lane, Building 3 Conference Room, Tumwater, WA 98504, on May 10, 2004, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Theresa Phillips by May 3, 2004, TDD (800) 833-6388 or (360) 236-3147.

Submit Written Comments to: Department of Health, Theresa Phillips, P.O. Box 47822, Olympia, WA 98504-7822, fax (360) 236-2253, by May 10, 2004.

Date of Intended Adoption: May 17, 2004.

April 23, 2004

Mary C. Selecky
 Secretary

WSR 04-10-030
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed April 28, 2004, 2:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-24-069.

Title of Rule: Collection of fees.

Purpose: To amend the amount of the annual pilot license fee.

Other Identifying Information: WAC 363-116-070.

Statutory Authority for Adoption: RCW 88.16.090.

Statute Being Implemented: Chapter 88.16 RCW.

Summary: The proposed rule is a housekeeping matter that is intended to align the amount of the annual pilot license fee with that set by the legislature and described in RCW 88.16.090(3).

Reasons Supporting Proposal: The existing regulation does not align with the statutory language.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Board of Pilotage Commissioners, 2911 Second Avenue, Suite 100, Seattle, WA 98121, (206) 515-3904.

Name of Proponent: Washington State Board of Pilotage Commissioners, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The annual pilot license fee is being properly assessed in accordance with the statute.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule as proposed will reflect the increase in the annual pilot license fee from \$2,500. to \$3,000. that was implemented by the state legislature. All pilots have been properly assessed the correct amount since the increase went into effect. With the adoption of the proposed rule amendment, the language in the rule will align with the language in the statute. This is strictly a housekeeping matter.

The anticipated effect of this rule is to clarify that the current pilot license fee is \$3,000.

Proposal Changes the Following Existing Rules: The amount of the annual pilot license fee will be amended to reflect the current rate of \$3,000.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Washington State Board of Pilotage Commissioners concludes that implementation of this new rule is in response to legislative action.

RCW 34.05.328 does not apply to this rule adoption. The Washington State Board of Pilotage Commissioners is not a listed agency in RCW 34.05.328 (5)(a)(i).

Hearing Location: 2911 2nd Avenue, Level B Conference Room, Seattle, WA 98121, on June 10, 2004, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Peggy Larson by June 7, 2004, (206) 515-3904.

Submit Written Comments to: Captain Harry Dudley, Chairman, 2911 Second Avenue, Suite 100, Seattle, WA 98121, fax (206) 515-3906, by June 3, 2004.

Date of Intended Adoption: June 10, 2004.

April 26, 2004
 Peggy Larson
 Administrator

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

WAC 363-116-070 Collection of fees. All pilots shall pay an annual license fee of (~~two thousand five hundred~~) three thousand dollars for every year in which they perform any pilotage services. If a licensed pilot does not perform pilotage services during a license year, his/her fee for that year shall be reduced to five hundred dollars upon application to the board. The board of pilotage commissioners shall receive all fees for licenses or for other purposes and make proper accounting of same and transmit all such funds to the pilotage account.

WSR 04-10-031
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed April 28, 2004, 2:42 p.m.]

Original Notice.

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

Title of Rule: Tariffs and pilotage rates for the Grays Harbor pilotage district.

Purpose: To establish a Grays Harbor pilotage district annual tariff.

Other Identifying Information: WAC 363-116-185.

Statutory Authority for Adoption: RCW 88.16.035.

Statute Being Implemented: Chapter 88.16 RCW.

Summary: The proposed rule reflects a tariff increase in the boarding fee and pension charge categories.

Reasons Supporting Proposal: A new tariff must be set annually. Current rates for the Grays Harbor pilotage district expire on July 31, 2004.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Board of Pilotage Commissioners, 2911 2nd Avenue, Suite 100, Seattle, WA 98121, (206) 515-3904.

Name of Proponent: Port of Grays Harbor, public.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: All requirements necessary to amend the existing Grays Harbor pilotage district tariff as set forth in chapter 53.08 RCW have been met.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule as proposed would set a new annual tariff that would provide an increase in the boarding fee category.

Also, it would provide an increase in the pension charge category. This revenue would support retirement plans for Washington state-licensed pilots.

Proposal Changes the Following Existing Rules: The proposed rule changes the existing rule in the boarding fee category by increasing the amount charged per pilotage assignment from \$389.67 to \$800.00.

The proposed rule changes the existing rule in the pension charge category by increasing the amount charged per pilotage assignment from \$172.00 to \$190.00.

All other tariff charges remain the same.

The board may adopt a rule that varies from the proposed rule upon consideration of oral and written comments from any interested party or member of the public.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule is being considered in the context of the required annual setting of rates charged for pilotage services.

The Washington State Board of Pilotage Commissioners concludes that implementation of this new rule does not impose a more than minor cost on businesses in the shipping industry and, therefore, a small business economic impact statement is not required according to RCW 19.85.030 (1)(a).

RCW 34.05.328 does not apply to this rule adoption. The Washington State Board of Pilotage Commissioners is not a listed agency in RCW 34.05.328 (5)(a)(i).

Hearing Location: 2911 2nd Avenue, Level B Conference Room, Seattle, WA 98121, on June 10, 2004, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Peggy Larson by June 7, 2004, (206) 515-3904.

Submit Written Comments to: Captain Harry Dudley, Chairman, 2911 2nd Avenue, Suite 100, Seattle, WA 98121, fax (206) 515-3906, by June 3, 2004.

Date of Intended Adoption: June 10, 2004.

April 26, 2004

Peggy Larson

Administrator

AMENDATORY SECTION (Amending WSR 03-21-089, filed 10/17/03, effective 11/17/03)

WAC 363-116-185 Tariffs, and pilotage rates for the Grays Harbor pilotage district. Effective 0001 hours August 1, 2004, through 2400 hours July 31, (~~2004~~) 2005.

CLASSIFICATION OF PILOTAGE SERVICE RATE

Fees for piloting of vessels in the inland waters and tributaries of Grays Harbor shall consist of the following:

Draft and tonnage fees:

Each vessel shall be charged according to its draft and tonnage for each vessel movement inbound to the Grays Harbor pilotage district, and for each movement outbound from the district. The draft charges shall be \$80.99 per meter (or \$24.64 per foot) and the tonnage charge shall be \$0.2583 per net registered ton. The minimum net registered tonnage charge is \$903.79. The charge for an extra vessel (in case of tow) is \$516.48.

Provided that, due to unique circumstances in the Grays Harbor pilotage district, vessels that call, and load or discharge cargo, at Port of Grays Harbor Terminal No. 2 shall be charged \$5,000 per movement for each vessel movement inbound to the district for vessels that go directly to Terminal No. 2 or that go to anchor and then go directly to Terminal No. 2, and for each vessel movement outbound from the district from Terminal No. 2, and that this charge shall be in lieu of only the draft and tonnage fees listed above.

Boarding fee:

Per each boarding/deboarding from a boat or helicopter	\$((389.67))
	<u>800.00</u>

Harbor shifts:

For each shift from dock to dock, dock to anchorage, anchorage to dock, or anchorage to anchorage	\$647.88
Delays per hour	\$154.49
Cancellation charge (pilot only)	\$258.22
Cancellation charge (boat or helicopter only)	\$774.69

PROPOSED

Pension charge:

Charge per pilotage assignment, including cancellations	\$((172.00))
	<u>190.00</u>

Travel allowance:

Transportation fee per assignment	\$55.00
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Pilot when traveling to an outlying port to join a vessel or returning through an outlying port from a vessel which has been piloted to sea shall be paid \$903.82 for each day or fraction thereof, and the travel expense incurred	\$903.82
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Bridge transit:

Charge for each bridge transited	\$283.61
Additional surcharge for each bridge transited for vessels in excess of 27.5 meters in beam	\$785.22

Miscellaneous:

The balance of amounts due for pilotage rates not paid within 30 days of invoice will be assessed at 1 1/2% per month late charge.

WSR 04-10-052
PROPOSED RULES
CENTRALIA COLLEGE
 [Filed April 30, 2004, 11:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-20-009.

Title of Rule: Title 132L WAC, Community colleges—Centralia College.

Purpose: Centralia College is proposing to repeal and amend certain portions of Title 132L WAC, and adopt new sections consistent with changes in operating procedures or with legislative requirements.

Repealing chapter 132L-280 WAC, Student records policy and chapter 132L-400 WAC, Loss of eligibility—Student athletic participation; adopting chapter 132L-25 WAC, Disruption of operation, chapter 132L-122 WAC, Withholding services for outstanding debt, and chapter 132L-300 WAC, Discrimination complaint process; and amending chapter 132L-26 WAC, Emergency procedures, chapter 132L-108 WAC, Practice and procedure, chapter 132L-117 WAC, Parking and traffic regulations—Centralia College, chapter 132L-120 WAC, Student rights and responsibilities code, chapter 132L-133 WAC, Organizations, chapter 132L-136 WAC, Use of college facilities, chapter 132L-140 WAC, Environmental protection, and chapter 132L-276 WAC, Public records.

Statutory Authority for Adoption: RCW 28B.50.140 and chapter 34.05 RCW.

Statute Being Implemented: RCW 28B.50.140.

Summary: The proposed changes to existing Title 132L WAC, Community colleges—Centralia College will:

- Repeal sections related to student records and student athletic participation because those sections pertain to the internal operations of the college and do not impact the general public.
- Adopt new sections related to disruption of operation, withholding services for outstanding debt and a discrimination compliance process because these sections provide the general public with information of general application.
- Amend the college's emergency procedures, practice and procedures, parking and traffic regulations, student rights and responsibilities, organization, use of college facilities, environmental protection, and public records sections, because these amendments: [No information supplied by the agency.]

Reasons Supporting Proposal: In 2001-2002, Centralia College began reviewing all of its policies and procedures, to include its WACs. The purpose of the review stemmed in part from the board of trustees action to implement policy governance, as well as the college's policies and procedures and WACs [which] have not been reviewed in years. The college has completed its review and has determined that Title 132L WAC needed to be updated consistent with the college's changes in operations procedures and/or legislative requirements.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michael Grubiak/Lee Lambert, Centralia, Washington, (360) 736-9391.

Name of Proponent: Centralia College (District 12), governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed changes to existing Title 132L WAC, Community colleges—Centralia College will:

- Repeal sections related to student records and student athletic participation because those sections pertain to the internal operations of the college and do not impact the general public.
- Adopt new sections related to disruption of operation, withholding services for outstanding debt and a discrimination compliance process because these sections provide the general public with information of general application.
- Amend the college's emergency procedures, practice and procedures, parking and traffic regulations, student rights and responsibilities, organization, use of college facilities, environmental protection, and public records sections.

Proposal Changes the Following Existing Rules:

- Will provide for more effective and efficient delivery of services;
- Will provide clarity regarding expectations of appropriate behavior;

PROPOSED

- Will clarify appropriate steps for the public related to protests and appeal rights; and
- Will correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes proposed by Centralia College fall under RCW 34.05.328 (5)(b) (ii)-(vi) and 34.05.310 (4)(b)-(f), (g) (i)-(ii), thus not subject to the requirements of chapter 19.85 RCW.

RCW 34.05.328 does not apply to this rule adoption. The changes proposed by Centralia College fall under RCW 34.05.328 (5)(b) (ii)-(vi), thus not subject to the requirements of RCW 34.05.328 (5)(a)(i)(ii).

Hearing Location: Centralia College Atrium, 600 West Locust, Centralia, WA 98531, on June 10, 2004, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Lee Lambert by May 27, 2004, TDD (360) 807-6227.

Submit Written Comments to: Lee Lambert, Vice President, Human Resources and Legal Affairs, 600 West Locust, Centralia, WA 98531, e-mail llambert@centralia.ctc.edu, fax (360) 330-7501, by June 11, 2004, 5:00 p.m.

Date of Intended Adoption: June 18, 2004.

April 28, 2004

James M. Walton
President

Chapter 132L-19 WAC

DISRUPTION OF OPERATION

NEW SECTION

WAC 132L-19-010 Civil unrest. In the event of activities that interfere with the orderly operation of the college, the college president or designee shall determine the course of action that appears to offer the best possibility for resolution of the problem. The emergency procedures outlined below will be followed if deemed essential:

- (1) Inform those involved in such activities that they are in violation of college and/or civil regulations.
- (2) Inform them that they should cease and desist. Indicate an area on campus where they are able to conduct their activities without interfering with the operation of the college, if such an area is available.
- (3) If they do not respond within a reasonable time, call the civil authorities.

AMENDATORY SECTION (Amending Resolution No. 81-9, filed 6/12/81)

WAC 132L-26-010 Authority to suspend operations. The president of ~~((District 12))~~ Centralia College is authorized to suspend the operation of any or all campuses ~~((#))~~ of the ~~((district))~~ college if, in his or her opinion, an emergency condition beyond his or her control makes this closure advisable, and the public health, or property, or safety is jeopardized.

~~((In accordance with WAC 251-22-240, as amended by the higher education personnel board, April 6, 1981, Commu-~~

~~nity College District 12 adopts the following suspended operation rules:))~~

AMENDATORY SECTION (Amending Order 77-30, filed 9/1/77)

WAC 132L-26-025 Authority to staff campus—Limitations. In ~~((the event))~~ case of suspended operation, the president or his or her designee shall have the option to staff any campus or any portion thereof in any manner ~~((during the first five days of suspended operation)),~~ consistent with WAC 251-22-240.

AMENDATORY SECTION (Amending Resolution No. 81-2, filed 1/14/81)

WAC 132L-26-030 Employee notification—Time. If the president declares a condition of suspended operations ~~((and provides notification)),~~ the public will be notified of this closure ~~((to employees))~~ via local radio station transmission at least one hour prior to the ~~((employees' reporting time, or by telephone or personal contact prior to the time the individual employee would depart home for work, the provisions of WAC 251-22-240 would not apply. Employees not notified prior to their usual departure time from home would be covered by the provision of WAC 251-22-240))~~ opening of the business day.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132L-26-035	Return to work.
WAC 132L-26-040	Voluntary staffing.
WAC 132L-26-050	Mandatory staffing.
WAC 132L-26-055	Temporary duties.
WAC 132L-26-060	Suspended operation procedures after fifteen days.
WAC 132L-26-065	Layoffs—Conditions.
WAC 132L-26-070	Closure notification plan—Recall plan.
WAC 132L-26-075	Option to recover time loss.
WAC 132L-26-080	Suspended operations—Not a lock-out.

AMENDATORY SECTION (Amending WSR 90-05-005, filed 2/9/90, effective 3/12/90)

WAC 132L-108-050 Brief adjudicative procedures. This rule is adopted in accordance with RCW 34.05.482-494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- (1) Residency determinations made pursuant to RCW 28B.15.013, conducted by the admissions office;
- (2) Challenges to contents of education records;

PROPOSED

(3) Student conduct proceedings in accordance with chapter 132L-120 WAC;

(4) Parking and traffic violations in accordance with chapter 132L-117 WAC;

(5) Outstanding debts owed by students or employees;

(6) Loss of eligibility for participation in institution sponsored athletic events (~~(, pursuant to chapter 132L-400 WAC)~~) in accordance with chapter 132L-120 WAC;

(7) Appeals of admission decisions;

(8) Appeals of library fines;

(9) Appeals of denial of records requests;

(10) Federal financial aid appeals as provided for by federal law.

NEW SECTION

WAC 132L-108-090 Transmittal of recommended decisions. In the case where the presiding officer is not the institutional officer designated to enter an initial or final order, the presiding officer shall transmit a full and complete record of the proceedings and a recommended decision to the institutional official who is to enter a final or initial order after considering the record and evidence so transmitted. The record of proceedings shall include such comments upon the demeanor of witnesses as the presiding officer deems relevant.

NEW SECTION

WAC 132L-108-100 Petition for stay pending appeal. Upon the request of a party intending to appeal, the official, officer, or body of officers who entered a final decision in an adjudicative proceeding may issue a stay of effectiveness pending the outcome of the appeal.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-010 Purpose for adopting parking and traffic regulations. Pursuant to the authority granted RCW 28B.50.140(10), the board of trustees of (~~Community~~) Centralia College (District 12) is granted authority to adopt rules and regulations for pedestrian and vehicular traffic upon public lands devoted to, operated by or maintained by the college. The board delegates this authority to the president. The objectives of these regulations are:

(1) To protect and control pedestrian and vehicular traffic.

(2) To assure access at all times for emergency traffic.

(3) To minimize traffic disturbances during class hours.

(4) To facilitate the work of the college by assuring access to its vehicles and by assigning limited parking space for the most efficient use by all.

(5) To regulate the use of parking spaces.

(6) To protect state owned property.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-020 Applicable parking and traffic regulations. (1) All regulations in this chapter and all motor

vehicle and other traffic laws of the state of Washington shall apply on the campus.

(2) The traffic code of the city of Centralia shall apply upon all lands located within the city of Centralia.

(3) The traffic code of the municipality within which any Centralia College controlled property resides shall apply.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-030 Definitions. As used in this chapter, the following words and phrases shall mean:

(1) "Board": The board of trustees of (~~Community~~) Centralia College (District 12).

(2) "Campus": All lands and buildings devoted to, operated by, or maintained by Centralia College (~~District 12~~).

(3) (~~"Campus security officer": Employee of the college who is responsible to the dean of administration for campus traffic control, parking, security, and safety.~~)

(4)) "College": Centralia College (~~District 12~~).

(~~(5) "Safety and security supervisor": The college's safety and security supervisor.~~)

(6)) (4) "Employee": An individual appointed to the faculty, staff, or administration of the college.

(~~(7)~~) (5) "Guests/visitors": Person or persons who come upon the campus as guests and person or persons who lawfully visit the campus.

(~~(8)~~) (6) "Continuing permits": Permits issued to full-time employees for an indefinite period of time.

(~~(9)~~) (7) "Annual permits": Permits (~~which~~) that are valid from the date of issue until the first day of the following fall quarter.

(~~(10)~~) (8) "Temporary permits": Permits (~~which~~) that are valid for a specific period designated on the permit.

(~~(11)~~) (9) "Vehicle": Automobile, truck, motor-driven cycle, scooter or and vehicle otherwise powered.

(~~(12)~~) (10) "Full-time student": Any person who is enrolled on campus for ten credit hours or more at the college.

(~~(13)~~) (11) "Part-time student": Any person who is enrolled on campus for nine credit hours or (~~less~~) fewer at the college.

(~~(14)~~) (12) "Full-time employee": An employee of the college employed twenty hours or more per week on a permanent regular basis.

(~~(15)~~) (13) "Part-time employee": An employee of the college employed less than twenty hours per week.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-040 Authorization for issuance of permits. (1) The (~~safety and security supervisor~~) chief administrative officer, or designee, is authorized to issue parking permits to students, employees, and guests upon the following:

(1a) When the vehicle is properly registered with the college.

(1b) When a permanent or special parking permit is necessary to enhance the business or operation of the college.

(2) Additional permits are available at the current fee schedule to individuals who may be registered to drive any one of several vehicles. Only one vehicle registered to an individual under one permit fee shall be permitted to park on campus at any one time.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-060 Visitor permits. All guests/visitors (including salespersons, maintenance or service personnel) will park in appropriate parking areas after obtaining a temporary permit (~~(from central services)~~).

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-080 Display of permits. The parking permit issued by the college shall be visibly affixed on the outside of the rear window ~~or the rear bumper on the driver's side of the vehicle (, for which the permit is issued, on the lower left hand corner of the window as viewed front [from] the rear of the vehicle. If the vehicle is a convertible or has no rear window the permit shall be affixed to the driver side rear bumper or driver side windshield lower corner)~~. Motorcycle permits must be affixed in a conspicuous place.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-090 Transfer of permits. Parking permits are not transferable. If a vehicle is sold or traded, the parking permit must be removed, the new vehicle must be registered ((with central services and the)), and a new permit will be reissued.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-110 Right to refuse permit. The ~~((college dean of administration))~~ chief administrative officer, or designee, reserves the right to refuse the issuance of a parking permit to anyone who has had a previous permit revoked, or whose driving or parking record indicates a disregard for the rights or safety of others.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-130 Delegation of authority. The authority and powers conferred upon the ~~((dean of administration))~~ chief administrative officer by these regulations shall be subject to delegation to that individual's subordinates.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-140 Enforcement. (1) Parking and traffic regulations will be enforced at all times.

(2) The ~~((dean of administration))~~ chief administrative officer, or designee shall be responsible for the enforcement of the regulations contained in this chapter.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-160 Issuance of traffic tickets or summons. (1) The ~~((safety and security supervisor))~~ chief administrative officer or designee may issue a warning or citation for a violation of these regulations. The warning or citation should set forth the date, the approximate time, permit number, license information and nature of violation.

(2) Such warning or citation may be served by attaching or affixing a copy thereof in some prominent place outside such vehicle or by personally serving the operator.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-170 Fines and penalties. The ~~((safety and security supervisor))~~ chief administrative officer, or designee, is authorized to impose the following fines and penalties for violation of the regulations contained in this chapter:

(1) ~~((A schedule of fines shall be set by the board of trustees.))~~ The president shall set a schedule of fines. The schedule shall be published by the college in the College Policy Manual, on the parking permit request form, and ((traffic regulations and)) on the traffic parking citation form. In addition, the schedule is available upon request.

(2) Fines will be assessed in accordance with the fees and fines schedules as established by the ~~((board of trustees))~~ president for the following violations:

- (a) No valid permit displayed
- (b) Visitor parking violations
- (c) Occupying more than one parking space
- (d) Occupying space/area not designated for parking
- (e) Handicapped parking violation
- (f) Parking in area not authorized by permit
- (g) Parking in reserved staff space without authorization
- (h) Blocking or obstructing traffic (may be towed ~~((if creating a safety hazard))~~ at owner's expense)
- (i) Parking adjacent to fire hydrant (may be towed ~~((if creating a safety hazard))~~ at owner's expense)
- (j) Parking in fire lane (may be towed ~~((if creating a safety hazard))~~ at owner's expense)
- (k) Parking in zone or area marked no parking
- (l) Other violations of college parking traffic regulations ~~((and its objectives)).~~

(3) At the discretion of the ~~((dean of administration))~~ chief administrative officer, or designee, an accumulation of citations by a staff, administrator, or faculty member may be turned over to a private collection agency for the collection of past due fines. Other appropriate collection procedures may be initiated as deemed necessary.

(4) Vehicles parking in a manner so as to obstruct traffic, including access to and from parking spaces and areas, may be subject to a fine and may be impounded and taken to such place for storage as the ~~((safety and security supervisor))~~ chief administrative officer, or designee, selects. The

expenses of such impounding and storage shall be the responsibility of the registered owner or driver of the vehicle.

(5) Vehicles impounded by means of an immobilizing device shall be charged a service fee according to the current fee schedule.

(6) The college shall not be liable for loss or damage of any kind resulting from impounding and storage of vehicles.

(7) Vehicles involved in violations of these regulations may be impounded as provided for in these regulations.

(8) Persons may appeal the issuance of a citation according to WAC 132L-117-180.

(9) In the event a person fails or refuses to pay an uncontested fine which has been outstanding in excess of five days, the ~~((dean of administration))~~ chief administrative officer, or designee, may initiate the following actions:

(a) Student may not be able to obtain transcript of credits until all fines are paid.

(b) ~~((Student may not receive a degree/diploma until all fines are paid.))~~

(e)) Students will not be able to register for subsequent quarters until all fines are paid.

(c) Students may be turned over to a private collection agency for the collection of past due fines.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-180 Appeal proceedings—Appeal of fines and penalties. (1) Appeals must be presented in writing, giving full particulars, listing witnesses, evidence, etc.

(2) Appeals must be submitted to the ~~((dean of students))~~ chief administrative officer within five days from date of citation.

(3) If an appeal is not resolved to the satisfaction of the alleged violator, he/she shall have five additional days from receipt of decision by the ~~((dean of students))~~ chief administrative officer to appeal to the parking advisory committee.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-190 Parking ~~((advisory))~~ appeals committee. The parking ~~((advisory))~~ appeals committee shall be convened as necessary by the president and be structured and responsible for the following purposes:

(1) ~~((To review and recommend necessary changes to the college parking and traffic regulations annually.))~~

(2)) To receive and hear appeals related to parking and traffic violations. All decisions made by the parking ~~((advisory))~~ appeals committee relative to parking/traffic appeals shall be final.

~~((3))~~ (2) Membership shall consist of at least: ~~((Three))~~ Two student representatives, one faculty representative, one classified representative, and one administrator ~~((, and the dean of administration ex officio)).~~ The chair will be appointed by the president.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-210 Designation of parking. The parking spaces available on campus may be allocated and designated by the ~~((dean of administration))~~ chief administrative officer in such a manner as will best achieve the objectives of these rules and regulations.

(1) Special provisions shall be made for physically disabled employees, visitors, students, or their designee. Physically disabled individuals utilizing handicapped parking spaces must display in that vehicle a valid state issued disabled parking permit or license plate. ~~((Temporarily))~~ Temporary handicapped permits will be issued ~~((by the safety and security supervisor)).~~ In addition to the ~~((disabled))~~ handicapped permit, valid college parking permits must be purchased and displayed on the vehicle.

(2) Spaces specifically designated as "visitor" are to be used only by visitors driving vehicles without continuing or annual permits, for a maximum time period of 30 minutes. A temporary permit is not required. Visitors requiring parking for longer than 30 minutes may obtain a temporary permit ~~((at Central Services.))~~ and will park in ~~((normal))~~ undesigned spaces.

(3) Parking spaces may be designated for special purposes as deemed necessary.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-230 Regulatory signs, markings, barricades, etc. The ~~((dean of administration))~~ chief administrative officer, or designee, is authorized to make and erect signs, barricades, and other structures and to paint marks and other directions upon the streets, entry/exits, and roadways for the regulation of traffic and parking upon the various public lands devoted to, operated by, or maintained ~~((or by))~~ by the college. Drivers ~~((or vehicles))~~ shall observe and obey all the signs, barricades, structures, markings and directions given them by the campus ~~((security officer))~~ authorities in the control and regulation of traffic and parking.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-240 Speed limit. No vehicle shall be operated on the campus at a speed in excess of five miles per hour ~~((, or such slower speed as is reasonable and prudent to the circumstances)).~~

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-250 Pedestrians right of way. (1) The operator of a vehicle shall yield right of way to any pedestrian. ~~((Pedestrian shall not leave a curb or other place of safety and walk or run into the path of an oncoming vehicle.))~~

(2) When a sidewalk or crosswalk is provided, pedestrians shall proceed upon the sidewalk or crosswalk.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-260 Two-wheeled motorcycles or bicycles. (1) All two-wheeled vehicles powered by an engine shall park in areas designated for motorcycles only and will not use spaces assigned to automobiles or bicycles.

(2) Bicycles and other nonengine-powered cycles are to be parked in bicycle racks where provided. No person shall park a bicycle or other nonengine-powered cycle inside a building, by a doorway, on a path, sidewalk, walkway, or in such a manner as to block or obstruct the normal flow of pedestrian traffic.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-270 Report of accidents. (1) The operator of any vehicle involved in an accident on campus resulting in injury or death of any person or claimed damage to either or both vehicles exceeding five hundred dollars shall immediately report such accident to ~~((central services))~~ the chief administrative officer, or designee. Accidents occurring after the close of business shall be reported the next working day. Operator shall within twenty-four hours after such accident file a state of Washington motor vehicle report.

(2) Other minor accidents may be reported to ~~((central services))~~ the chief administrative officer, or designee, for insurance record purposes.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-280 Disabled and inoperative vehicles—Impounding. (1) Disabled or inoperative vehicles shall not be parked on the campus for a period exceeding seventy-two hours, without authorization from the ~~((dean of administration))~~ chief administrative officer, or designee.

(2) Vehicles parked over seventy-two hours without authorization may be impounded and stored at the expense of either or both the owner and operator thereof.

(3) Notice of intent to impound will be posted on the vehicle and sent by registered mail to the legal owner forty-eight hours prior to impound.

AMENDATORY SECTION (Amending Order A-4(90), filed 8/14/90, effective 9/14/90)

WAC 132L-117-290 Authority to establish parking fee. The ~~((board))~~ president shall set and review as necessary parking permit fees in accordance with WAC 132L-117-300 and a schedule of fines and penalties in accordance with WAC 132L-117-170.

AMENDATORY SECTION (Amending WSR 00-07-113, filed 3/20/00, effective 4/20/00)

WAC 132L-120-080 Student responsibilities. (1) Students who choose to attend Centralia College also choose to participate actively in the adult learning process offered by the college. As a process, learning is not a product or com-

modity that is bought and sold, but rather, is a relationship between teachers who are willing and competent to teach and learners who are willing and competent to learn. Therefore, the responsibility for learning is shared equally between students and faculty.

(2) The college is responsible for providing its students with an educational environment rich in the high quality resources needed by students to attain their individual educational goals. In return, students are responsible for making themselves aware of the full breadth of the resources available, for the timely choosing and appropriate use of those resources, and for the specific behavioral tasks necessary for attaining desired learning outcomes. Examples of specific student responsibilities are:

(a) To know and adhere to the college's policies, practices, and procedures;

(b) To participate actively in the learning process, both in and out of the classroom;

(c) To seek timely assistance in meeting educational goals;

(d) To attend all class sessions;

(e) To participate in class activities;

(f) To participate actively in the advising process;

(g) To develop skills required for learning, e.g., basic skills, time management, motivation, study skills, and openness to the educational process;

(h) To assume final responsibility for the selection of appropriate educational goals;

(i) To assume final authority for the selection of courses appropriate for meeting chosen educational goals;

(j) To seek out and use campus resources; and

(k) To contribute towards improving the college.

(3) Any student is subject to these rules, independent of any other status the individual may have with the college. Any action taken against a student under these rules shall be independent of other actions taken by virtue of another relationship with the college in addition to that of student.

(4) The college recognizes a responsibility to resolve behavioral problems before they escalate into serious problems. Therefore, the chief judicial affairs officer shall seek the assistance of other college departments or offices in investigating student behavioral problems. The chief judicial affairs officer will be as proactive as is possible concerning the resolution of student behavioral problems and use reasonable arbitration and conflict resolution methods in order to prevent such problems from escalating. The chief judicial affairs officer may seek and authorize settlements involving disputes related to student conduct when such settlements will better serve the college's broader interests.

(5) Students are expected to obey all college rules and regulations and obey the law. Any student shall be subject to disciplinary action as provided for in this code who, either as a principal actor, aider, abettor, or accomplice violates any local, state, or federal law, interferes with the personal rights or privileges of others or the educational process of the college; violates any provision of this code; or commits any of the following prohibited actions. The standard of conduct as listed below should be interpreted by students as general notice of prohibited conduct. They should be read broadly,

and are not designed to define misconduct in exhaustive terms:

(a) Assault, intimidation, or interference.

(b) Disorderly, disruptive, or abusive conduct: Disorderly, disruptive, or abusive behavior that interferes with the rights of others or which obstructs or disrupts teaching, learning, research, or administrative functions. Such conduct includes, but is not limited to: Interference with any speaker or audience; blocking or impeding pedestrian or vehicular traffic; blocking access to or from campus buildings or offices; and activities of observers or participants that disrupt classes, meetings, office or business activities, or any other normal functions of the college.

(c) Failure to follow instructions: Inattentiveness, inability, or failure of student to follow the reasonable instructions of any college employee acting within his or her professional responsibility; refusal to comply with any lawful order to leave the college campus or any portion thereof.

(d) Illegal assembly, obstruction, or disruption: Any assembly or other act which interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the educational and administrative functions of the college, or the private rights and privileges of others.

(e) False complaint: Filing a formal complaint falsely accusing another student with violating a provision of this code or falsely accusing a college employee of a misdeed. Also includes making any intentional false claim, charge, or statement against any member of the college community to harass, defame, or intimidate that individual.

(f) False alarms: 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. This includes reporting any type of emergency known to be false.

(g) Sexual harassment: Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or because of the sex of the recipient, where such behavior offends the recipient or a third party, causes discomfort or humiliation, creates an intimidating, offensive, or hostile work or classroom environment that interferes with job or school performance.

(h) Racial harassment: Engaging in verbal, written, or physical conduct relating to a person's race or color when the harassing conduct is sufficiently severe, persistent, or pervasive that it affects a person's ability to participate in or benefit from an educational program or activity or creates an intimidating, threatening, abusive, or otherwise hostile educational or work environment; or the harassing conduct has the purpose or effect of substantially or unreasonably interfering with a person's academic or work performance; or the harassing conduct otherwise adversely affects an individual's learning opportunities or employment opportunities. A hostile environment may be created by behaviors such as, but not necessarily limited to:

(i) Intimidation and implied or overt threats of physical violence motivated by race, color, or national origin;

(ii) 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;

(iii) 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;

(iv) Depending on the circumstances and context, graffiti and/or slogans or visual displays such as cartoons or posters depicting racial/ethnic slurs or racially/ethnically derogatory sentiments;

(v) Criminal offenses directed at persons because of their race or national origin.

(i) Furnishing false or incomplete information: The submission of information known to be false or incomplete to any college official. This includes, but is not limited to, providing false or incomplete information during an investigation, or before any student or employee disciplinary, grievance, or tenure process or hearing, or on any college document or form, or to any college employee or agent requesting information as part of their official duties and responsibilities.

(j) Intimidation of witnesses: Threatening or otherwise placing undue emotional pressure on any witness or potential witness during an investigation or informal or formal college hearing.

(k) Destruction of evidence: Knowingly destroying any evidence that could be used during an investigation or informal or formal college hearing for the purpose of denying its use as part of the investigation or hearing.

(l) Sexual assault: Any type of sexual assault in any form, including acquaintance rape and other forced and/or nonconsensual sexual activity.

(m) Physical or emotional abuse: Actual or attempted physical or emotional abuse of any person or conduct which threatens or endangers the health and safety of any person or which intentionally or recklessly causes a reasonable apprehension of harm to any person.

(n) Harassment: Behavior of any sort or any malicious act which serves no legitimate or legal purpose which causes harm to any person's physical or mental well-being. Includes intentionally and repeatedly following or contacting another person by any means in a manner that alarms, annoys, intimidates, harasses, causes substantial emotional distress, causes fear for personal safety or property, or is detrimental to that person or that would cause any of these reactions in a reasonable person. A warning that the behavior is unwanted is not required if a reasonable person would have known that the behavior in question was more likely than not to result in any of the above reactions in another reasonable person and no legitimate or legal purpose is evident.

(o) Threat: Conduct intended to threaten bodily harm, damage to property, or to endanger the health or safety of any person on the college campus. Includes behavior that involves an expressed or implied threat to interfere with an individual's personal safety, academic efforts, employment, or participation in college activities and causes the person to have a reasonable apprehension that such interference is about to occur.

(p) Reckless conduct: Recklessly engaging in conduct which creates a substantial risk of physical harm to either one's self or another person.

(q) **Incitement:** Intentionally inciting others to engage immediately in any unlawful activity, which incitement leads directly to such conduct.

(r) **Undue noise:** Unauthorized creation of noise in such a way as to interfere with college functions or using sound amplification equipment in a loud and raucous manner.

(s) **Aiding or abetting misconduct:** Aiding, assisting, abetting, or serving as an accomplice in the commission of any illegal act or any act prohibited by this code.

(t) **Failure to cooperate with an investigation:** Failure to cooperate with any lawful investigation of any conduct violation when such investigation is carried out by any college employee acting within the scope of their responsibilities; failure to cooperate with an investigation of any conduct violation, or interference with a proper investigation of any conduct violation by withholding evidence, encouraging or threatening another to withhold evidence.

(u) **Theft or robbery:** Theft of the property of the district or of another; actual or attempted theft of property or services belonging to the college, any member of its community, or any campus visitor; includes knowingly possessing stolen property.

(v) **Malicious mischief:** Intentional or negligent damage to or destruction of any college facility or other public or private real or personal property.

(w) **Unauthorized use of college equipment and supplies:** Using college equipment or supplies for personal gain or use without proper authority.

(x) **Unauthorized entry, access, or presence:** Unauthorized entry, access, or presence upon the property of the college or into a college facility or portion thereof which has been reserved, restricted in use, or placed off limits; unauthorized presence in any college facility or office at any time; or unauthorized possession or use of a key, access code, or password to any college facility or system. Unauthorized entry, access, or presence also applies to unauthorized access to any college, student, or staff data base, computer system, telephone system, or information system.

(y) **Computer, telephone, or electronic technology violation:** Conduct that violates college published policies on computer, telephone, or electronic technology use. This includes the use of any college computer, computer system, telephone system, information system, or other electronic technology to violate any local, state, or federal law.

(z) **Cheating, fabrication, facilitating academic dishonesty, multiple submission, and plagiarism.** Cheating is intentionally using or attempting to use unauthorized materials, information, or study aids in any academic exercise. The term academic exercise includes all form of work submitted for credit or hours. Fabrication is the intentional and unauthorized falsification or invention of any information or citation in an academic exercise. Facilitating academic dishonesty is intentionally or knowingly helping or attempting to help another to violate a provision of this section of the discipline code. Multiple submission includes submitting the same or substantially the same paper or oral report in more than one course without the instructor's permission in the later course(s). Plagiarism is the deliberate adoption or reproduction of ideas or words or statements of another person as one's own without acknowledgment.

(aa) **Forgery or alteration of records:** Forging or tendering any forged records or instruments of any district record or instrument to an employee or agent of the college.

(bb) **Refusal to provide identification in appropriate circumstances:** Refusal to provide positive identification (e.g., valid driver's license, student identification card, or state identification card) in appropriate circumstances to any college employee in the lawful discharge of said employee's duties.

(cc) **Smoking:** Smoking in any classroom or laboratory, the library, or in any college facility or office posted "no smoking" or in any area of the campus posted "no smoking."

(dd) **Controlled substances:** Using, possessing, being demonstrably under the influence of, or selling any narcotic or controlled substance or legend drugs including anabolic steroids, except when the use or possession of a drug is specifically prescribed as medication by an authorized health care provider licensed by law to prescribe the said medication.

(ee) **Alcoholic beverages:** Being demonstrably under the influence of any form of alcoholic beverage. Possessing or consuming any form of alcoholic beverage on college property or any college-controlled facility or at any college activity, program, or event, with the exception of sanctioned events, approved by the president or his or her designee.

(ff) **Violation of college policy:** Violation of clearly stated proscriptions in any published college policy, rule, or regulation.

(gg) **Ethics violation:** The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular trade, skill, craft, or profession for which the student is taking courses or is pursuing as their educational goal or major. These ethics codes must be distributed to students as part of an educational program, course, or sequence of courses and the student must be informed that a violation of such ethics codes may subject the student to disciplinary action by the college.

(hh) **Hazing:** Conspiracy to engage in hazing or participation in hazing another. Hazing shall include 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 other person attending Centralia College. Consent is no defense to hazing. The term does not include customary athletic events or other similar contests or competitions. Hazing is also a misdemeanor, punishable under state law.

(ii) **Initiation violation:** Conduct associated with initiation into a student organization, association, or living group, or any pastime or amusement engaged in with respect to an organization, association, or living group not amounting to a violation of under the definition of hazing. Conduct covered by this definition may include embarrassment, ridicule, sleep deprivation, verbal abuse, or personal humiliation. Consent is no defense to initiation violation.

(jj) **Prohibition of animals:** No student may bring into or allow any animal, with the exception of service animals, to enter any college owned or controlled facility. All dogs on

campus shall be under direct physical control, leashed by their owner or custodian.

(kk) Misuse of student identification: Includes, but is not limited to, alteration of validly issued identification in any manner; use of, or allowing use of, identification by a person other than the one for whom the identification was issued; or use of counterfeit student identification.

(ll) Other misconduct: Any other conduct or action in which the college can demonstrate a clear and distinct interest and which threatens the educational process or any other legitimate function of the college or the health or safety of any member of the college community or visitor.

(mm) Failure to comply with the following regulations governing firearms and weapons:

(i) It shall be the policy of the college that carrying, exhibiting, displaying, or drawing any weapon or weapon facsimile, such as a gun or firearm, dagger, sword, knife, or any other cutting or stabbing instrument or club or any other weapons apparently capable of producing bodily harm and/or property damage is prohibited, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for safety of other persons is prohibited.

(ii) Explosives, incendiary devices, or any similar device, object, or product is prohibited.

(iii) The above regulations shall not apply to equipment or material owned, used, or maintained by the college; nor will they apply to law enforcement officers.

(nn) Gambling: Any form of gambling is prohibited.

(oo) Lewd conduct: Engaging in lewd, indecent, or obscene behavior as defined by applicable law is prohibited.

(pp) Bicycling and skating: All persons using bicycles, skates or other similar nonpowered conveyances or vehicles shall do so in a manner that does not endanger the health, safety or welfare of themselves or others, and that does not unduly interfere with pedestrians, cause damage, block or impede access, create noise or distraction that interferes with the learning environment, or in any manner that interferes with the rights of others.

(qq) Skateboarding: No skateboarding shall be allowed on or in any Centralia College owned or controlled campus or facility.

(6) The college will consider as an aggravating factor in determining sanctions any violation of law or of this student code in which it can be shown that the accused intentionally selected the person or target of the violation based upon race, religion, color, disability, sexual orientation, national origin, or ancestry, and therefore may impose harsher or additional sanctions and penalties.

(7) Violation of any of the above regulations may also constitute violation of the criminal laws or ordinances of various cities, municipalities, counties, the state of Washington, or the United States and may subject a violator to criminal sanctions in addition to any sanctions imposed by the college.

AMENDATORY SECTION (Amending WSR 00-07-113, filed 3/20/00, effective 4/20/00)

WAC 132L-120-130 Judicial board. The college judicial board will hear and make recommendations on all disci-

plinary cases referred to it by the chief judicial affairs officer or appealed to it by students who have been disciplined by the chief judicial affairs officer.

(1) The college judicial board will be composed of the following nine members:

(a) A chair will be designated by the president of the college and shall continue in office until the person resigns or is recalled by the president. It is the responsibility of the chair to ensure that all procedural guidelines specified in this code and the Administrative Procedure Act are followed, to call the judicial board into session, to preside at all meetings and hearings of the committee, to take whatever steps are necessary during the hearing itself to ensure that the hearing is conducted in a safe and orderly manner, to advise the members of the committee concerning precedents and guidelines affecting the individual case, and to inform the student in writing of the action taken by the college judicial board following the hearing.

(b) Two full-time tenured faculty members appointed by the ~~(faculty representative)~~ **vice-president, instruction**. Two alternates shall be appointed to serve in the event that appointees are unable to serve or complete their term. The committee members shall serve for two-year terms. Terms shall begin with the first day of fall quarter and shall include summer quarter. One-year terms may be appointed to stagger experience on the judicial board.

(c) Two student representatives enrolled in a minimum of six credits in good standing shall be chosen by the ASCC in such manner as the members thereof shall determine. Two alternates shall be appointed to serve in the event that members are unable to serve or complete their term. The committee members shall serve for two-year terms. Terms shall begin with the first day of fall quarter and shall include summer quarter. One-year terms may be appointed to stagger experience on the judicial board.

(d) Two exempt members appointed by the exempt representative. Two alternates shall be appointed to serve in the event that appointees are unable to serve or complete their term. The committee members shall serve for two-year terms. Terms shall begin with the first day of fall quarter and shall include summer quarter. One-year terms may be appointed to stagger experience on the judicial board.

(e) Two classified staff members appointed by the classified staff representative. Two alternates shall be appointed to serve in the event that appointees are unable to serve or complete their term. The committee members shall serve for two-year terms. Terms shall begin with the first day of fall quarter and shall include summer quarter. One-year terms may be appointed to stagger experience on the judicial board.

(2) The judicial board shall be convened by the chief judicial affairs officer during the first four weeks of fall quarter to discuss these rules and receive training. Other meetings may be held as determined by the chairperson or requested by the committee members.

(3) Faculty or student members may be excused from service for the entire year, for a particular period, or for a particular case. If any member of the judicial board is unable to consider the matters raised in a particular hearing for any reason, (including, but not limited to, conflict of interest and matters of conscience or related reasons), such member(s)

shall abstain from participation. Replacement of excused members shall be made from respective alternate panels.

(4) A quorum is required to conduct a disciplinary hearing. In addition to the chair, at least one faculty member, one student, one classified staff, and one exempt member are required for a quorum.

(5) If a quorum cannot be formed because of the non-availability of members, e.g., summer quarter, break, excused absence, or other reasons, the president may appoint an ad hoc judicial board with the same composition as the regular judicial board, including the temporary appointment of a chair.

Chapter 132L-122 WAC

WITHHOLDING SERVICES FOR OUTSTANDING DEBT

NEW SECTION

WAC 132L-122-010 Policy. If any person, including faculty member, staff member, student, or former student, is indebted to the institution for an outstanding overdue debt, the institution need not provide any further services of any kind to such individual, including, but not limited to, admission, course registration, library access, transmitting files, records, transcripts, or other services which have been requested by such person.

NEW SECTION

WAC 132L-122-020 Notification. (1) The college shall notify in writing any person who owes the college an outstanding debt and from whom the college intends to withhold services. Written notice shall be in person or by first class mail to the address of record. The notice shall contain the amount owed, the reason for the debt, the method of paying the debt, and the services withheld.

(2) The letter of notification shall also state that the person has a right to a brief adjudicative proceeding before the administrator designated in the notice. The proceeding must be requested within ten business days of the date of mailing of the notification of refusal to provide services.

NEW SECTION

WAC 132L-122-030 Procedure for brief adjudicative proceeding. Upon receipt of a timely request for a hearing, the designated administrator shall have the records and files of the institution available for review and shall hold an informal hearing concerning whether the individual in fact owes or owed any outstanding debts to the institution. The hearing must be conducted within ten business days of the request for a hearing. After the informal hearing, a decision shall be rendered by the administrator indicating whether in fact the institution is correct in withholding services for the outstanding debt. If the outstanding debt is owed by the individual involved, no further services shall be provided. Notification of this decision shall be sent to the individual within five business days after the hearing. This hearing shall constitute

a brief adjudicative proceeding established by the Administrative Procedure Act at RCW 34.05.482 through 34.05.494.

AMENDATORY SECTION (Amending Order A-1(93), filed 6/15/93, effective 7/16/93)

WAC 132L-133-020 Organization—Operation—Information. (a) Organization. Centralia College is established in Title 28B RCW as a public institution of higher education. ~~((The institution is governed by a five member board of trustees, appointed by the governor.))~~ A five member board of trustees, appointed by the governor, governs the institution. The board employs a president, who acts as the chief executive officer of the institution. The president establishes the structure of the administration.

(b) Operation. The administrative office is located at the following address: ~~((Hanson))~~ Hanson Administration Building, Corner of Walnut and Rock Streets. The mailing address is 600 West Locust, Centralia, WA 98531-4099.

The ~~((office))~~ operating hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays ~~((for fall, winter and spring quarters (approximately September 1 through June 15). Summer hours (approximately June 16 through August 31) are 7:30 a.m. to 5:00 p.m. Monday through Thursday, and 7:30 a.m. to 11:30 a.m. on Friday, except holidays.))~~ for fall, winter and spring quarters (approximately September 1 through June 15). Summer hours (approximately June 16 through August 31) are 7:30 a.m. to 5:00 p.m. Monday through Thursday, and 7:30 a.m. to 11:30 a.m. on Friday, except holidays. Educational operations are ~~((false))~~ located at the following addresses: 600 West Locust, Centralia ~~((; and East County Center))~~ and Centralia College East, 701 Airport Way, Morton ~~((; and Tenino))~~.

(c) Additional and detailed information concerning the educational offerings may be obtained from the catalog, copies of which are available at the following address: Admissions Office, 600 West Locust, Centralia, WA 98531-4099.

NEW SECTION

WAC 132L-133-030 Meeting of the board of trustees. The board customarily holds monthly meetings on the second Thursday of each month at such place as it may designate. Notices of the time and place of all regular and special meetings shall be governed by the requirements of chapter 42.30 RCW, Open Public Meetings Act, as now or hereafter amended.

AMENDATORY SECTION (Amending Order 74-18, filed 3/19/74)

WAC 132L-136-020 General policy. ~~((Community))~~ Centralia College ~~((District #12))~~ is an educational institution provided and maintained by the people of the state. Its campuses, buildings, properties, and facilities shall be reserved at all times for those activities ~~((which))~~ that are related to its broad educational objectives and goals. ~~((However, the facilities, when not required for scheduled district use, are available for rental by the public in accordance with specified fee schedules and other regulations and procedures for such~~

use.) Access to college-owned or college-controlled buildings, offices, classrooms, and facilities is granted only to conduct official business. Attempting to enter, entering, or remaining in such buildings, offices, classrooms, or facilities without legitimate purpose is prohibited. The main thoroughfares of any of the college's campuses are open to the general public during normal business and class hours. After normal business and class hours, the campus shall be closed to the public. The general public, and all guests or visitors to any college-owned or college-controlled property shall conform to all municipal, state and federal laws and statutes. In addition, the public, guests, and visitors shall be subject to all of the applicable provisions of chapter 132L-120 WAC, Student rights and responsibilities code.

NEW SECTION

WAC 132L-136-021 Smoking policy. Smoking is prohibited in all buildings and facilities and within twenty feet of all entry doors where posted.

NEW SECTION

WAC 132L-136-025 Bicycling and skating. All persons using bicycles, skates, or other similar nonpowered conveyances or vehicles shall do so in a manner that does not endanger the health, safety, or welfare of themselves or others, and that does not unduly interfere with pedestrians, cause damage, block or impede access, create noise or distraction that interferes with the learning environment, or in any manner that interferes with the rights of others.

NEW SECTION

WAC 132L-136-026 Skateboarding. No skateboarding shall be allowed on or in any Centralia College-owned or -controlled campus or facility. Violators will be subject to actions under, as now or hereafter amended, no trespass under chapter 9A.52 RCW and/or the Student rights and responsibilities code chapter 132L-120 WAC.

AMENDATORY SECTION (Amending Order 74-18, filed 3/19/74)

WAC 132L-136-030 Administrative control. The board of trustees delegates to the president authority to establish procedures for proper review and approval of the use of the ~~((district's))~~ college's facilities; to establish, within the framework of these policies, regulations governing such use; and to establish and revise fee schedules consistent with WAC 132L-136-080.

AMENDATORY SECTION (Amending Order 74-18, filed 3/19/74)

WAC 132L-136-040 Trespass regulations. (1) Individuals who are not students or members of the faculty or staff, whose actions are in violation of ~~((trespass regulations, WAC 132L-20-040—Authority to prohibit trespass;))~~ chapter 132L-136 WAC or WAC 132L-120-080 will be advised by the president, or ~~((his))~~ designee, of the specific nature of the

violation, and if the individuals persist in the violation, they will be requested to leave the ~~((district property))~~ campus. Failure to comply with such a request will subject such individuals to arrest for trespass under the provisions of chapter ~~((9.83))~~ 9A.52 RCW.

(2) Members of the ~~((district))~~ college community (students, faculty, or staff) who do not comply with these regulations will be reported to the appropriate ~~((district))~~ college office for action in ~~((accord))~~ accordance with established ~~((district))~~ college policies.

AMENDATORY SECTION (Amending Order 74-18, filed 3/19/74)

WAC 132L-136-050 Scheduling. Facilities may be available for rental by the public in accordance with specified fee schedules and other regulations and procedures for such use when not scheduled for college use. The administrative regulations and procedures, schedule of fees, and application forms for use may be obtained at the office of the ~~((dean of administration on the Centralia college campus and at the office of the assistant director for administration on the Olympia Vocational Technical Institute campus. The scheduling of facilities by groups or organizations will be through these offices for the specific campus))~~ chief administrative office or designee.

AMENDATORY SECTION (Amending Order 74-18, filed 3/19/74)

WAC 132L-136-060 Users. In order to assure appropriate scheduling of ~~((Community))~~ Centralia College ~~((District #12))~~ facilities, the following priorities will serve as guidelines:

~~((1-Community))~~ (1) Centralia College ~~((District #12))~~ scheduled programs and activities.

~~((2-Community))~~ (2) Centralia College ~~((District #12))~~ related activities, recognized college organizations, and those public or private agencies, whose purpose relate to the advancement of ~~((District #12))~~ Centralia College programs, and/or sponsored activities.

~~((3-))~~ (3) Nonprofit organizations that are nonsectarian, nonpolitical, and noncommercial:

~~((a-))~~ (a) Public education groups that would be engaging in activities serving public education goals and objectives, and

~~((b-))~~ (b) Other than public education groups or organizations,

~~((1))~~ (i) That would be engaging in activities that serve governmentally supported objectives, or

~~((2))~~ (ii) That would be engaging in activities related to community improvement objectives, or

~~((3))~~ (iii) That would be engaging in activities related to the organization's goals and objectives.

~~((4-Private organizations and those organizations of a religious or sectarian, political or commercial nature requesting facilities on an emergency basis.~~

5-)) (iv) Other organizations or groups.

AMENDATORY SECTION (Amending Order 74-18, filed 3/19/74)

WAC 132L-136-070 Limitations of use. ~~((1-District))~~
 (1) College facilities may not be used in ways which interfere with or are detrimental to the ~~((district's))~~ college's own instructional and educational programs.

~~((2-District))~~ (2) College facilities may not be used for commercial sales, advertising, or promotional activities except when such activities serve educational purposes of the ~~((district))~~ college and are conducted under the sponsorship of a ~~((district))~~ college department of office.

~~((3-))~~ (3) Each group or organization which uses ~~((district))~~ college facilities must abide by the ~~((regulations))~~ policies and procedures ~~((of))~~ for use as determined by the board of trustees and/or the ~~((district))~~ college president and shall be subject to revocation of their privilege to use the facilities for failing to do so.

~~((4-))~~ (4) The administration reserves the right to deny or cancel the use of facilities when such use or meeting may in any way be prejudicial to the best interests of the ~~((district))~~ college.

AMENDATORY SECTION (Amending Order 74-18, filed 3/19/74)

WAC 132L-136-080 Fees. Fees, when applicable, will be determined by the following categories and assessed accordingly:

~~((1-))~~ (1) Direct charges: Will include charges for utilities (heat, light, etc.), security, and custodial services.

~~((2-))~~ (2) Special charges: Will include charges for use of audio-visual or television equipment and operator; for law enforcement services, and/or any other similar kind of expenses incurred.

~~((3-))~~ (3) Rental charges: Will include charges (depreciation, overhead costs, amortization, etc.) for use of facilities.

~~((4-))~~ (4) Damage charges: Will include charges to defray any expense for the repair or replacement of damaged property or equipment incurred as a result of a rental agreement.

NEW SECTION

The following section of the Washington Administrative Code is recodified as follows:

Old WAC Number	New WAC Number
132L-136-020	132L-136-011

AMENDATORY SECTION (Amending Order 77-3, filed 3/30/77)

WAC 132L-140-010 Environmental protection policy. It shall be the policy of ~~((Community))~~ Centralia College ~~((District-12))~~ that capital projects proposed and developed by the ~~((district))~~ college shall comply with the provisions of chapter 43.21C RCW, the State Environmental Policy Act (SEPA); chapter ~~((197-10))~~ 197-11 WAC, WAC guidelines for SEPA implementation; and WAC 131-24-030, SEPA

implementation rules of the state board for community college education.

AMENDATORY SECTION (Amending Order 85-1, Motion No. 85-56, filed 9/3/85)

WAC 132L-140-020 Responsible officer. In compliance with WAC ~~((197-10-820))~~ 197-11-910, the ~~((district))~~ director of ~~((facilities and capital planning))~~ maintenance and construction projects is designated to be the "responsible official" for carrying out this policy.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132L-140-030 SEPA information center.

AMENDATORY SECTION (Amending Order 73-20, filed 5/18/73)

WAC 132L-276-010 Purpose. The purpose of this chapter shall be to ensure compliance by ~~((the Community College District No. 12))~~ Centralia College with the provisions of chapter ~~((1, Laws of 1973 (Initiative 276), Disclosure Campaign finances Lobbying Records; and in particular with sections 25-32 of that act, dealing with public records))~~ 42.17 RCW.

AMENDATORY SECTION (Amending Order 73-20, filed 5/18/73)

WAC 132L-276-020 Definitions. (1) Public records. "Public record" includes any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by ~~((any state or local agency regardless of physical form or characteristics))~~ Centralia College regardless of physical form or characteristics, except those student records exempted by the Family Educational Rights and Privacy Act of 1974, known as FERPA or the "Buckley Amendment" (U.S.C. 1232g and 34 CFR 99) as amended.

(2) Writing. "Writing means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds; or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents."

~~((3-Community College District No. 12. The Community College District No. 12 is an agency organized by statute pursuant to RCW 28B.50.040. The Community College District No. 12 shall hereinafter be referred to as the "district" and including the two institutions known as Centralia College and Olympia Vocational Technical Institute. Where appropriate, the term district also refers to the staff, the board of trustees, and the employees of the district on both campuses.))~~

PROPOSED

AMENDATORY SECTION (Amending Order 73-20, filed 5/18/73)

WAC 132L-276-050 Public records available. All public records of the ~~((district))~~ college, as defined in WAC 132L-276-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by ~~((section 31, chapter 1, Laws of 1973))~~ chapter 42.17 RCW and WAC 132L-276-100. Records may be requested from the public records officer located in the Human Resources Office, Hanson Administration Building.

AMENDATORY SECTION (Amending Order 73-20, filed 5/18/73)

WAC 132L-276-060 Public records officer. The ~~((district's))~~ college's public records shall be in the charge of the public records officer designated by the ~~((district))~~ college president. ~~((The person so designated shall in turn designate persons in the administrative office on each campus to implement this section.))~~ The public records officer and his or her designees shall be responsible for the following: The implementation of the ~~((district's))~~ college's rules and regulations regarding release of public records, coordinating the staff of the ~~((district))~~ college in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter ~~((1, Laws of 1973))~~ 42.17 RCW.

AMENDATORY SECTION (Amending Order 73-20, filed 5/18/73)

WAC 132L-276-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the ~~((district))~~ college. For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. During summer operations, Friday hours shall be from 9:00 a.m. to 11:00 a.m.

AMENDATORY SECTION (Amending Order 73-20, filed 5/18/73)

WAC 132L-276-080 Requests for public records. In accordance with requirements of chapter ~~((1, Laws of 1973))~~ 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the ~~((district))~~ college, which shall be available at ~~((its administrative))~~ the office ~~((on the appropriate campus))~~ outlined in WAC 132L-276-050. The form shall be presented to the public records officer and/or his designee(s), at the ~~((administrative office on the appropriate campus))~~ Hanson Administrative Building during customary office hours. ~~((The request shall include the following information:~~

~~((a) The name of the person requesting the record;~~

~~((b) The time of day and calendar date on which the request was made;~~

~~((c) The nature of the request;~~

~~((d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;~~

~~((e) If the requested matter is not identifiable by reference to the district's current index, an appropriate description of the record requested.))~~

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer and/or his or her designee(s), to assist the member of the public in appropriately identifying the public record requested.

(3) The public records officer and/or his or her designee to whom the request is presented shall, ~~((by the close of that business day, if the request is presented before noon, or noon the following business day if the request is presented in the afternoon,))~~ within five business days after the day of request:

(a) Make the requested document available, or

(b) State that such a document does not exist, or

(c) Ask for clarification of the document requested, or

(d) Deny access because the document is exempt from public inspection under chapter 42.17 RCW, WAC 132L-276-050, and 132L-276-100.

(4) Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine if the information requested is exempt.

(5) If the intent of the request is not clear, the public records officer may request clarification from the requestor. The public records officer does not need to respond to the request if the requestor fails to clarify the request.

AMENDATORY SECTION (Amending Order 73-20, filed 5/18/73)

WAC 132L-276-090 Copying. (1) No fee shall be charged for the inspection of public records. The ~~((district))~~ college shall charge a fee of 10¢ per page of copy for providing copies of public records and for use of the ~~((district's))~~ college's copy equipment. This charge is the amount necessary to reimburse the ~~((district))~~ college for its actual costs incident to such copying. If a particular request for copies requires an unusually large amount of time, or the use of any equipment not readily available, the ~~((district))~~ college will provide copies at a rate sufficient to cover any additional cost. All fees must be paid by money order, cashier's check, or cash in advance.

(2) Copies shall be made at Centralia College. If copying facilities are not available at the college, the college will arrange to have copies made commercially according to the provisions of WAC 132L-276-090. The public records officer or designee of Centralia College shall make the copies.

AMENDATORY SECTION (Amending Order 73-20, filed 5/18/73)

WAC 132L-276-100 Exemptions. (1) The ~~((district))~~ college reserves the right to determine that a public record

requested in accordance with the procedures outlined in WAC 132L-276-080 is exempt under the provisions of ((section 31, chapter 1, Laws of 1973)) chapter 42.17 RCW.

(2) In addition, pursuant to ((section 26, chapter 1, Laws of 1973)) chapter 42.17 RCW, the ((district)) college reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter ((1, Laws of 1973)) 42.17 RCW. The college also reserves the right not to disclose records consistent with specific exemptions identified in chapter 42.17 RCW. The public records officer and/or his designee will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

AMENDATORY SECTION (Amending Order 73-20, filed 5/18/73)

WAC 132L-276-110 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer and/or his or her designee(s) which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer and/or his designee denying the request shall refer it to the district president. The ((district)) college president or his or her designee shall immediately consider the matter and either affirm or reverse such denial or consult with the attorney general to review the denial. In any case, the request shall be returned with a final decision, within ((two)) five business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the ((district)) college has returned the petition with a decision or until the close of the ((second)) fifth business day following denial of inspection, whichever occurs first.

AMENDATORY SECTION (Amending Order 73-20, filed 5/18/73)

WAC 132L-276-120 Protection of public records. ((Requests for public records shall be to the public records officer and/or his designees in the appropriate locations on both or either campuses in the district. Public records and a facility for their inspection will be provided by the public records officer and/or his designees. Such records shall not be removed from the place designated for their inspection. Copies shall be made at Centralia College. If copying facilities are not available at the college, the college will arrange to have copies made commercially according to the provisions of WAC 132L-276-090.)) (1) No person shall knowingly alter, deface, or destroy public records of Centralia College.

(2) Care and safekeeping of public records of Centralia College, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.

(3) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.

(4) Boisterous or otherwise disruptive conduct by those requesting public records of Centralia College shall not be permitted.

AMENDATORY SECTION (Amending Order 73-20, filed 5/18/73)

WAC 132L-276-130 Records index. (1) Index. The public records officer and/or his or her designee(s) have available to all persons a current index which provides identifying information as to those records adopted or promulgated and indexed since ((June 30, 1972, in the following areas:

~~(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;~~

~~(b) Those statements of policy and interpretations of policy, statute and the Constitution which have been adopted by the agency;~~

~~(c) Administrative staff manuals and instructions to staff that affect a member of the public;~~

~~(d) Planning policies and goals, and interim and final planning decisions;~~

~~(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others;~~

~~(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party;~~

~~(g) Financial records and budgets; and~~

~~(h) Board of trustees' minutes and reports)) January 1, 1973, which are deemed by Centralia College to fall within the purview of RCW 42.17.260 and WAC 132L-276-020.~~

(2) Availability. The current index promulgated by the ((district)) college shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

AMENDATORY SECTION (Amending Order 73-20, filed 5/18/73)

WAC 132L-276-140 ((Adoption of form.)) Request for public record—Form. The ((district)) college hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the form attached ((hereto as Appendix A, entitled "Request for public record.")).

AMENDATORY SECTION (Amending Order 73-20, filed 5/18/73)

WAC 132L-276-900 Appendix "A"—Request for public record to ((Community)) Centralia College ((District No. 12)).

((Appendix "A"

Request for public record to
Community College District No. 12

(a) _____
Signature Signature (Please Print)

Name of Organization, if Applicable

Mailing Address of Applicant Phone Number

(b) _____
Date Request Made at Community Time of Day
College District No. 12 Request Made

(c) Nature of Request _____

(d) Identification Reference on Current Index _____
Please Describe

(e) Description of Record, or Matter, Requested if not Identifiable by Reference to the Community College District No. 12's Current Index _____

Request: Approved _____ By _____
-Date Public Records Officer
and/or his designee

Denied Date _____

Reasons for Denial: _____

Referred to _____ By _____
-Date Public Records Officer
and/or his designee))

REQUEST FOR PUBLIC RECORDS

To: Public Records Officer
Centralia College DATE OF REQUEST _____ TIME OF REQUEST _____

REQUEST FOR PUBLIC RECORDS

PUBLIC RECORDS OR INFORMATION

REQUESTED

REQUESTED BY

NAME:

ORGANIZATION:

MAILING ADDRESS:

REQUESTER READ AND SIGN

COMPLETED ACKNOWLEDGMENT OF RECEIPT RECORDS OFFICER

I understand that I must abide by the rules and regulations published by Centralia College for the protection of public records, a copy of which I have read and understand.

NO. OF AMOUNT DATE OF TIME OF RECEIPT COPIES RECEIVED RECEIPT

PUBLIC RECORDS

OFFICER SIGNATURE

RECIPIENT'S SIGNATURE

REASON IF UNABLE TO COMPLY:

I understand that I will be charged per copy for all standard letter size copies I desire and that other size publications are available at cost.

REQUESTOR'S SIGNATURE

Public records of Centralia College are provided for inspection and copying subject to the following regulations:

WAC 132L-276-120 Protection of public records.

(1) No person shall knowingly alter, deface, or destroy public records of Centralia College.

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REQUEST FOR PUBLIC RECORDS

- (2) Care and safekeeping of public records of Centralia College, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.
- (3) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.
- (4) Boisterous or otherwise disruptive conduct by those requesting public records of Centralia College shall not be permitted.

I have read, understand, and will comply with the above-stated regulations.

.....
Requestor's Signature and Date

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 132L-276-030 Description of central and field organization of Community College District No. 12.
- WAC 132L-276-040 Operations and procedures.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132L-280-010 General policy.
- WAC 132L-280-015 Definitions.
- WAC 132L-280-020 Annual notification of rights.
- WAC 132L-280-030 Procedure to inspect education records.
- WAC 132L-280-040 Disclosure of education records.
- WAC 132L-280-050 Limits on rights to review and inspect and obtain copies of education records.
- WAC 132L-280-060 Record of request and disclosures.
- WAC 132L-280-070 Disclosure of directory information.
- WAC 132L-280-080 Requests for corrections, hearings, adding statements to education records.
- WAC 132L-280-090 Fees for copies.
- WAC 132L-280-100 Waiver.

- WAC 132L-280-110 Type and location of education records.
- WAC 132L-280-120 Remedy for students protected by this act.

Chapter 132L-300 WAC

DISCRIMINATION COMPLAINT PROCESS

NEW SECTION

WAC 132L-300-010 General policy. It is the policy of Centralia College to assure equal opportunity and nondiscrimination on the basis of race or ethnicity, creed, color, national origin, sex, marital status, sexual orientation, age, religion, the presence of any sensory, mental or physical disability, and status as a disabled veteran or Vietnam-era veteran or veteran of a uniformed service.

NEW SECTION

WAC 132L-300-020 Applicability. This policy applies to any member of the Centralia College community. The Centralia College community is defined to include, but not be limited to: Students and any other individuals enrolled or seeking enrollment at the college; employees and any other individuals seeking employment at the college; vendors and other providers of service to the college; and other users of college services.

NEW SECTION

WAC 132L-300-030 Right to complain. Any member of the college community has the right to make a complaint against the college that alleges violation of the general policy described in WAC 132L-300-010 or that alleges violations of any federal, state, municipal, or college law, regulation, policy, order, or directive that prohibits discrimination. This complaint process covers sexual harassment, as a form of illegal discrimination. Copies of Centralia College's sexual harassment policy are available from the offices of either the equal opportunity officer or the chief student judicial affairs officer. Complaints may be informal or formal. In addition, any member of the Centralia College community has the right to file a complaint of discrimination with the appropriate state or federal agency. A complainant has the right of professional assistance at his or her own expense.

NEW SECTION

WAC 132L-300-040 Protection from retaliation. No individual shall be penalized or retaliated against in any way by a member of the college community for initiating a complaint.

NEW SECTION

WAC 132L-300-050 Informal complaint procedure. An informal complaint may be initiated in one of two ways:
(1) All persons covered by this policy are encouraged to discuss the matter with the appropriate administrator. The

PROPOSED

complaint may be concluded by mutual consent at this point. The administrator must submit a brief description of the facts to the equal opportunity officer of the college for maintaining a confidential record.

(2) As an alternative to subsection (1) of this section or, if subsection (1) of this section fails, the complainant may consult informally with the equal opportunity officer, if the complaint is about an employee, or with the chief student judicial affairs officer, if the complaint is about a student. The equal opportunity officer or chief student judicial affairs officer will provide advice and intervention in confidence, where appropriate.

NEW SECTION

WAC 132L-300-060 Outcomes of the informal complaint process. Informal complaints may have several outcomes. The person raising the issue may only want to discuss the matter with a neutral party in order to clarify whether discrimination may be occurring and to determine his or her options, including the pursuit of more formal options. In such a situation the equal opportunity officer or chief student judicial affairs officer will give assistance and offer suggestions as to how the issue might be resolved, without drawing a conclusion as to whether illegal discrimination has occurred. In other cases the equal opportunity officer or chief judicial affairs officer may be asked to act as a mediator, to talk to the alleged offending person to see whether an informal resolution of the issue can be reached. In the case of an employee, the supervisor of the alleged offending person may be notified that an informal complaint has been received, but that no investigation has taken place. If this process reaches resolution, no further actions will be taken and the matter will be closed. Issues not resolved may require that further inquiries be made and/or that the appropriate administrator take a more active role in finding a solution to the problem.

NEW SECTION

WAC 132L-300-070 Time limit for formal complaint procedures. Formal complaints must be submitted within six months of the most recent alleged discriminatory act, preferably within thirty days, in order to help ensure effective investigation and corrective action.

NEW SECTION

WAC 132L-300-080 Formal complaint procedures against students. Complaints about the conduct of a student, who was not performing as an employee of the college during the alleged incident, should be made to the chief student judicial affairs officer of the college. Complaints about students shall be handled in accordance with chapter 132L-120 WAC, Student rights and responsibilities code. A copy of this code is available from the chief student judicial affairs officer. In addition, the Family Education Rights and Privacy Act places protections and limits on releasing information about students. The chief student judicial affairs officer shall notify the equal opportunity officer of all such complaints, seek consultation and/or assistance as appropriate, and provide the equal opportunity officer timely notification of the outcome.

NEW SECTION

WAC 132L-300-085 Formal complaint procedures against employees and/or agents of the college. Complaints about the conduct of an employee should be made to the equal opportunity officer of the college. If there are repeated informal complaints about a member of the college community, the president may initiate an investigation without a formal complaint from an individual. The president will provide a written copy of the complaint to the individual against whom the complaint is lodged.

NEW SECTION

WAC 132L-300-090 Outcomes of the formal complaint process. (1) Within fifteen days after receipt of a complaint, the equal opportunity officer will consult with the complainant, the appropriate administrator, the person against whom the complaint is made and/or other appropriate persons, in an attempt to resolve the matter and/or to determine whether further investigation is warranted. Every effort will be made to report the findings within sixty days of receipt of the written complaint. If for any reason, an extension is necessary, the complainant will be informed in writing of the reasons for the extension, the status of the investigation, and the probable date of completion.

(2) If the investigating officer determines that corrective action is needed, that officer will initiate discussions with the appropriate administrator to resolve the complaint. A formal investigation can be terminated at any time should a satisfactory resolution be reached before a written finding is made.

(3) Upon completion of the investigation, the investigating officer will notify in writing the complainant and the appropriate administrator of the findings and recommendations.

NEW SECTION

WAC 132L-300-100 Complainant appeal process. If the complainant disputes the findings or is dissatisfied with the recommendations, he or she may appeal such findings by filing a complaint with an outside agency within its established time limits.

NEW SECTION

WAC 132L-300-110 Responsibilities of the equal opportunity officer. The equal opportunity officer, located in the Human Resource Office, Hanson Administration Building, on the Centralia College campus shall be responsible for implementation of this policy. All inquiries will be handled confidentially when feasible. When any member of the college community or persons denied admission, employment, or services files a complaint of discrimination with an outside federal or state agency, that agency will request a response from the college to the charges of the complaint. The equal opportunity officer will prepare the response, usually after conducting an internal investigation of the complaint.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132L-400-010 Grounds for ineligibility.
- WAC 132L-400-020 Suspension procedure—
Right to informal hearing.
- WAC 132L-400-030 Hearing.
- WAC 132L-400-040 Decision.

WSR 04-10-055

**WITHDRAWAL OF PROPOSED RULES
HOP COMMISSION**

[Filed April 30, 2004, 2:15 p.m.]

This is to advise that the Washington State Hop Commodity Board is withdrawing WSR 03-21-167 filed on October 22, 2003, regarding the rules of Washington State Hop Commodity Board, WAC 16-532-101 through 16-532-120.

Ann E. George
Administrator

WSR 04-10-056

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed April 30, 2004, 2:16 p.m.]

This is to advise that the Washington State Department of Agriculture is withdrawing WSR 03-21-169 filed October 22, 2003, regarding the Washington Hop Commission's Marketing Order, chapter 16-532 WAC.

Valoria H. Loveland
Director

WSR 04-10-072

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

(By the Code Reviser's Office)

[Filed May 4, 2004, 8:37 a.m.]

WAC 296-20-2020, proposed by the Department of Labor and Industries in WSR 03-21-070 appearing in issue 03-21 of the State Register, which was distributed on November 5, 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 04-10-073

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

(By the Code Reviser's Office)

[Filed May 4, 2004, 8:38 a.m.]

WAC 220-56-235 and 220-56-250, proposed by the Department of Fish and Wildlife in WSR 03-21-131 appearing in issue 03-21 of the State Register, which was distributed on November 5, 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 04-10-074

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

(By the Code Reviser's Office)

[Filed May 4, 2004, 8:38 a.m.]

WAC 220-33-070, proposed by the Department of Fish and Wildlife in WSR 03-21-138 appearing in issue 03-21 of the State Register, which was distributed on November 5, 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 04-10-075

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

(By the Code Reviser's Office)

[Filed May 4, 2004, 8:38 a.m.]

WAC 16-532-110 and 16-532-115, proposed by the Department of Agriculture in WSR 03-21-168 appearing in issue 03-21 of the State Register, which was distributed on November 5, 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

PROPOSED

WSR 04-10-076**WITHDRAWAL OF PROPOSED RULES
PARKS AND RECREATION
COMMISSION**

(By the Code Reviser's Office)

[Filed May 4, 2004, 8:39 a.m.]

WAC 352-32-030, proposed by the Parks and Recreation Commission in WSR 03-21-172 appearing in issue 03-21 of the State Register, which was distributed on November 5, 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 04-10-077**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

(By the Code Reviser's Office)

[Filed May 4, 2004, 8:39 a.m.]

WAC 220-56-232, proposed by the Department of Fish and Wildlife in WSR 03-21-174 appearing in issue 03-21 of the State Register, which was distributed on November 5, 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 04-10-078**PROPOSED RULES
DEPARTMENT OF HEALTH**

(Nursing Care Quality Assurance Commission)

[Filed May 4, 2004, 9:05 a.m.]

Original Notice.

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

Title of Rule: WAC 246-840-700, 246-840-910, 246-840-930, and 246-840-940, RN nurse delegation.

Purpose: The proposed rules allow delegation of nursing tasks for in-home care settings, and delegation of application, instillation, or insertions of medications by an RN employed by a home health or hospice agency under a plan of care. This allows people to stay at home rather than go to a nursing home.

Other Identifying Information: The proposal implements chapter 140, Laws of 2003; also, these rules were adopted under emergency rule which expires July 2, 2004.

Statutory Authority for Adoption: RCW 18.79.110, 18.79.260 (3)(f), and 18.88A.210.

Statute Being Implemented: RCW 18.79.260.

Summary: The proposal allows a registered nurse employed by a home health or hospice agency to delegate

application, instillation, or insertion of medications to a nursing assistant under a plan of care and allows delegation of specific nursing care tasks to nursing assistants in an in-home care setting, consistent with the statutory requirements for nurse delegation.

Reasons Supporting Proposal: Legislation was passed in May 2003. This legislation allows registered nurses to delegate to nursing assistants in the in-home care setting. The proposal is necessary to make the rules consistent with current law.

Name of Agency Personnel Responsible for Drafting: Kendra Pitzler, P.O. Box 47864, Olympia, WA 98504-7864, (360) 236-4723; Implementation and Enforcement: Paula Meyer, P.O. Box 47864, Olympia, WA 98504-7864, (360) 236-4713.

Name of Proponent: Department of Health, Nursing Care Quality Assurance Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposed rule allows an RN employed by a home health or hospice agency to delegate application, instillation, or insertion of medications to a nursing assistant. This allows delegation of specific nursing care tasks to nursing assistants in an in-home care setting.

Purpose: The proposed rules allow delegation of nursing tasks for in-home care settings, and delegation of application, instillation, or insertions of medications by an RN employed by a home health or hospice agency. This allows people to stay at home rather than go to a nursing home.

Anticipated Effects: This rule allows registered nurses to delegate to nursing assistants in the in-home care setting. There will be greater utilization of nursing assistants in this setting.

Proposal Changes the Following Existing Rules: This change will add delegation of application, instillation, or insertion of medications by an RN employed by a home health or hospice agency to "general delegation" under WAC 246-840-700.

Allows delegation of specific nursing tasks to nursing assistants in an in-home care setting under WAC 246-840-910, 246-840-930, and 246-840-940.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.025(3) exempts from the small business economic impact statement rules that meet the criteria of RCW 34.05.310(4). These rules are exempt under RCW 34.05.310 (4)(c) because the rule adopts without material change RCW 18.79.260.

RCW 34.05.328 does not apply to this rule adoption. This rule is not legislatively significant under RCW 34.05.-328 (5)(a)(iii) because it adopts without material change Washington state statute (RCW 18.79.260). The proposed rule's content is explicitly and specifically dictated by statute.

Hearing Location: Department of Health, Point Plaza East, 310 Israel Road S.E., Olympia, WA 98504-7864, on June 8, 2004, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Kendra Pitzler by May 24, 2004, TDD (800) 833-6388 or (360) 236-4723.

Submit Written Comments to: Kendra Pitzler, P.O. Box 47864, Olympia, WA 98504-7864, Kendra.pitzler@doh.wa.gov, fax (360) 236-4738, by June 4, 2004.

Date of Intended Adoption: July 2, 2004.

April 9, 2004

Cheryl Payseno, Chair

Nursing Care Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 02-06-117, filed 3/6/02, effective 4/6/02)

WAC 246-840-700 Standards of nursing conduct or practice. (1) The purpose of defining standards of nursing conduct or practice through WAC 246-840-700 and 246-840-710 is to identify responsibilities of the professional registered nurse and the licensed practical nurse in health care settings and as provided in the Nursing Practice Act, chapter 18.79 RCW. Violation of these standards may be grounds for disciplinary action under chapter 18.130 RCW. Each individual, upon entering the practice of nursing, assumes a measure of responsibility and public trust and the corresponding obligation to adhere to the professional and ethical standards of nursing practice. The nurse shall be responsible and accountable for the quality of nursing care given to clients. This responsibility cannot be avoided by accepting the orders or directions of another person. The standards of nursing conduct or practice include, but are not limited to the following;

(2) The nursing process is defined as a systematic problem solving approach to nursing care which has the goal of facilitating an optimal level of functioning and health for the client, recognizing diversity. It consists of a series of phases: Assessment and planning, intervention and evaluation with each phase building upon the preceding phases.

(a) Registered Nurse:

Minimum standards for registered nurses include the following:

(i) Standard I Initiating the Nursing Process:

(A) Assessment and Analysis: The registered nurse initiates data collection and analysis that includes pertinent objective and subjective data regarding the health status of the clients. The registered nurse is responsible for ongoing client assessment, including assimilation of data gathered from licensed practical nurses and other members of the health care team;

(b) Licensed Practical Nurse:

Minimum standards for licensed practical nurses include the following:

(i) Standard I - Implementing the Nursing Process: The practical nurse assists in implementing the nursing process;

(A) Assessment: The licensed practical nurse makes basic observations, gathers data and assists in identification of needs and problems relevant to the clients, collects specific data as directed, and, communicates outcomes of the data collection process in a timely fashion to the appropriate supervising person;

(B) Nursing Diagnosis/Problem Identification: The registered nurse uses client data and nursing scientific principles to develop nursing diagnosis and to identify client problems in order to deliver effective nursing care;

(C) Planning: The registered nurse shall plan nursing care which will assist clients and families with maintaining or restoring health and wellness or supporting a dignified death;

(D) Implementation: The registered nurse implements the plan of care by initiating nursing interventions through giving direct care and supervising other members of the care team; and

(E) Evaluation: The registered nurse evaluates the responses of individuals to nursing interventions and is responsible for the analysis and modification of the nursing care plan consistent with intended outcomes;

(ii) Standard II Delegation and Supervision: The registered nurse is accountable for the safety of clients receiving nursing service by:

(A) Delegating selected nursing functions to others in accordance with their education, credentials, and demonstrated competence as defined in WAC 246-840-010(10);

(B) Nursing Diagnosis/Problem Identification: The licensed practical nurse provides data to assist in the development of nursing diagnoses which are central to the plan of care;

(C) Planning: The licensed practical nurse contributes to the development of approaches to meet the needs of clients and families, and, develops client care plans utilizing a standardized nursing care plan and assists in setting priorities for care;

(D) Implementation: The licensed practical nurse carries out planned approaches to client care and performs common therapeutic nursing techniques; and

(E) Evaluation: The licensed practical nurse, in collaboration with the registered nurse, assists with making adjustments in the care plan. The licensed practical nurse reports outcomes of care to the registered nurse or supervising health care provider;

(ii) Standard II Delegation and Supervision: Under direction, the practical nurse is accountable for the safety of clients receiving nursing care:

(A) The practical nurse may delegate selected nursing tasks to competent individuals in selected situations, in accordance with their education, credentials and competence as defined in WAC 246-840-010(10);

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PROPOSED

(B) Supervising others to whom he/she has delegated nursing functions as defined in WAC 246-840-010(10);

(C) Evaluating the outcomes of care provided by licensed and other paraprofessional staff; ~~((and))~~

(D) The registered nurse may delegate certain additional acts to certain individuals in community-based long-term care settings as provided by WAC 246-840-910 through ~~((246-840-980))~~ 246-840-970 and WAC 246-841-405; and

(E) In a home health or hospice agency regulated under chapter 70.127 RCW, a registered nurse may delegate the application, instillation, or insertion of medications to a registered or certified nursing assistant under a plan of care;

(iii) **Standard III Health Teaching.** The registered nurse assesses learning needs including learning readiness for patients and families, develops plans to meet those learning needs, implements the teaching plan and evaluates the outcome.

(B) The licensed practical nurse in delegating functions shall supervise the persons to whom the functions have been delegated;

(C) The licensed practical nurse reports outcomes of delegated nursing care tasks to the RN or supervising health care provider; and

(D) In community based long-term care settings as provided by WAC 246-840-910 through 246-840-980 and WAC 246-841-405, the practical nurse may delegate only personal care tasks to qualified care givers;

(iii) **Standard III Health Teaching.** The practical nurse assists in health teaching of clients and provides routine health information and instruction recognizing individual differences.

(4) Other responsibilities:

(a) The registered nurse and the licensed practical nurse shall have knowledge and understanding of the laws and rules regulating nursing and shall function within the legal scope of nursing practice;

(b) The registered nurse and the licensed practical nurse shall be responsible and accountable for his or her practice based upon and limited to the scope of his/her education, demonstrated competence, and nursing experience consistent with the scope of practice set forth in this document; and

(c) The registered nurse and the licensed practical nurse shall obtain instruction, supervision, and consultation as necessary before implementing new or unfamiliar techniques or procedures which are in his/her scope of practice.

(d) The registered nurse and the licensed practical nurse shall be responsible for maintaining current knowledge in his/her field of practice; and

(e) The registered nurse and the licensed practical nurse shall respect the client's right to privacy by protecting confidential information and shall not use confidential health care information for other than legitimate patient care purposes or as otherwise provided in the Health Care Information Act, chapter 70.02 RCW.

DELEGATION OF NURSING CARE TASKS IN COMMUNITY-BASED ~~((CARE SETTINGS))~~ AND IN-HOME CARE SETTINGS

AMENDATORY SECTION (Amending WSR 02-02-047, filed 12/27/01, effective 1/27/02)

WAC 246-840-910 Purpose. The purpose of this delegation protocol is to ensure that nursing care services have a consistent standard of practice upon which the public and profession may rely and to safeguard the authority of the registered nurse delegator to make independent professional decisions regarding the delegation of a nursing task. A licensed registered nurse may delegate specific nursing care tasks to nursing assistants who meet certain requirements and provide care to individuals ~~((served by certified community residential programs for the developmentally disabled, to residents in licensed adult family homes, and to residents of licensed boarding homes))~~ in a community-based care setting as defined by RCW 18.79.260 (3)(e)(i) and to individuals in an in-home care setting as defined by RCW 18.79.260 (3)(e)(ii). Before delegating a task, the registered nurse delegator must determine that specific criteria described in the protocol are met and ensure that the patient is in a stable and predictable condition. Registered nurses delegating tasks are accountable to the Washington state nursing care quality assurance commission. The registered nurse delegator and nursing assistant are accountable for their own individual actions in the delegation process. No person may coerce a registered nurse into compromising patient safety by requiring the registered nurse to delegate if the registered nurse delegator determines it is inappropriate to do so. Registered nurse delegators ~~((cannot))~~ shall not delegate the following care tasks ~~((under any circumstances))~~:

(1) Administration of medications, except as authorized by RCW 18.79.260 (3)(b) or (e), and never by injection (by

(3) The following standards apply to registered nurses and licensed practical nurses:

(a) The registered nurse and licensed practical nurse shall communicate significant changes in the client's status to appropriate members of the health care team. This communication shall take place in a time period consistent with the client's need for care. Communication is defined as a process by which information is exchanged between individuals through a common system of speech, symbols, signs, and written communication or behaviors that serves as both a means of gathering information and of influencing the behavior, actions, attitudes, and feelings of others; and

(b) The registered nurse and licensed practical nurse shall document, on essential client records, the nursing care given and the client's response to that care; and

(c) The registered nurse and licensed practical nurse act as client advocates in health maintenance and clinical care.

intramuscular, intradermal, subcutaneous, intraosseous ~~((and)), intravenous, or otherwise).~~

(2) Sterile procedures.

(3) Central line maintenance.

(4) Acts that require nursing judgment.

(5) Acts that require substantial skill, except as authorized by RCW 18.79.260 (3)(e).

(6) Piercing or severing of tissues, except as authorized by RCW 18.79.260 (3)(e).

AMENDATORY SECTION (Amending WSR 02-02-047, filed 12/27/01, effective 1/27/02)

WAC 246-840-930 Criteria for delegation. (1) Before delegating a nursing task, the registered nurse delegator must determine that it is appropriate to delegate based on the elements of the nursing process: ASSESS, PLAN, IMPLEMENT, EVALUATE:

ASSESS

(2) Determine that the setting allows delegation because it is a ~~((certified community residential program for the developmentally disabled, a licensed adult family home, or a licensed boarding home))~~ community-based care setting as defined by RCW 18.79.260 (3)(e)(i) or an in-home care setting as defined by RCW 18.79.260 (3)(e)(ii).

(3) Assess the patient's nursing care needs and determine that the patient is in a stable and predictable condition.

(4) Determine that the task to be delegated is within the delegating nurse's area of responsibility.

(5) Determine that the task to be delegated can be properly and safely performed by the nursing assistant. The registered nurse delegator shall assess the potential risk of harm for the individual patient. Potential harm may include, but is not limited to, infection, hemorrhage, hypoxemia, nerve damage, physical injury, or psychological distress.

(6) Analyze the complexity of the nursing task and determine the required training or additional training needed by the nursing assistant to competently accomplish the task. The registered nurse delegator shall consider the psychomotor and cognitive skills required to perform the nursing task. More complex tasks may require additional training and supervision for the nursing assistant. The registered nurse delegator must identify and facilitate any additional training of the nursing assistant that is needed prior to delegation. The registered nurse delegator must ensure that the task to be delegated can be properly and safely performed by the nursing assistant.

(7) Assess the level of interaction required, considering language or cultural diversity that may affect communication or the ability to accomplish the task to be delegated, as well as methods to facilitate the interaction.

(8) Verify that the nursing assistant:

(a) Is currently registered or certified as a nursing assistant in Washington state and is in good standing without restriction;

(b) As required in WAC 246-841-405 (2)(a), nursing assistants registered must complete both the basic caregiver training and core delegation training before performing any delegated task;

(c) Has ~~((a certificate of completion issued by the department of social and health services indicating completion of))~~ completed the required core nurse delegation training for nursing assistants; and

(d) Is willing to perform the task in the absence of direct or immediate nurse supervision and accept responsibility for their actions.

(9) Assess the ability of the nursing assistant to competently perform the delegated nursing task in the absence of direct or immediate nurse supervision to ensure that the nursing task can be properly and safely performed by the nursing assistant.

(10) If the registered nurse delegator determines delegation is appropriate, the nurse must:

(a) Discuss the delegation process with the patient or authorized representative, including the level of training of the nursing assistant delivering care.

(b) Obtain patient consent. The patient, or authorized representative, must give written, informed consent to the delegation process under chapter 7.70 RCW. Documented verbal consent of patient or authorized representative may be acceptable if written consent is obtained within thirty days; electronic consent is an acceptable format.

(c) Written consent is only necessary at the initial use of the nurse delegation process for each patient and is not necessary for task additions or changes or if a different nurse or nursing assistant will be participating in the process.

PLAN

(11) Document in the patient's record the rationale for delegating or not delegating nursing tasks.

(12) Provide specific, written delegation instructions to the nursing assistant with a copy maintained in the patient's record that include:

(a) The rationale for delegating the nursing task;

(b) That the delegated nursing task is specific to one patient and is not transferable to another patient;

(c) That the delegated nursing task is specific to one nursing assistant and is not transferable to another nursing assistant;

(d) The nature of the condition requiring treatment and purpose of the delegated nursing task;

(e) A clear description of the procedure or steps to follow to perform the task;

(f) The predictable outcomes of the nursing task and how to effectively deal with them;

(g) The risks of the treatment;

(h) The interactions of prescribed medications;

(i) How to observe and report side effects, complications, or unexpected outcomes and appropriate actions to deal with them, including specific parameters for notifying the registered nurse delegator, health care provider, or emergency services;

(j) The action to take in situations where medications and/or treatments and/or procedures are altered by health care provider orders, including:

(i) How to notify the registered nurse delegator of the change;

(ii) The process the registered nurse delegator will use to obtain verification from the health care provider of the change in the medical order; and

(iii) The process to notify the nursing assistant of whether administration of the medication or performance of the procedure and/or treatment is delegated or not;

(k) How to document the task in the patient's record;

(l) Document what teaching was done and that a return demonstration, or other method for verification of competency, was correctly done; and

(m) A plan of nursing supervision describing how frequently the registered nurse will supervise the performance of the delegated task by the nursing assistant and reevaluate the delegated nursing task. Supervision shall occur at least every ninety days.

(13) The administration of medications may be delegated at the discretion of the registered nurse delegator but only to the extent authorized by RCW 18.79.260 (3)(e), and never by injection (by intramuscular, intradermal, subcutaneous, intraosseous, intravenous, or otherwise). The registered nurse delegator must provide written parameters specific to an individual patient which includes guidelines for the nursing assistant to follow in the decision-making process to administer a medication and the procedure to follow for such administration.

IMPLEMENT

(14) Delegation requires the registered nurse delegator teach the nursing assistant how to perform the task, including return demonstration or other method of verification of competency as determined by the registered nurse delegator.

(15) The registered nurse delegator is accountable and responsible for the delegated nursing task. The registered nurse delegator must monitor the performance of the task(s) to assure compliance to established standards of practice, policies and procedures and to ensure appropriate documentation of the task(s).

EVALUATE

(16) The registered nurse delegator must evaluate the patient's responses to the delegated nursing care and to any modification of the nursing components of the patient's plan of care.

(17) The registered nurse delegator must supervise and evaluate the performance of the nursing assistant, including direct observation or other method of verification of competency of the nursing assistant to perform the delegated nursing task. The registered nurse delegator must also reevaluate the patient's condition, the care provided to the patient, the capability of the nursing assistant, the outcome of the task, and any problems.

(18) The registered nurse delegator must ensure safe and effective services are provided. Reevaluation and documentation must occur at least every ninety days. Frequency of supervision is at the discretion of the registered nurse delegator.

AMENDATORY SECTION (Amending WSR 02-02-047, filed 12/27/01, effective 1/27/02)

WAC 246-840-940 Washington state nursing care quality assurance commission community-based and in-home care setting delegation decision tree.

(1)	Does the patient reside in one of the following settings? (A certified community residential program for the developmentally disabled, a licensed adult family home, a licensed boarding home) <u>A community-based care setting as defined by RCW 18.79.260 (3)(e)(i) or an in-home care setting as defined by RCW 18.79.260 (3)(e)(ii).</u>	No ⇒	Do not delegate
Yes ↓			
(2)	Has the patient or authorized representative given consent to the delegation?	No ⇒	Obtain the written, informed consent
Yes ↓			
(3)	Is RN assessment of patient's nursing care needs completed?	No ⇒	Do assessment, then proceed with a consideration of delegation
Yes ↓			
(4)	<u>Does the individual have a stable and predictable condition?</u>	No ⇒	Do not delegate
Yes ↓			
((4)) (5)	Is the task within the registered nurse's scope of practice?	No ⇒	Do not delegate
Yes ↓			
((5)) (6)	Is the nursing assistant registered or certified and properly trained in the nurse delegation for nursing assistants?	No ⇒	Do not delegate
Yes ↓			
(7)	<u>Does the delegation exclude the administration of medications by injection, sterile procedures or central line maintenance?</u>	No ⇒	Do not delegate
Yes ↓			
((6)) (8)	Can the task be performed without requiring judgment based on nursing knowledge?	No ⇒	Do not delegate
Yes ↓			
((7)) (9)	Are the results of the task reasonably predictable?	No ⇒	Do not delegate
Yes ↓			
((8)) (10)	Can the task be safely performed according to exact, unchanging directions?	No ⇒	Do not delegate
Yes ↓			

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((9)) (11)	Can the task be performed without a need for complex observations or critical decisions?	No ⇒	Do not delegate
Yes ↓			
((10)) (12)	Can the task be performed without repeated nursing assessments?	No ⇒	Do not delegate
Yes ↓			
((11)) (13)	Can the task be performed improperly without life-threatening consequences?	No ⇒	Do not delegate
Yes ↓			
((12)) (14)	Is appropriate supervision available?	No ⇒	Do not delegate
Yes ↓			
((13)) (15)	There are no specific laws or rules prohibiting the delegation?	No ⇒	Do not delegate
Yes ↓			
((14)) (16)	Task is delegable		

WSR 04-10-079
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed May 4, 2004, 9:08 a.m.]

Original Notice.

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

Title of Rule: WAC 246-841-405 Nursing assistant delegation.

Purpose: The proposed rules allow nursing assistants to accept more tasks and also allow this specific delegation in an in-home care setting. This allows people to stay at home rather than go to a nursing home.

Other Identifying Information: The proposal implements chapter 140, Laws of 2003, also, these rules were adopted under emergency rule which expires July 2, 2004.

Statutory Authority for Adoption: RCW 18.88A.060, [18.88A.]140 and chapter 140, Laws of 2003.

Statute Being Implemented: RCW 18.88A.200 - [18.88A.]230.

Summary: This proposal allows delegation of specific nursing care tasks to nursing assistants providing care to individuals in an in-home care setting. It also removes a list of specific tasks that can be delegated and replaces it with tasks that can not be delegated.

Reasons Supporting Proposal: Legislation was passed in May 2003. This legislation allows nursing assistants to accept delegation in the in-home care setting. The proposal is necessary to make the rules consistent with current law.

Name of Agency Personnel Responsible for Drafting: Kendra Pitzler, 310 Israel Road S.E., Tumwater, WA 98401 [98501], (360) 236-4723; Implementation and Enforcement: Paula Meyer, 310 Israel Road S.E., Tumwater, WA 98401 [98501], (360) 236-4713.

Name of Proponent: Department of Health, Nursing Care Quality Assurance Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule allows delegation of specific nursing care tasks to nursing assistants providing care to individuals in an in-home care setting. The proposal removes a list of specific tasks that can not be delegated.

Purpose: The proposed rules allow delegation of nursing tasks for in-home care settings, and delegation of application, instillation, or insertions of medications by an RN employed by a home health or hospice agency. This allows people to stay at home rather than go to a nursing home.

Anticipated Effects: This rule allows registered nurses to delegate to nursing assistants in the in-home care setting. There will be greater utilization of nursing assistants in this setting.

Proposal Changes the Following Existing Rules: This rule change will add "in-home care setting" to the list of settings that specific nurse delegation can take place. It also removes a list of specific tasks that can be delegated and replaces it with the tasks that can not be delegated.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.025(3) exempts from the small business economic impact statement rules that meet the criteria of RCW 34.05.310(4). These rules are exempt under RCW 34.05.310 (4)(c) because the rule adopts without material change RCW 18.79.260.

RCW 34.05.328 does not apply to this rule adoption. This rule is not legislatively significant under RCW 34.05.328 (5)(a)(iii) because it adopts without material change Washington state statute (RCW 18.79.260). The proposed rule's content is explicitly and specifically dictated by statute.

Hearing Location: Department of Health, Point Plaza East, 310 Israel Road S.E., Olympia, WA 98504-7864, on June 8, 2004, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Kendra Pitzler by May 24, 2004, TDD (800) 833-6388 or (360) 236-4723.

Submit Written Comments to: Kendra Pitzler, P.O. Box 47864, Olympia, WA 98504-7864, e-mail Kendra.pitzler@doh.wa.gov, fax (360) 236-4738, by June 4, 2004.

Date of Intended Adoption: July 2, 2004.

March 5, 2004

Cheryl Payseno, Chair

Nursing Care Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 96-06-029, filed 2/28/96, effective 3/30/96)

WAC 246-841-405 Nursing assistant delegation. Provision for delegation of certain tasks.

(1) Nursing assistants may accept delegation of, and perform ~~((the following))~~ tasks~~((;))~~ when delegated by a registered nurse~~((;))~~ for ~~((residents in certified community residential programs for the developmentally disabled, residents in licensed adult family homes, and to residents of licensed~~

~~boarding homes contracting to provide assisted living services:~~

- ~~(a) Oral and topical medications and ointments;~~
- ~~(b) Nose, ear, eye drops, and ointments;~~
- ~~(c) Dressing changes and urinary catheterization using clean techniques;~~
- ~~(d) Suppositories, enemas, and ostomy care in established and healed condition;~~
- ~~(e) Blood glucose monitoring; and~~
- ~~(f) Gastrostomy feedings in established and healed condition))~~ individuals in community-based care settings or in-home care settings, each as defined in RCW 18.79.260 (3)(e), but only where the individual has a stable and predictable condition as defined in RCW 18.79.260 (3)(e)(iii).

(2) Any nursing assistant who receives authority to perform ~~((such))~~ a delegated nursing task must, before ~~((performing))~~ commencing any delegated task:

(a) For nursing assistants-registered, ~~((complete))~~ provide to the delegating nurse a copy of the certificate of completion of both the basic caregiver training and core delegation training as established by the department of social and health services.

(b) For nursing assistants-certified, ~~((complete))~~ provide to the delegating nurse a copy of the certificate of completion of the core delegation training as established by the department of social and health services.

(c) For all nursing assistants, comply with all applicable requirements and protocol established by the nursing care quality assurance commission in WAC 246-840-910 through ((246-840-980)) 246-840-970.

(d) For all nursing assistants, meet any additional training requirements identified by the nursing care quality assurance commission. Any exceptions to any such training requirements must adhere to RCW 18.79.260 (3)(e)(v).

(3) Any nursing assistant performing a delegated nursing care task pursuant to this section, shall perform the task:

(a) Only for the specific ~~((resident))~~ individual who was the subject of the delegation;

(b) Only with the resident's consent; and

(c) In compliance with all applicable requirements and protocols established by the nursing care quality assurance commission in WAC 246-840-910 through ~~((246-840-980))~~ 246-840-970.

(4) A nursing assistant may consent or refuse to consent to perform a delegated nursing care task ~~((listed in subsection (1) of this section,))~~ and shall be responsible for their own actions with regard to the decision to consent or refuse to consent and the performance of the delegated nursing care task.

(5) Nursing assistants shall not accept delegation of, or perform, the following nursing care tasks:

(a) Administration of medication, except as authorized by RCW 18.79.260 (3)(b) or (e), and never by injection;

(b) Sterile procedures;

(c) Central line maintenance;

(d) Acts that require nursing judgment;

(e) Acts that require substantial skill, except as authorized by RCW 18.79.260 (3)(e);

(f) Piercing or severing of tissues except as authorized by RCW 18.79.260 (3)(e).

WSR 04-10-087

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed May 4, 2004, 2:59 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-10-016.

Title of Rule: WAC 180-85-077 Continuing education credit—ESAs.

Purpose: The proposed amendment to this rule will allow educational staff associates to use credits or clock hours that satisfy the continuing education requirements for their state professional licensure, if any, to fulfill the continuing education certificate requirement.

Statutory Authority for Adoption: RCW 28A.410.010.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 725-6024.

Name of Proponent: State Board of Education.

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. Not applicable.

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: John Stanford Center, Seattle School District, 2445 3rd Avenue South, Seattle, WA 98134, on June 17, 2004, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Laura Moore by June 3, 2004, TDD (360) 664-3631 or (360) 725-6027.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by June 3, 2004.

Date of Intended Adoption: June 18, 2004.

May 4, 2004

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 92-04-044, filed 1/31/92, effective 3/2/92)

WAC 180-85-077 Continuing education credit—ESAs. Educational staff associates may use credits or clock hours that satisfy the continuing education requirements for their state professional licensure, if any, toward fulfilling the continuing education certification requirements.

WSR 04-10-095
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed May 4, 2004, 3:23 p.m.]

Continuance of WSR 04-07-134.

Preproposal statement of inquiry was filed as WSR 02-23-015.

Title of Rule: Child care business regulations for family home child care, proposed new chapter 388-296 WAC and repealing existing sections in chapter 388-155 WAC.

Purpose: **This notice is to set an additional public hearing on these proposed rules at 6:30 p.m., June 15, 2004, at the Perry Technical Institute, 2011 West Washington Avenue, Yakima, WA.** The hearing will be conducted in English and Spanish. This notice also extends the written comment deadline to 5:00 p.m., June 16, 2004. This notice, the text of the proposed rule, and a summary of changes from the current family home child care rules, are available in Spanish by contacting the person listed below.

The DSHS 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: ESA 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: 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.

This notice, the text of the proposed rule, and a summary of changes from the current family home child care rules, are available in Spanish by contacting the person listed above.

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.; at Rock Point East, 1313 North Atlantic Street, Suite 2000, Spokane, WA 99201, on June 8, 2004, at 6:30 p.m.; and at the Perry Technical Institute, 2011 West Washington Avenue, Yakima, WA 98903, on June 15, 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 Fernaaax@dshs.wa.gov. Call (360) 664-6094 or 664-6097 for directions to the hearing locations.

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 fernaaax@dshs.wa.gov, by 5:00 p.m. June 16, 2004.

Date of Intended Adoption: Not sooner than June 17, 2004.

April 30, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-10-096
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed May 4, 2004, 3:24 p.m.]

Original Notice.

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

Title of Rule: WAC 388-400-0040 Am I eligible for benefits through the Washington Basic Food program?, 388-408-0035 Who is in my assistance unit for Basic Food?, and 388-450-0140 How does the income of an ineligible assistance unit member affect my eligibility and benefits for food assistance?

Purpose: Amend the rules to be consistent with eligibility requirements for persons convicted of a drug-related felony as directed by the legislature under SB 6411 (chapter 54, Laws of 2004).

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.510, SB 6411 (chapter 54, Laws of 2004).

Summary: These rules are related to eligibility for the Basic Food program and the impact a conviction for a drug-related felony has on eligibility for the program.

Reasons Supporting Proposal: The proposed amendments are necessary to remove Basic Food eligibility restrictions for persons convicted of a drug-related felony, as per SB 6411, (chapter 54, Laws of 2004).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Rebecca Henrie, 1009 College S.E., Lacey, WA 98504, (360) 413-3074.

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

Rule is necessary because of federal law, Title 7 of the Code of Federal Regulations. Part 273 - 273.11(m).

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

Purpose and Effect: See Purpose, Summary, and Reasons Supporting Proposal above.

These rules are being proposed without prior filing of a CR-101 preproposal statement of inquiry. A CR-101 is not required for rules that incorporate without material change state or federal statutes or regulations. These rules incorporate the federal requirements in 21 U.S.C. 862(a) and 7 C.F.R. 273.11.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses; it only affects DSHS clients.

RCW 34.05.328 does not apply to this rule adoption. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents." These rules implement federal financial eligibility requirements pursuant to Title 21 U.S. Code section 862(a) and 7 C.F.R. 273.11 relating to counting the income of convicted drug felons in an assistance unit and eligibility for the Basic Food program.

Hearing Location: Lacey Government Center, Room 104-B, 1009 College Street S.E., Lacey, WA 98503, on June 10, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by June 3, 2004, phone (360) 664-6094, TTY (360) 664-6178, e-mail FernAX@dshs.wa.gov [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 98503, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., June 10, 2004.

Date of Intended Adoption: Not earlier than June 11, 2004.

April 30, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-05-028, filed 2/10/03, effective 4/1/03)

WAC 388-400-0040 Am I eligible for benefits through the Washington Basic Food program? The Washington Basic Food program (Basic Food) is a nutrition program to help low-income individuals and families buy food. This rule is a summary of the rules for Basic Food.

(1) When you apply for Basic Food, we decide who is in your assistance unit (AU) based on the requirements under WAC 388-408-0035.

(2) To be eligible for Basic Food benefits, your AU must meet the eligibility requirements of the most current version of the Food Stamp Act of 1977.

(3) To be eligible for **federal** Basic Food benefits, each AU member must:

(a) Be a U.S. citizen or national as described under WAC 388-424-0005; or

(b) Meet the alien status requirements for federal benefits described under WAC 388-424-0020.

(4) An AU member who is not eligible for federal benefits may be eligible for **state-funded** Basic Food benefits if they meet the requirements described under WAC 388-400-0045.

(5) To be eligible for **federal** or **state** Basic Food benefits, each AU member must:

(a) Be a resident of the state of Washington as required under WAC 388-468-0005;

(b) Meet the citizenship or alien status requirements of either WAC 388-424-0020 or 388-424-0025;

(c) Provide their Social Security number as required under WAC 388-476-0005;

(d) Provide proof of identity as required under WAC 388-490-0005;

(e) Participate in the food stamp employment and training program (FSE&T) as required under chapter 388-444 WAC; and

(f) Meet the eligibility criteria for strikers as described under WAC 388-480-0001.

(6) To be eligible for Basic Food, your AU must:

(a) Have countable income at or below gross and net income standards as described under WAC 388-478-0060; and

(b) Have countable resources at or below your AU's resource limit under WAC 388-470-0005.

(7) If your AU has income under the gross income standard, we deduct certain expenses from your income under WAC 388-450-0200 before we calculate your Basic Food benefits.

(8) If an eligible person in your AU is elderly or disabled, some rules may help your AU to be eligible for Basic Food or to get more Basic Food benefits. These include:

(a) Resources limits and excluding certain resources under chapter 388-470-WAC;

(b) An excess shelter deduction over the limit set for AUs without an elderly or disabled individual under WAC 388-450-0190;

(c) A deduction for out-of-pocket medical expenses for the elderly or disabled individual if they are over thirty-five dollars a month under WAC 388-450-0200; and

(d) Being exempt from the gross income standard under WAC 388-478-0060.

(9) For Basic Food, **elderly** means a person who is age sixty or older;

(10) For Basic Food, **disabled** means a person who:

(a) Gets SSI;

(b) Gets disability payments or blindness payments under Title I, II, XIV, or XVI of the Social Security Act;

(c) Gets disability retirement benefits from a state, local or federal government agency because of a disability considered permanent under section 221(i) of the Social Security Act;

(d) Gets disability benefits from the Railroad Retirement Act under sections 2 (a)(1)(iv) and (v) and:

(i) Meets Title XIX disability requirements; or

(ii) Is eligible for Medicare.

(e) Receives disability-related medical assistance under Title XIX of the Social Security Act;

(f) Is a veteran and receives disability payments based on one hundred percent disability;

(g) Is a spouse of a veteran and:

(i) Either needs an attendant or is permanently housebound; or

(ii) Has a disability under section 221(i) of the Social Security Act and is eligible for death or pension payments under Title 38 of the USC.

(11) If a person in your AU attends an institution of higher education and does not meet the requirements to be an eligible student under WAC 388-482-0005, we do not consider this person as a member of your AU.

(12) If your AU lives on or near an Indian reservation and participates in a tribal food distribution program approved by Food and Nutrition Service (FNS), your AU is not eligible for Basic Food benefits.

(13) If an AU member is ineligible for any of the following reasons, we count the ineligible person's income as described under WAC 388-450-0140:

(a) Able-bodied adults without dependents who are no longer eligible under WAC 388-444-0030;

(b) Persons (~~convicted of a drug-related felony or~~) fleeing a felony prosecution, conviction, or confinement under WAC 388-442-0010;

(c) Persons who do not attest to citizenship or alien status under WAC 388-424-0005;

(d) Persons who are ineligible aliens under WAC 388-424-0020;

(e) Persons disqualified for an intentional program violation under WAC 388-446-0015;

(f) Persons who do not provide a Social Security number when required under WAC 388-476-0005; or

(g) Persons who failed to meet work requirements under chapter 388-444 WAC.

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

AMENDATORY SECTION (Amending WSR 04-06-025, filed 2/23/04, effective 4/1/04)

WAC 388-408-0035 Who is in my assistance unit for Basic Food? (1) For Basic Food, a person must be in your assistance unit (AU) if they live in the same home as you and:

(a) Usually buy and fix food with you; or

(b) You provide meals for them and they pay less than a reasonable amount for meals.

(2) If the following people live with you, they must be in your AU even if you do not usually buy and fix food together:

(a) Your spouse;

(b) Your parents if you are under age twenty-two (even if you are married);

(c) Your children under age twenty-two;

(d) The parent of a child who must be in your AU;

(e) A child under age eighteen who doesn't live with their parent unless the child:

(i) Is emancipated;

(ii) Gets a TANF grant in their own name; or

(iii) Is not financially dependent on an adult in the AU because they get and have control of income of at least the TANF payment standard under WAC 388-478-0020(2) before taxes or other withholdings.

(3) If you live in an institution where you may be eligible for Basic Food under WAC 388-408-0040, we decide who is in your AU as follows:

(a) If the facility is acting as your authorized representative under WAC 388-460-0015, we include you and anyone who must be in your AU under subsection (2) of this rule; or

(b) If you apply for benefits on your own, we include you, anyone who must be in your AU under subsection (2) of this rule, and other residents you choose to apply with.

(4) Anyone who must be in your AU under subsection (1) or (2) is an ineligible AU member if they:

(a) Are disqualified for an intentional program violation (IPV) under WAC 388-446-0015;

(b) Do not meet ABAWD work requirements under WAC 388-444-0030.

(c) Do not meet work requirements under WAC 388-444-0055;

(d) Do not provide a social security number under WAC 388-476-0005;

(e) Do not meet the citizenship or alien status requirements under chapter 388-424 WAC;

(f) Are fleeing a felony charge or violating a condition of parole or probation under WAC 388-442-0010(;

~~(g) Are disqualified for a drug-related felony under WAC 388-442-0010).~~

(5) If your AU has an ineligible member:

(a) We count the ineligible member's income to your AU under WAC 388-450-0140;

(b) We count all the ineligible members resources to your AU; and

(c) We do not use the ineligible member to determine your AU's size for the maximum income amount or allotment under WAC 388-478-0060.

(6) If the following people live in the same home as you, you can choose if we include them in your AU:

(a) A permanently disabled person who is age sixty or over and cannot make their own meals if the total income of everyone else in the home (not counting the elderly and disabled person's spouse) is not more than the one hundred sixty-five percent standard under WAC 388-478-0060;

(b) A boarder. If you do not include a boarder in your AU, the boarder cannot get Basic Food benefits in a separate AU;

(c) A person placed in your home for foster care. If you do not include this person in your AU, they cannot get Basic Food benefits in a separate AU;

(d) Roomers; or

(e) Live-in attendants even if they buy and fix food with you.

(7) If someone in your AU is out of your home for a full issuance month, they are not eligible for benefits as a part of your AU.

(8) If someone received Basic Food or food stamps in another AU or another state, they cannot receive benefits in your AU for the same period of time with one exception. If you already received Basic Food or food stamp benefits:

(a) In another state, you are not eligible for Basic Food for the period of time covered by the benefits you received from the other state; or

(b) In another AU, you are not eligible for Basic Food in a different AU for the same period of time;

(c) In another AU, but you left the AU to live in a shelter for battered women and children under WAC 388-408-0045, you may be eligible to receive benefits in a separate AU.

(9) The following people who live in your home are not members of your AU. If they are eligible for Basic Food, they may be a separate AU:

(a) Someone who usually buys and fixes food separately from your AU if they are not required to be in your AU; or

(b) Someone who lives in a separate residence.

(10) A student who is ineligible for Basic Food under WAC 388-482-0005 is not a member of your AU.

AMENDATORY SECTION (Amending WSR 02-06-089, filed 3/1/02, effective 3/26/02)

WAC 388-450-0140 How does the income of an ineligible assistance unit member affect my eligibility and benefits for food assistance? The department decides who

must be in your assistance unit (AU) under WAC 388-408-0035. If an AU member is ineligible for food assistance under WAC 388-408-0035, this affects your AU's eligibility and benefits as follows:

(1) We do not count the ineligible member(s) to determine your AU size for the gross monthly income limit, net monthly income limit, or maximum allotment under WAC 388-478-0060.

(2) If an AU member is ineligible because they are disqualified for an intentional program violation (IPV), they failed to meet work requirements under chapter 388-444 WAC, or they are ineligible fleeing felons under WAC 388-442-0010:

(a) We count all of the ineligible member's gross income as a part of your AU's income; and

(b) We count all of the ineligible member's allowable expenses as part of your AU's expenses.

(3) If an AU member is an ineligible ABAWD under WAC 388-444-0030, is ineligible due to their alien status, failed to sign the application to state their citizenship or alien status, or refused to get or provide us a Social Security number:

(a) We allow the twenty percent earned income disregard for the ineligible member's earned income;

(b) We prorate the remaining income of the ineligible member among all the AU members by excluding the ineligible member's share and counting the remainder to the eligible members; and

(c) We divide the ineligible member's allowable expenses evenly among all members of the AU when the ineligible member has income.

WSR 04-10-097

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed May 4, 2004, 3:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-01-087.

Title of Rule: Chapter 388-72A WAC, Comprehensive assessment reporting evaluation (CARE) tool.

Purpose: Incorporating CARE assessment criteria for children receiving state plan Medicaid personal care (MPC) services and amending other sections as needed to update program rules.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 74.39A.095.

Statute Being Implemented: RCW 74.08.090, 74.09.-520, 74.39A.090, and 74.39A.095.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Marianne Backous or Sue Poltl, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2535 or 902-8474.

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: Amending and adding new sections to chapter 388-72A WAC, Comprehensive assessment reporting evaluation (CARE) tool, to incorporate CARE assessment criteria for children receiving state plan Medicaid personal care (MPC) services.

Proposal Changes the Following Existing Rules: Amendments are made to existing rules to incorporate CARE assessment criteria for children receiving state plan MPC services.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules and determined that no new costs will be imposed on businesses.

RCW 34.05.328 does not apply to this rule adoption. The proposed rules describe eligibility for medical in-home care services and are exempt by RCW 34.05.328 (5)(b)(vii), "Rules of the department of social and health services relating only to client medical or financial eligibility..."

Hearing Location: Lacey Government Center (public parking behind Sakura Japanese Restaurant), Room 104-B, 1009 College Street, Lacey, WA 98503, on June 10, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by June 7, 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 10, 2004.

Date of Intended Adoption: Not earlier than June 11, 2004.

April 30, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

WAC 388-72A-0010 Does chapter 388-71 WAC and WAC 388-845-1300 apply to me? Yes. Chapter 388-71 WAC ((~~applies~~)) and WAC 388-845-1300 apply with the exception of the following: WAC 388-71-0202 (Direct personal care services, household assistance, medically oriented tasks, personal care services, plan of care, supervision, and unscheduled tasks), 388-71-0203, 388-71-0205, 388-71-0430, 388-71-0435, 388-71-0440, 388-71-0442, and 388-71-0445.

NEW SECTION

WAC 388-72A-0036 How are my needs for personal care services determined? The assessor gathers information

from you, your caregivers, family members, and other sources to determine how much assistance you need with personal care services. For children age seventeen and younger, age expectations and the role of legally responsible natural/step/adoptive parents are considered and documented. Assistance is measured by your:

(1) Self-performance, what you actually did within the last seven days, not what you might be capable of doing. Coding is based on the level of performance that occurred three or more times in the seven-day period.

(2) Support provided, which means the highest level of support provided by others over the last seven days, even if that level of support occurred only once.

(3) Status, which identifies whether a need is met, unmet, partially met, or declined.

(4) Assistance available.

NEW SECTION

WAC 388-72A-0041 How are status and assistance available scored for ADLs and IADLs? (1) For each Activity of Daily Living (ADL) and Instrumental Activity of Daily Living (IADL), the assessor determines whether there is an informal support available. An informal support is a person or resource that is available to provide assistance without home and community program funding.

(a) Met: The ADL or IADL will be fully provided by an informal support.

(b) Unmet: An informal support will not be available to provide assistance with the identified ADL or IADL.

(c) Partially Met: An informal support will be available to provide some assistance, but not all, with the identified ADL or IADL.

(d) Client declines: Client does not want assistance with the task.

(2) If partially met is selected then the amount of the assistance available is determined using one of four categories. Table 1 below is used to determine these percentages.

(a) Less than one-fourth of the time,

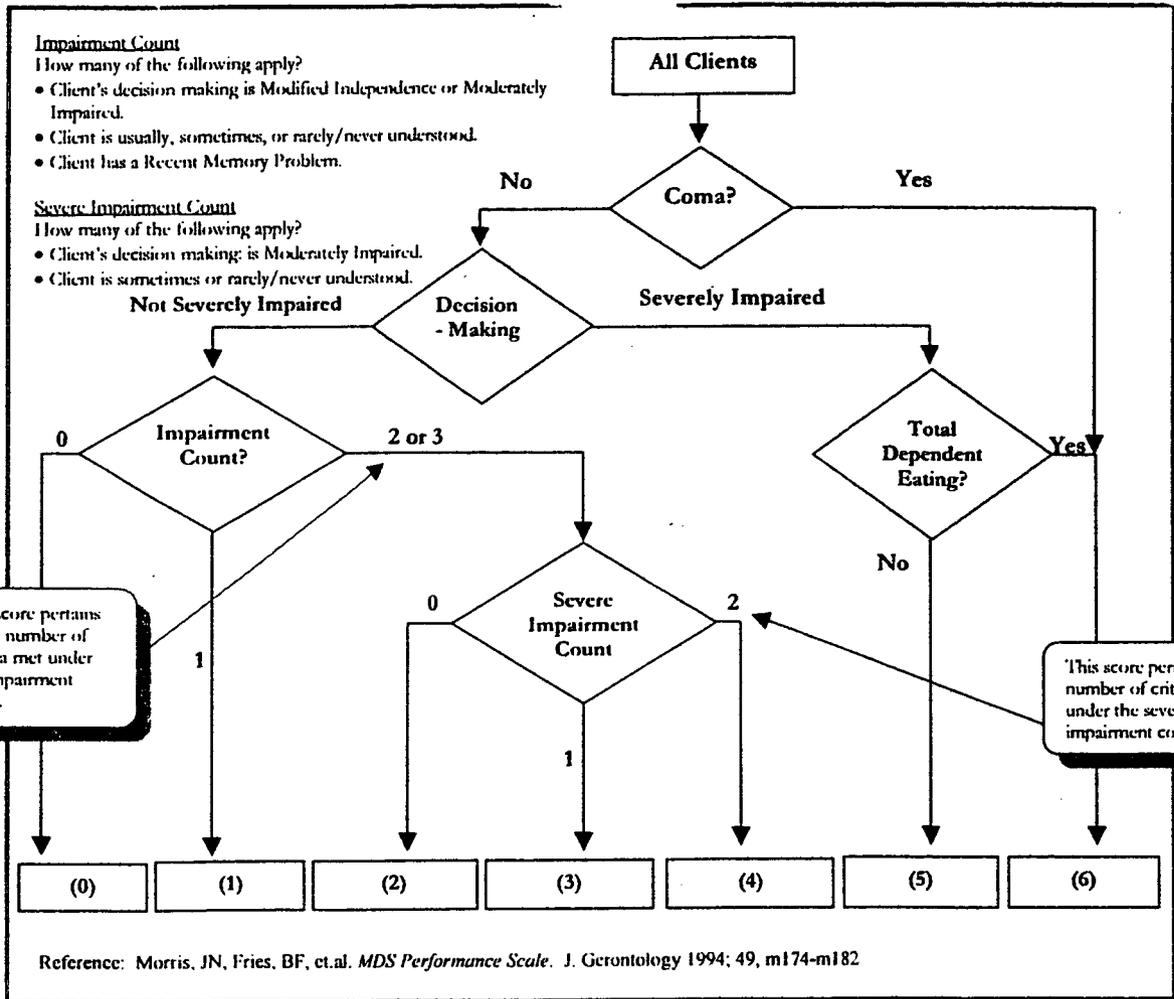
(b) One-fourth to one-half of the time,

(c) Over one-half of the time to three-fourths of the time,

(d) Over three-fourths of the time.

NOTE: For children seventeen years and younger living with their legally responsible natural/step/adoptive parents, the status and assistance available will be met or partially met over three fourths of the time.

PROPOSED



NEW SECTION

WAC 388-72A-0042 How are ADLs and IADLs scored for children? For children, the following age appropriate guidelines apply. The table indicates which tasks are considered met per age expectations and/or the role of the natural/step or adoptive parent.

	Activities of Daily Living (ADLs)															
	Ages															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
■ = Code status as Met																
Medication Management																
Independent, supervision, limited, extensive, or Total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Locomotion in Room^{Note}																
Independent, supervision, limited or extensive	■	■	■													
Total	■															
Locomotion Outside Room^{Note}																
Independent or supervision	■	■	■	■	■											
Limited or extensive	■	■	■													
Total	■															
Walk in Room^{Note}																
Independent, supervision, limited or extensive	■	■	■													

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Activities of Daily Living (ADLs)

	Ages															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
■ = Code status as Met																
Total	■															
Bed Mobility																
Independent, supervision, limited or extensive	■	■														
Total	■															
Transfers																
Independent, supervision, limited, extensive or total & under 30 pounds (Total & over 30 pounds= no age limit)	■	■														
Toilet Use^{Note}																
Support provided for nighttime wetting only (Independent, supervision, limited, extensive, or total)	■	■	■	■	■	■	■									
Independent, supervision, limited, extensive	■	■	■	■	■											
Total	■	■	■													
Eating																
Independent, supervision, limited, extensive, or total	■	■														
Meal Preparation																
Independent, supervision, limited, extensive, or total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Bathing																
Independent or supervision	■	■	■	■	■	■	■	■	■	■	■					
Physical assistance all/part	■	■	■	■	■	■	■									
Total	■	■	■	■												
Dressing																
Independent or supervision	■	■	■	■	■	■	■	■	■	■	■					
Limited or extensive	■	■	■	■	■	■	■									
Total	■	■	■	■												
Personal Hygiene																
Independent or supervision	■	■	■	■	■	■	■	■	■	■	■					
Limited or extensive	■	■	■	■	■	■	■									
Total	■	■	■	■												

Instrumental Activities of Daily Living

	Ages															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
■ = Code status as Met																
Telephone																
Independent, supervision, limited, extensive, or Total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Transportation																
Independent, supervision, limited, extensive, or total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Shopping																

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		Instrumental Activities of Daily Living															
		Ages															
■ = Code status as Met		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Independent, supervision, limited, extensive, or total	Wood Supply	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Independent, supervision, limited, extensive, or total	Housework	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Independent, supervision, limited, extensive, or total	Finances	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■

NOTE: If the activity did not occur, the assessor codes self performance as total and status as met.

NEW SECTION

WAC 388-72A-0086 How is the information in WAC 388-72A-0081 through 388-72A-0084 used to determine the client's classification payment group for residential settings? The information in WAC 388-72A-0081 through 388-72A-0084 is used to place an adult applicant or recipient into one of the twelve residential classification groups, as shown in the table below.

Classification	ADL Score	Group
Group D Cognitive performance score = 4-6 and Clinically complex = yes and Mood/behavior = yes or no	ADL Score 18-28	D High (12)
	ADL Score 13-17	D Med (11)
	ADL Score 2-12	D Low (10)
Group C Cognitive performance score = 0-3 and Clinically complex = yes and Mood/behavior = yes or no	ADL Score 18-28	C High (9)
	ADL Score 9-17	C Med (8)
	ADL Score 2-8	C Low (7)
Group B Mood & behavior = Yes and Clinically complex = no and Cognitive performance score = 0-6	ADL Score 15-28	B High (6)
	ADL Score 5-14	B Med (5)
	ADL Score 0-4	B Low (4)
Group A Mood & behavior = No and Clinically complex = No and Cognitive performance score = 0-6	ADL Score 10-28	A High (3)
	ADL Score 5-9	A Med (2)
	ADL Score 0-4	A Low (1)

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<u>IADLs</u>	<u>Self Performance</u>	<u>Status</u>	<u>Assistance Available</u>	<u>Value Percentage</u>
Meal preparation Ordinary housework Essential shopping	Rules for all codes apply except independent is not counted.	Unmet	N/A	.1
		Met	N/A	0
		Decline	N/A	0
		Partially met	< 1/4 time	.3
			between 1/4 to 1/2 time	.2
			between 1/2 to 3/4 time	.1
> 3/4 time	.05			

(ii) The value percentage assigned to each specified ADL/IADL is summed and carried two decimal places. The resulting number is then divided by the number of qualifying ADL and IADL needs. If self-performance is coded as independent or did not occur/client declined then they are not qualifying ADLs and IADLs. The result is value A. Value A is then subtracted from one. This is value B. Value B is divided by three. This is value C. Value A and value C are summed. This is value D. Value D is multiplied by the "base hours" assigned to the client's classification group in WAC 388-72A-0087.

(b) Your environment, as described in the diagrams below.

<u>Condition</u>	<u>Assessment</u>	<u>Status</u>	<u>Assistance Available</u>	<u>Ad On Hours</u>
Offsite laundry facilities, which means the client does not have facilities in own home and the caregiver is not available to perform any other personal or household tasks while laundry is done.	Yes.	N/A	N/A	8
Client is > 45 minutes from essential services (which means he/she lives more than 45 minutes one-way from a full-service market.)	If yes, then the assistance available for this task is assessed by the response to essential shopping.	Unmet	N/A	5
		Met	N/A	0
		Partially met	<1/4 time	5
			between 1/4 to 1/2 time	4
			between 1/2 to 3/4 time	2
>3/4 time	2			
Wood supply used as only source of heat.	Yes	Unmet	N/A	8
		Met	N/A	0
		Declines	N/A	0
		Partially met	< 1/4 time	8
			between 1/4 to 1/2 time	6
			between 1/2 to 3/4 time	4
> 3/4 time	2			

(c) Your living arrangement.

(i) If there is more than one client living in the same household, the status cannot be unmet for the following IADLs:

- (A) Meal preparation.
- (B) Housekeeping.
- (C) Shopping.
- (D) Wood supply.

(ii) If you and your paid provider live in the same household, the status must be met for the following IADLs:

- (A) Meal preparation.
- (B) Housekeeping.

(C) Shopping.

(D) Wood supply.

(2) The ((CARE tool will provide a)) hours identified in WAC 388-72A-0095 (1)(b) are added to the resulting hours in WAC 388-72A-0095 (1)(a). The result is the maximum number of hours that can be used to develop your care plan. The assessor must take into account cost effectiveness, client health and safety, and program limits in determining how hours can be used to meet identified client needs.

(3) Within the limits of subsection (2) of this section, you and your case manager will work to determine what services

you choose to receive if you are eligible. The hours may be used to authorize:

(a) Personal care services (per WAC 388-72A-0055, 388-72A-0060, ~~((or))~~ 388-72A-0065, or 388-845-1300);

(b) Home delivered meals (per WAC ~~((388-72A-0055))~~ 388-71-0415);

(c) Adult day care (per WAC ~~((388-72A-055 or 388-15-652))~~ 388-71-0415);

(d) ~~((Adult day health (per WAC 388-72A-055 or 388-15-653);~~

~~(e))~~ A home health aide (per WAC ~~((388-72A-0055))~~ 388-71-0415).

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 04-10-098
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed May 4, 2004, 3:26 p.m.]

Original Notice.

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

Title of Rule: WAC 388-414-0001 Do I have to meet all eligibility requirements for Basic Food?

Purpose: Amend WAC 388-414-0001 to be consistent with the department's use of categorical eligibility for the Washington Basic Food program and to amend the rule to be consistent with eligibility requirements for persons convicted of a drug-related felony as directed by the legislature under SB 6411 (chapter 24 [54], Laws of 2004).

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.510, SB 6411 (chapter 24 [54], Laws of 2004).

Summary: This rule explains how clients who are eligible for benefits in another program may not have to meet all eligibility requirements to receive Basic Food. It also explains which clients cannot be considered categorically eligible for Basic Food.

Reasons Supporting Proposal: The proposed amendments are necessary to be consistent with federal regulations for the food stamp program and extend categorical eligibility status to individuals and families who are not over the gross income standard for the Washington Basic Food program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Camp, 1009 College S.E., Lacey, WA 98504, (360) 413-3232.

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

Rule is necessary because of federal law, Title 7 of the Code of Federal Regulations. Part 273 - 273.2(j).

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

Purpose and Effect: See Purpose, Summary, and Reasons Supporting Proposal above.

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

This rule is being proposed without prior filing of a CR-101 preproposal statement of inquiry. A CR-101 is not required for rules that adopt without material change federal statutes or regulations or state statutes. The proposed rules adopt federal language contained in 7 C.F.R. 273.2(j) and delete language to be consistent with chapter 24, Laws of 2004.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses; it only affects DSHS clients.

RCW 34.05.328 does not apply to this rule adoption. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents." This rule adopts federal financial eligibility requirements mandated by Title 7 of the Code of Federal Regulations Part 273, 273.2(j) regarding categorical eligibility status for food stamp benefits well as requirements under state law regarding eligibility for persons convicted of a drug-related felony. The department also applies federal food stamp requirements other than citizenship and alien status for the state-funded portion of the Basic Food program.

Hearing Location: Lacey Government Center, Room 104-B, 1009 College Street S.E., Lacey, WA 98503, on June 10, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by June 3, 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 10, 2004.

Date of Intended Adoption: No earlier than June 11, 2004.

April 30, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-07-139, filed 3/22/04, effective 5/1/04)

WAC 388-414-0001 Do I have to meet all eligibility requirements for Basic Food? (1) What is "categorical eligibility" (CE)?

(a) **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;

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(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:

(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.

(c) Your AU's income that we don't exclude under WAC 388-450-0015 is not over the maximum gross monthly income under WAC 388-478-0060. If your income is not over the gross monthly income limit, we provide your AU information about department programs and referral to resources in the community.

(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 **countable** 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).~~

WSR 04-10-099

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed May 4, 2004, 3:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-007 on January 6, 2003.

Title of Rule: WAC 388-400-0005, 388-400-0010, 388-400-0025, 388-400-0040, 388-438-0110, 388-450-0100, 388-450-0106, 388-450-0116, 388-450-0156, 388-462-0020, 388-505-0210, 388-532-720, and 388-800-0048. See Explanation of Rule below for a list of WAC captions.

Purpose: These rule changes are necessary to update cross references to conform to proposed changes in citizenship and alien status WAC, including the proposed repeal of WAC 388-424-0005.

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

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057.

Summary: These rule changes conform to proposed changes in citizenship and alien status WAC, including the proposed repeal of WAC 388-424-0005.

Reasons Supporting Proposal: The proposed repeal of WAC 388-424-005, proposed amendment of WAC 388-424-0010, 388-424-0015, 388-424-0020, and 388-424-0025, and proposed new WAC 388-424-0001, 388-424-0006, 388-424-0007, 388-424-0008, 388-424-0009, and 388-424-0016, necessitate changes in cross-referenced WAC.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Tom Berry, 1009 College S.E., Lacey, WA 98504, (360) 413-3102.

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 following WAC are amended: WAC 388-400-0005 Who is eligible for temporary assistance for needy families?, 388-400-0010 Who is eligible for state family assistance?, 388-400-0025 General assistance unemployable—General eligibility requirements, 388-400-0040 Am I eligible for benefits through the Washington Basic Food program?, 388-438-0110 The alien emergency medical (AEM) program, 388-450-0100 Allocating income—Definitions, 388-450-0106 How does the department count my income if

someone in my family cannot get assistance because of their alien status?, 388-450-0116 How does the department count my income if I cannot get assistance because I am an alien?, 388-450-0156 When am I exempt from deeming?, 388-462-0020 Breast and cervical cancer treatment program (BCCTP) for women—Client eligibility, 388-505-0210 Children's medical eligibility, 388-532-720 TAKE CHARGE—Client eligibility, and 388-800-0048 Who is eligible for ADATSA?

Purpose and Effect: See Purpose, Summary, and Reasons Supporting Proposal above.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses, it only affects DSHS clients.

RCW 34.05.328 does not apply to this rule adoption. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on June 22, 2004, at 10:00 am.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by June 17, 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 22, 2004.

Date of Intended Adoption: Not earlier than June 23, 2004.

April 30, 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 04-11 issue of the Register.

WSR 04-10-100
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed May 4, 2004, 3:29 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-007 on January 6, 2003.

Title of Rule: WAC 388-424-0001, 388-424-0005, 388-424-0006, 388-424-0007, 388-424-0008, 388-424-0009, 388-424-0010, 388-424-0015, 388-424-0016, 388-424-0020, and 388-424-0025. See Explanation of Rule below for a list of WAC captions.

Purpose: These rule changes are necessary to conform to changes in federal law and to address gaps and ambiguities in the current rules.

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

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

Summary: These rule changes conform to changes in federal law, including the Victims of Trafficking and Violence Protection Act of 2000, the Battered Immigrant Women Protection Act of 2000, the Child Citizenship Act of 2000, and the Violence Against Women Act of 1994, and address gaps and ambiguities that have hindered correct and efficient eligibility determination by CSO staff.

Reasons Supporting Proposal: Current rules do not reflect recent changes in federal law, including the Victims of Trafficking and Violence Protection Act of 2000, the Battered Immigrant Women Protection Act of 2000, the Child Citizenship Act of 2000, and the Violence Against Women Act of 1994. Gaps and ambiguities in current rule have led to frequent requests for policy clarification from CSO staff.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Tom Berry, 1009 College S.E., Lacey, WA 98504, (360) 413-3102.

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

Rule is necessary because of federal law, 8 U.S.C. Section 1641(c) (Violence Against Women Act of 1994); 22 U.S.C. Section 7105(b) (Victims of Trafficking and Violence Protection Act of 2000); Public Law 106-386 Title V (Battered Immigrant Women Protection Act of 2000); Public Law 106-395 Title I (Child Citizenship Act of 2000).

Explanation of Rule, its Purpose, and Anticipated Effects: Rule: New sections WAC 388-424-0001 Citizenship and alien status—Definitions, 388-424-0006 Citizenship and alien status—Date of entry, 388-424-0007 Citizenship and alien status—Armed services or veteran status, 388-424-0008 Citizenship and alien status—Work quarters, 388-424-0009 Citizenship and alien status—Social security number (SSN) requirements, and 388-424-0016 Citizenship and alien status—Immigrant eligibility restrictions for state medical benefits; repealing WAC 388-424-0005 The effect of citizenship and alien status on eligibility for benefits; and amending WAC 388-424-0010 Citizenship and alien status—Immigrant eligibility restrictions for TANF and medical benefits, including Medicaid and SCHIP, 388-424-0015 Citizenship and alien status—Immigrant eligibility restrictions for the SFA, GA, and ADATSA programs, 388-424-0020 How does my alien status impact my eligibility for federally-funded Washington Basic Food program benefits?, and 388-424-0025 How does my alien status impact my eligibility for state-funded benefits under the Washington Basic Food program?

Purpose and Effect: See Purpose, Summary, and Reasons Supporting Proposal above.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does

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not have an economic impact on small businesses, it only affects DSHS clients.

RCW 34.05.328 does not apply to this rule adoption. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents." The rules are also exempt under RCW 34.05.328 (5)(b)(v), which states in part, "[t]his section does not apply to rules adopting or incorporating by reference without material change federal statutes or regulations...". This rule adopts federal assistance eligibility standards contained in the Victims of Trafficking and Violence Prevention [Protection] Act of 2000 (22 U.S.C. Section 7105(b)), the Battered Immigrant Women Protection Act of 2000 (Public Law No. 106-386, Title V), the Violence Against Women Act of 1994 (8 U.S.C. Section 1641(c)), and the Child Citizenship Act of 2000 (P.L. 106-395, Title I).

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on June 22, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by June 17, 2004, phone (360) 664-6094, TTY (360) 664-6178, e-mail FernAX@dshs.wa.gov [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 22, 2004.

Date of Intended Adoption: No earlier than June 23, 2004.

April 30, 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 04-11 issue of the Register.

WSR 04-10-101
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)
[Filed May 4, 2004, 3:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-01-192.

Title of Rule: Amending chapter 388-71 WAC, Home and community services and programs; chapter 388-72A WAC, Comprehensive assessment reporting evaluation (CARE) tool; and chapter 388-515 WAC, Alternate living—Institutional medical.

Purpose: In establishing the medically needy (MN) in-home waiver program, the department will adopt rules to establish eligibility criteria, applicable income standards, and amending other sections as needed.

Statutory Authority for Adoption: RCW 74.09.700, 74.08.090, 74.04.050, 74.39A.030, and 74.09.575.

Statute Being Implemented: RCW 74.09.700, 74.39A.-030, ESHB 2459, section 206 (6)(b), chapter 276, Laws of 2004.

Summary: See Purpose above.

Reasons Supporting Proposal: MN in-home waiver program rules are proposed to comply with ESHB 2459, chapter 276, Laws of 2004. Section 206 (6)(b), authorizes a waiver program to include coverage for in-home care.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Marianne Backous/Sue Poltl, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2535/902-8474.

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

Rule is necessary because of federal court decision, *Townsend v. DSHS*, U.S. District Court, Western District of Washington, No. C 00-0944Z, Stipulated Agreement and Order.

Explanation of Rule, its Purpose, and Anticipated Effects: Amending chapter 388-71 WAC, Home and community services and programs; chapter 388-72A WAC, Comprehensive assessment reporting evaluation (CARE) tool; and adding a new section to chapter 388-515 WAC, Alternate living—Institutional medical.

In establishing the medically needy (MN) in-home waiver program, the department will adopt rules to establish eligibility criteria, applicable income standards, and amending other sections as needed.

Proposal Changes the Following Existing Rules: Existing rules are amended to incorporate the medically needy (MN) in-home waiver program.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the rules and concluded that no new cost will be imposed on businesses.

RCW 34.05.328 does not apply to this rule adoption. Establishing the medically needy in-home waiver program is specifically dictated by the legislature in section 206(6), chapter 276, Laws of 2004, and rules concerning this program are exempt under RCW 34.05.328 (5)(b)(v). Other rules in this proposal establish client medical or financial eligibility for in-home care services, and are exempt under RCW 34.05.328 (5)(b)(vii).

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on June 22, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by June 18, 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 22, 2004.

Date of Intended Adoption: Not earlier than June 23, 2004.

April 30, 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 04-11 issue of the Register.

WSR 04-10-109
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed May 5, 2004, 10:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-06-065.

Title of Rule: WAC 458-40-640 Timber excise tax—Stumpage value area (map).

Purpose: To update the hauling areas shown on the stumpage value area map.

Statutory Authority for Adoption: RCW 84.33.096, 82.32.300, and 82.01.060(2).

Statute Being Implemented: RCW 84.33.091.

Summary: The map contained in WAC 458-40-640 identifies haul zones relative to the distance to the closest timber processing facility available to process harvested timber. These zones are used to adjust the taxable value of harvested timber. A facility located in eastern Washington closed in the past year, requiring an adjustment to haul zones affected by the closing. In addition, the haul zone for Point Roberts, which can only be reached overland by driving through Canada, has been adjusted to recognize the increased difficulty of cross-border hauling.

Reasons Supporting Proposal: The proposed changes restructure the haul zones as required to reflect the closing of the timber processing facility and increased difficulty crossing the border.

Name of Agency Personnel Responsible for Drafting: Gilbert Brewer, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6133; Implementation and Enforcement: Leslie Cushman, 1025 Union Avenue S.E., Suite #100, Olympia, WA, (360) 570-3201.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The map contained in WAC 458-40-640 identifies haul zones relative to the distance to the closest timber processing facility available to process harvested timber. These zones are used to adjust the taxable value of harvested timber.

Proposal Changes the Following Existing Rules: A processing facility located in eastern Washington closed in the past year, requiring an adjustment to haul zones affected by the closing. Additionally, the haul zone for Point Roberts has been adjusted to recognize the increased difficulty of cross-border hauling.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because a cost benefit analysis will be prepared for the rule and the proposed amendments.

RCW 34.05.328 applies to this rule adoption. This is a significant legislative rule pursuant to RCW 34.05.328 (5)(a)(i).

Hearing Location: Capital Plaza Building, Legislation and Policy, 4th Floor, Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on June 9, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact April Thompson no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7500.

Submit Written Comments to: Gilbert Brewer, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail gilb@dor.wa.gov, by June 9, 2004.

Date of Intended Adoption: June 16, 2004.

May 5, 2004

Alan R. Lynn

Rules Coordinator

Legislation and Policy Division

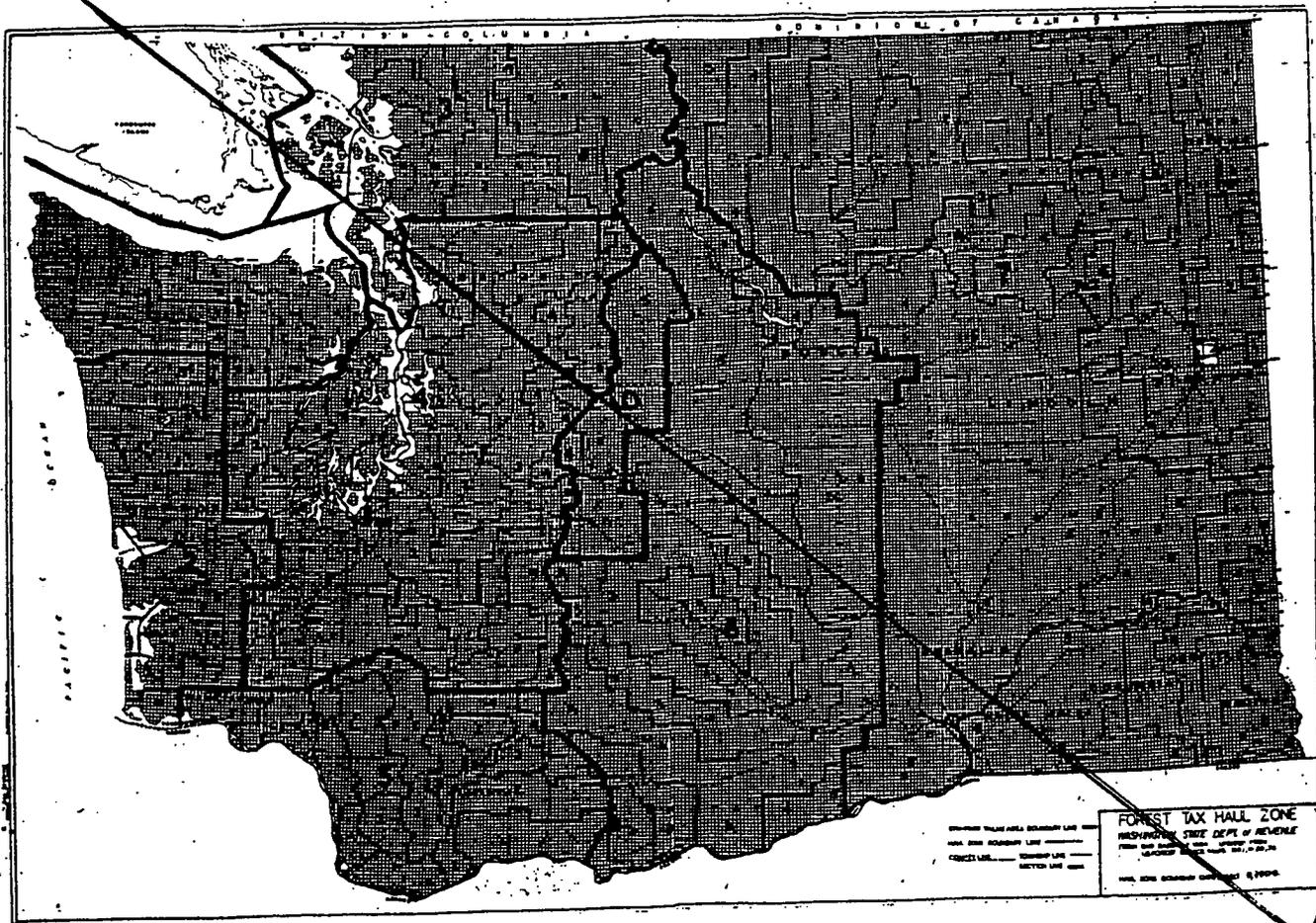
AMENDATORY SECTION (Amending WSR 01-24-029, filed 11/27/01, effective 12/28/01)

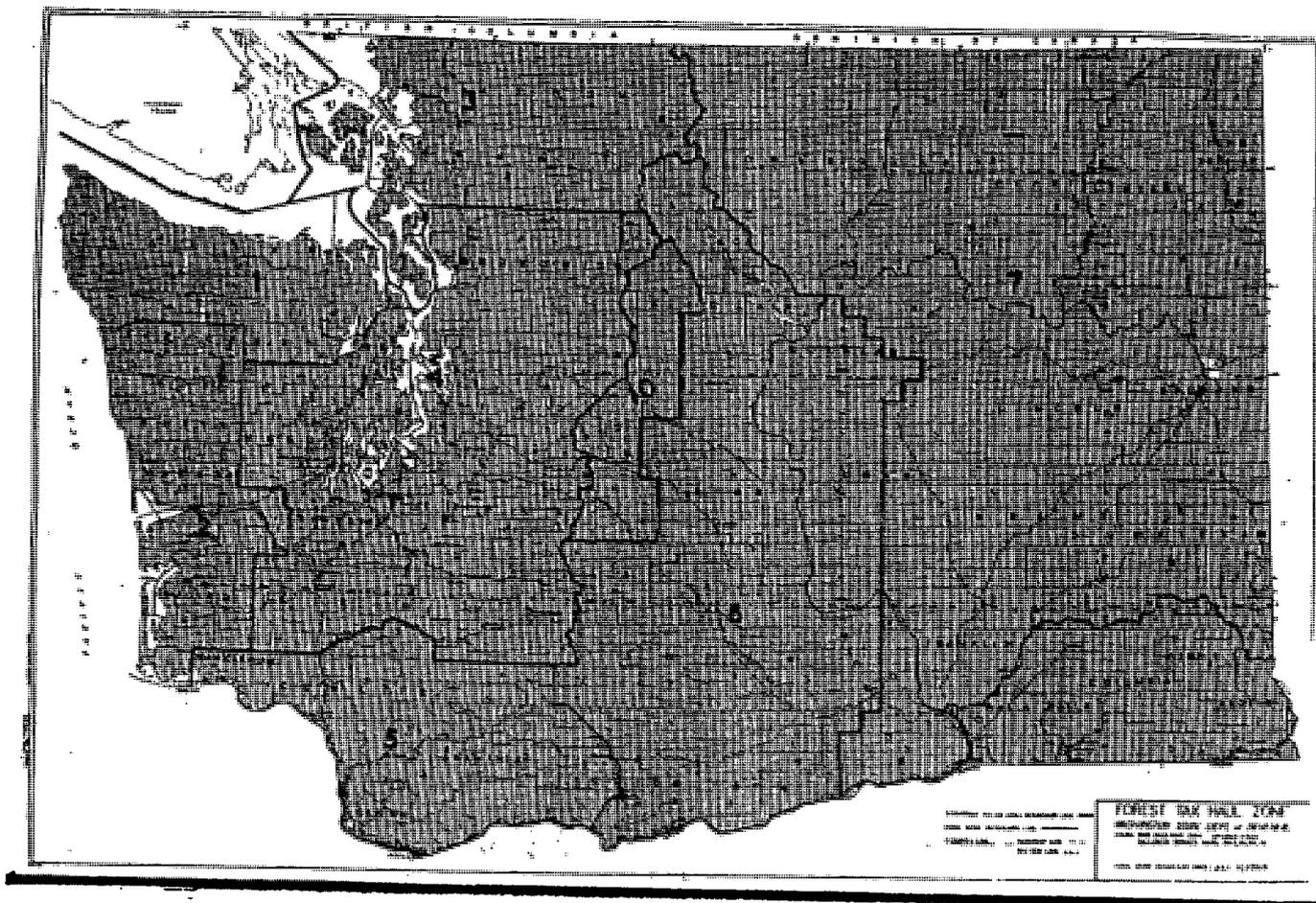
WAC 458-40-640 Timber excise tax—Stumpage value area (map). The stumpage value area and hauling distance zone map contained in this rule must be used to determine the proper stumpage value table and haul zone to be used in calculating the taxable stumpage value of timber harvested from private land.

WAC 458-40-640 Stumpage value area
and hauling zone—Map

Harvesters may obtain a larger scale map by writing to the Washington State Department of Revenue, Special Programs Division, Forest Tax Section, Post Office Box 47472, Olympia, Washington 98504-7472; or by calling 1-800-548-8829.

PROPOSED





PROPOSED

WSR 04-10-110
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed May 5, 2004, 10:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-06-064.

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

Purpose: Provides taxpayers with stumpage value tables to determine timber excise tax as required by RCW 82.33.091.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 84.33.096.

Statute Being Implemented: RCW 84.33.091.

Summary: The rule contains eight tables of stumpage values. These eight tables represent the areas in the state in which timber is harvested. Each table breaks out the values by timber species, quality, and a downward adjustment for hauling. The rule also contains two harvest adjustment tables for the volume per acre that is harvested, logging conditions,

remote island harvesting, damaged timber, and thinning. In addition, the rule also contains a domestic market adjustment table for export restricted public timber not sold through a competitive bidding process.

Reasons Supporting Proposal: RCW 84.33.091 requires the values to be updated twice a year. This is the semi-annual update to be used for the second half of the calendar year 2004.

Name of Agency Personnel Responsible for Drafting: Gilbert Brewer, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6133; **Implementation and Enforcement:** Leslie Cushman, 1025 Union Avenue S.E., Suite #100, Olympia, WA, (360) 570-3201.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposed amendment of WAC 458-40-660 complies with RCW 84.33.091, which requires the department to publish stumpage values on a semi-annual basis. The tables set out for each stumpage value area the amount that

each species or subclassification of timber would sell for at a voluntary sale made in the ordinary course of business for purposes of immediate harvest. Timber harvesters, other than electing small harvesters and purchasers of public timber, use the tables as a basis for calculating the amount of timber excise tax owed.

Proposal Changes the Following Existing Rules: This is a proposed revision of an existing rule, WAC 458-40-660. See Explanation of Rule above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required when a legislative rule is being adopted under RCW 34.05.328.

RCW 34.05.328 applies to this rule adoption. This is a significant legislative rule pursuant to RCW 34.05.328 (5)(a)(i).

Hearing Location: Capital Plaza Building, Legislation and Policy, 4th Floor, Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on June 9, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact April Thompson no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7500.

Submit Written Comments to: Gilbert Brewer, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail gilb@dor.wa.gov, by June 9, 2004.

Date of Intended Adoption: June 16, 2004.

May 5, 2004

Alan R. Lynn

Rules Coordinator

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 04-01-125, filed 12/18/03, effective 1/1/04)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) **Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((January)) July 1 through ((July)) December 31, 2004:

((TABLE 1—Stumpage Value Table
Stumpage Value Area 1
January 1 through July 31, 2004

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)							
Species Name	Species Code	Timber Quality Code Number	Hauling Distance-Zone-Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$465	\$458	\$451	\$444	\$437
		2	357	350	343	336	329
		3	352	345	338	331	324
		4	346	339	332	325	318
Western-Redcedar(2)	RC	1	871	864	857	850	843

((TABLE 1—Stumpage Value Table
Stumpage Value Area 1
January 1 through July 31, 2004

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)							
Species Name	Species Code	Timber Quality Code Number	Hauling Distance-Zone-Number				
			1	2	3	4	5
Western-Hemlock and Other Conifer(3)	WH	1	268	261	254	247	240
		2	216	209	202	195	188
		3	216	209	202	195	188
		4	216	209	202	195	188
Red-Alder	RA	1	339	332	325	318	311
		2	277	270	263	256	249
Black-Cottonwood	BC	1	1	1	1	1	
Other-Hardwood	OH	1	166	159	152	145	138
Douglas-Fir-Poles	DFL	1	654	647	640	633	626
Western-Redcedar-Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood(4)	CHW	1	1	1	1	1	
RC-Shake-Blocks	RCS	1	303	296	289	282	275
RC-Shingle-Blocks	RCF	1	121	114	107	100	93
RC & Other Posts(5)	RCP	1	0.45	0.45	0.45	0.45	0.45
DF-Christmas-Trees(6)	DFX	1	0.25	0.25	0.25	0.25	0.25
Other-Christmas-Trees(6)	TFX	1	0.50	0.50	0.50	0.50	0.50

(1) Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Alaska-Cedar.

(3) Includes Western-Hemlock, Mountain-Hemlock, Pacific-Silver-Fir, Noble-Fir, Grand-Fir, Subalpine-Fir, and all Spruce. Pacific-Silver-Fir, Noble-Fir, Grand-Fir, and Subalpine-Fir are all commonly referred to as "White-Fir."

(4) Stumpage value per ton.

(5) Stumpage value per 8-lineal-foot or portion thereof.

(6) Stumpage value per lineal-foot.)

**TABLE 1—Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 2004**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)							
Species Name	Species Code	Timber Quality Code Number	Hauling Distance-Zone-Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$423	\$416	\$409	\$402	\$395
		2	423	416	409	402	395
		3	365	358	351	344	337
		4	360	353	346	339	332

PROPOSED

**TABLE 1—Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 2004**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar ⁽²⁾	RC	1	777	770	763	756	749
Western Hemlock and Other Conifer ⁽³⁾	WH	1	303	296	289	282	275
		2	221	214	207	200	193
		3	215	208	201	194	187
		4	208	201	194	187	180
Red Alder	RA	1	368	361	354	347	340
		2	302	295	288	281	274
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	190	183	176	169	162
Douglas-Fir Poles	DFL	1	637	630	623	616	609
Western Redcedar Poles	RCL	1	1192	1185	1178	1171	1164
Chipwood ⁽⁴⁾	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁵⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁶⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁶⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Alaska-Cedar.

⁽³⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁴⁾ Stumpage value per ton.

⁽⁵⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁶⁾ Stumpage value per lineal foot.

**((TABLE 2—Stumpage Value Table
Stumpage Value Area 2
January 1 through July 31, 2004**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$379	\$372	\$365	\$358	\$351
		2	379	372	365	358	351

**((TABLE 2—Stumpage Value Table
Stumpage Value Area 2
January 1 through July 31, 2004**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar ⁽²⁾	RC	1	871	864	857	850	843
		2	379	372	365	358	351
Western Hemlock and Other Conifer ⁽³⁾	WH	1	275	268	261	254	247
		2	223	216	209	202	195
		3	200	193	186	179	172
		4	190	183	176	169	162
Red Alder	RA	1	339	332	325	318	311
		2	277	270	263	256	249
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	166	159	152	145	138
Douglas-Fir Poles	DFL	1	654	647	640	633	626
Western Redcedar Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood ⁽⁴⁾	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁵⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁶⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁶⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Alaska-Cedar.

⁽³⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁴⁾ Stumpage value per ton.

⁽⁵⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁶⁾ Stumpage value per lineal foot.

PROPOSED

TABLE 2—Stumpage Value Table
Stumpage Value Area 2
 July 1 through December 31, 2004

((TABLE 3—Stumpage Value Table
Stumpage Value Area 3
 January 1 through July 31, 2004

PROPOSED

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$500	\$493	\$486	\$479	\$472
		2	394	387	380	373	366
		3	394	387	380	373	366
		4	394	387	380	373	366
Western Redcedar ⁽²⁾	RC	1	777	770	763	756	749
Western Hemlock and Other Conifer ⁽³⁾	WH	1	303	296	289	282	275
		2	233	226	219	212	205
		3	223	216	209	202	195
		4	209	202	195	188	181
Red Alder	RA	1	368	361	354	347	340
		2	302	295	288	281	274
Black Cottonwood	BC	1	1	1	1	1	1
Other Hardwood	OH	1	190	183	176	169	162
Douglas-Fir Poles	DFL	1	637	630	623	616	609
Western Redcedar Poles	RCL	1	1192	1185	1178	1171	1164
Chipwood ⁽⁴⁾	CHW	1	1	1	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽²⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁶⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁶⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$343	\$336	\$329	\$322	\$315
		2	308	301	294	287	280
		3	308	301	294	287	280
		4	308	301	294	287	280
Western Redcedar ⁽³⁾	RC	1	871	864	857	850	843
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	283	275	268	261	254
		2	230	223	216	209	202
		3	181	174	167	160	153
		4	125	118	111	104	97
Red Alder	RA	1	339	332	325	318	311
		2	277	270	263	256	249
Black Cottonwood	BC	1	1	1	1	1	1
Other Hardwood	OH	1	166	159	152	145	138
Douglas-Fir Poles	DFL	1	654	647	640	633	626
Western Redcedar Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Alaska-Cedar.

⁽³⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁴⁾ Stumpage value per ton.

⁽⁵⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁶⁾ Stumpage value per lineal foot.

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.)

TABLE 3—Stumpage Value Table
Stumpage Value Area 3
 July 1 through December 31, 2004

(TABLE 4—Stumpage Value Table
Stumpage Value Area 4
 January 1 through July 31, 2004

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$340	\$333	\$326	\$319	\$312
		2	327	320	313	306	299
		3	327	320	313	306	299
		4	327	320	313	306	299
Western Redcedar ⁽³⁾	RC	1	777	770	763	756	749
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	303	296	289	282	275
		2	230	223	216	209	202
		3	162	155	148	141	134
		4	112	105	98	91	84
Red Alder	RA	1	368	361	354	347	340
		2	302	295	288	281	274
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	190	183	176	169	162
Douglas-Fir Poles	DFL	1	637	630	623	616	609
Western Redcedar Poles	RCL	1	1192	1185	1178	1171	1164
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$375	\$368	\$361	\$354	\$347
		2	375	368	361	354	347
		3	375	368	361	354	347
		4	326	319	312	305	298
Lodgepole Pine	LP	1	150	143	136	129	122
Ponderosa Pine	PP	1	274	267	260	253	246
		2	202	195	188	181	174
Western Redcedar ⁽³⁾	RC	1	871	864	857	850	843
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	261	254	247	240	233
		2	209	202	195	188	181
		3	203	196	189	182	175
		4	167	160	153	146	139
Red Alder	RA	1	339	332	325	318	311
		2	277	270	263	256	249
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	166	159	152	145	138
Douglas-Fir Poles	DFL	1	654	647	640	633	626
Western Redcedar Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.

PROPOSED

TABLE 4—Stumpage Value Table
Stumpage Value Area 4
 July 1 through December 31, 2004

(TABLE 5—Stumpage Value Table
Stumpage Value Area 5
 January 1 through July 31, 2004

PROPOSED

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$418	\$411	\$404	\$397	\$390
		2	395	388	381	374	367
		3	395	388	381	374	367
		4	395	388	381	374	367
Lodgepole Pine	LP	1	166	159	152	145	138
Ponderosa Pine	PP	1	256	249	242	235	228
		2	205	198	191	184	177
Western Redcedar ⁽³⁾	RC	1	777	770	763	756	749
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	303	296	289	282	275
		2	216	209	202	195	188
		3	207	200	193	186	179
		4	179	172	165	158	151
Red Alder	RA	1	368	361	354	347	340
		2	302	295	288	281	274
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	190	183	176	169	162
Douglas-Fir Poles	DFL	1	637	630	623	616	609
Western Redcedar Poles	RCL	1	1192	1185	1178	1171	1164
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCP	1	121	114	107	100	93
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$479	\$472	\$465	\$458	\$451
		2	386	379	372	365	358
		3	345	338	331	324	317
		4	343	336	329	322	315
Lodgepole Pine	LP	1	150	143	136	129	122
Ponderosa Pine	PP	1	274	267	260	253	246
		2	202	195	188	181	174
Western Redcedar ⁽³⁾	RC	1	871	864	857	850	843
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	248	241	234	227	220
		2	196	189	182	175	168
		3	187	180	173	166	159
		4	187	180	173	166	159
Red Alder	RA	1	339	332	325	318	311
		2	277	270	263	256	249
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	166	159	152	145	138
Douglas-Fir Poles	DFL	1	654	647	640	633	626
Western Redcedar Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCP	1	121	114	107	100	93
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska Cedar.

⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.)

TABLE 5—Stumpage Value Table
Stumpage Value Area 5
 July 1 through December 31, 2004

Stumpage Values per Thousand Board Feet Net Scribner Log Scale ⁽¹⁾							
Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$412	\$405	\$398	\$391	\$384
		2	412	405	398	391	384
		3	355	348	341	334	327
		4	355	348	341	334	327
Lodgepole Pine	LP	1	166	159	152	145	138
Ponderosa Pine	PP	1	256	249	242	235	228
		2	205	198	191	184	177
Western Redcedar ⁽³⁾	RC	1	777	770	763	756	749
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	303	296	289	282	275
		2	209	202	195	188	181
		3	198	191	184	177	170
		4	168	161	154	147	140
Red Alder	RA	1	368	361	354	347	340
		2	302	295	288	281	274
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	190	183	176	169	162
Douglas-Fir Poles	DFL	1	637	630	623	616	609
Western Redcedar Poles	RCL	1	1192	1185	1178	1171	1164
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska-Cedar.
⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁽⁵⁾ Stumpage value per ton.
⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁷⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁽⁸⁾ Stumpage value per lineal foot.)

(TABLE 6—Stumpage Value Table
Stumpage Value Area 6
 January 1 through July 31, 2004

Stumpage Values per Thousand Board Feet Net Scribner Log Scale ⁽¹⁾							
Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$258	\$251	\$244	\$237	\$230
Lodgepole Pine	LP	1	150	143	136	129	122
Ponderosa Pine	PP	1	274	267	260	253	246
		2	202	195	188	181	174
Western Redcedar ⁽³⁾	RC	1	577	570	563	556	549
True Firs and Spruce ⁽⁴⁾	WH	1	135	128	121	114	107
Western White Pine	WP	1	308	301	294	287	280
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	577	570	563	556	549
Small Logs ⁽⁵⁾	SML	1	25	24	23	22	21
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁽⁶⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁷⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska-Cedar.
⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁽⁵⁾ Stumpage value per ton.
⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁷⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁽⁸⁾ Stumpage value per lineal foot.)

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TABLE 6—Stumpage Value Table
Stumpage Value Area 6
 July 1 through December 31, 2004

((TABLE 7—Stumpage Value Table
Stumpage Value Area 7
 January 1 through July 31, 2004

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$280	\$273	\$266	\$259	\$252
Lodgepole Pine	LP	1	166	159	152	145	138
Ponderosa Pine	PP	1	256	249	242	235	228
		2	205	198	191	184	177
Western Redcedar ⁽³⁾	RC	1	525	518	511	504	497
True Firs and Spruce ⁽⁴⁾	WH	1	161	154	147	140	133
Western White Pine	WP	1	298	291	284	277	270
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	525	518	511	504	497
Small Logs ⁽⁵⁾	SML	1	23	22	21	20	19
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁽⁶⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁷⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$263	\$256	\$249	\$242	\$235
Lodgepole Pine	LP	1	177	170	163	156	149
Ponderosa Pine	PP	1	285	278	271	264	257
		2	227	220	213	206	199
Western Redcedar ⁽³⁾	RC	1	592	585	578	571	564
True Firs and Spruce ⁽⁴⁾	WH	1	177	170	163	156	149
Western White Pine	WP	1	315	308	301	294	287
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	592	585	578	571	564
Small Logs ⁽⁵⁾	SML	1	19	18	17	16	15
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁽⁶⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁷⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁽⁸⁾ Stumpage value per lineal foot.

⁽¹⁾ Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁽⁸⁾ Stumpage value per lineal foot.)

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TABLE 7—Stumpage Value Table
Stumpage Value Area 7
 July 1 through December 31, 2004

Stumpage Values per Thousand Board Feet Net Scribner Log Scale ⁽¹⁾							
Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$282	\$275	\$268	\$261	\$254
Lodgepole Pine	LP	1	194	187	180	173	166
Ponderosa Pine	PP	1	253	246	239	232	225
		2	214	207	200	193	186
Western Redcedar ⁽³⁾	RC	1	543	536	529	522	515
True Firs and Spruce ⁽⁴⁾	WH	1	206	199	192	185	178
Western White Pine	WP	1	310	303	296	289	282
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	543	536	529	522	515
Small Logs ⁽⁵⁾	SML	1	20	19	18	17	16
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁽⁶⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁷⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- (5) Stumpage value per ton.
- (6) Stumpage value per 8 lineal feet or portion thereof.
- (7) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- (8) Stumpage value per lineal foot.

(TABLE 8—Stumpage Value Table
Stumpage Value Area 10
 January 1 through July 31, 2004

Stumpage Values per Thousand Board Feet Net Scribner Log Scale ⁽¹⁾							
Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$361	\$354	\$347	\$340	\$333
		2	361	354	347	340	333
		3	361	354	347	340	333
		4	312	305	298	291	284
Lodgepole Pine	LP	1	150	143	136	129	122
Ponderosa Pine	PP	1	274	267	260	253	246
		2	202	195	188	181	174
Western Redcedar ⁽³⁾	RC	1	857	850	843	836	829
Western Hemlock and Other-Conifer ⁽⁴⁾	WH	1	247	240	233	226	219
		2	195	188	181	174	167
		3	189	182	175	168	161
		4	153	146	139	132	125
Red Alder	RA	1	325	318	311	304	297
		2	263	256	249	242	235
Black Cottonwood	BC	1	+	+	+	+	+
Other Hardwood	OH	1	152	145	138	131	124
Douglas-Fir Poles	DFL	1	640	633	626	619	612
Western Redcedar Poles	RCL	1	1177	1170	1163	1156	1149
Chipwood ⁽⁵⁾	CHW	1	+	+	+	+	+
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- (5) Stumpage value per ton.
- (6) Stumpage value per 8 lineal feet or portion thereof.
- (7) Stumpage value per lineal foot.

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TABLE 8—Stumpage Value Table
Stumpage Value Area 10
 July 1 through December 31, 2004

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$404	\$397	\$390	\$383	\$376
		2	381	374	367	360	353
		3	381	374	367	360	353
		4	381	374	367	360	353
Lodgepole Pine	LP	1	166	159	152	145	138
Ponderosa Pine	PP	1	256	249	242	235	228
		2	205	198	191	184	177
Western Redcedar ⁽²⁾	RC	1	763	756	749	742	735
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	289	282	275	268	261
		2	202	195	188	181	174
		3	193	186	179	172	165
		4	165	158	151	144	137
Red Alder	RA	1	354	347	340	333	326
		2	288	281	274	267	260
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	176	169	162	155	148
Douglas-Fir Poles	DFL	1	623	616	609	602	595
Western Redcedar Poles	RCL	1	1178	1171	1164	1157	1150
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc..) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber**—Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber**—Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ((January)) July 1 through ((July)) December 31, 2004:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
 ((January)) July 1 through ((July)) December 31, 2004

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00

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Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	- \$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	- \$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	- \$30.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	- \$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
 ((January)) July 1 through ((July)) December 31, 2004

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 3 thousand board feet to 8 thousand board feet per acre.	- \$7.00
Class 3	Harvest of less than 3 thousand board feet per acre.	- \$10.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$20.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$30.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	- \$145.00
Note: A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.		
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1:	SVA's 1 through 6, and 10	\$0.00
Class 2:	SVA 7	\$0.00

Note: The adjustment will not be allowed on special forest products.

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

WSR 04-10-113

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed May 5, 2004, 11:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-14-141.

Title of Rule: Unemployment insurance rules related to employer accounts, employer reporting requirements and penalties, conditions for relief of benefit charging, and charges to the separating employer.

PROPOSED

Purpose: Chapter 4, Laws of 2003 2nd sp.s. (2ESB 6097) made substantive revisions to the unemployment insurance program. The proposed rules are intended to clarify the requirements of that legislation, define terms, and revise existing rules consistent with the amended statutes.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, and 50.12.042.

Statute Being Implemented: Chapter 4, Laws of 2003 2nd sp.s. (2ESB 6097).

Summary: Amends rules to define terms regarding ownership transfers, to clarify employer reporting requirements, and to specify the order in which employer payments will be applied. New provisions regarding penalties for employers filing late or incomplete tax returns are established. Clarifies the penalties for employers who knowingly misrepresent the amount of their payroll. Benefit charging rules are amended to clarify conditions for relief of charges and conditions under which all charges will be assessed against the separating employer.

Reasons Supporting Proposal: To provide clarity for employers, claimants and staff regarding how the changes in the unemployment insurance benefits program will be administered, and to replace obsolete rules with language consistent with the amended statutes.

Name of Agency Personnel Responsible for Drafting: Juanita Myers, 212 Maple Park, Olympia, (360) 902-9665; Implementation and Enforcement: Annette Copeland, 212 Maple Park, Olympia, (360) 902-9303.

Name of Proponent: Employment Security Department, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rules in Title 192 WAC are amended or adopted to conform to 2ESB 6097, passed by the 2003 legislature. The legislation made substantive changes in the laws governing employer taxes, reporting requirements, and penalties for employers who fail to comply with the reporting requirements or who knowingly misrepresent the amount of their payroll. The rules establish the range of penalties for employers to file untimely or incomplete reports. The rules further establish the reasonable audit expenses that will be assessed against an employer who is determined to have knowingly misrepresented the amount of his or her payroll.

2ESB 6097 modified the conditions under which employers may be eligible for relief of benefit charges, and established criteria outlining conditions in which certain employers may be charged for 100% of benefits paid on a claim. The rules further clarify how the department will assess benefit charges and grant relief of benefit charges.

The legislation and rules increase the penalties for employers who report untimely, incomplete, or inaccurate information. In some cases, employers will be charged for all benefits paid on a claim as opposed to their proportional share of base period wages.

Proposal Changes the Following Existing Rules: The rules are amended to reflect the change in maximum penalty for filing late or incomplete reports from \$10 to \$250. The rules are also amended to reflect the new penalties for employers who knowingly misrepresent the amount of their

payroll. The benefit charging rules are amended to comply with the changes included in the legislation.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules will not impose more than minor costs on businesses in an industry or on small businesses in particular. Any costs associated with the changes to unemployment insurance taxes, reporting requirements, penalties, or benefit charging result from the legislation, not from the regulations implementing the legislative changes. As required by chapter 43.05 RCW, the department will provide education and technical assistance to employers prior to imposing any penalty for filing late or incomplete reports.

RCW 34.05.328 applies to this rule adoption. Violation of the requirements regarding timely and complete reports will subject the employer to a penalty fee as specified by rule. A copy of the preliminary cost benefit analysis is available from Juanita Myers, Unemployment Insurance Rules Coordinator, at (360) 902-9665 or jmyers@esd.wa.gov.

Hearing Location: Employment Security Department, Maple Leaf Conference Room, 2nd Floor, 212 Maple Park Drive, Olympia, WA, on July 14, 2004, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Mary Mendoza by July 13, 2004, TDD (360) 902-9589 or (360) 902-9281.

Submit Written Comments to: Larry Oline, Acting Rules Coordinator, Employment Security Department, P.O. Box 9046, Olympia, WA 98506, fax (360) 438-3226, by July 13, 2004.

Date of Intended Adoption: July 23, 2004.

May 5, 2004

Annette Copeland

for Dr. Sylvia P. Mundy

Commissioner

AMENDATORY SECTION (Amending WSR 00-05-068, filed 2/15/00, effective 3/17/00)

WAC 192-300-050 Predecessor-successor relationship defined. This section applies only to those individuals and organizations that meet the definition of an employer contained in RCW 50.04.080.

(1) **Predecessor.** You are a "predecessor" if, during any calendar year, you transfer any of the following to another individual or organization:

(a) All, or a portion, of your operating assets as defined in subsection (3) below; or

(b) A separate unit or branch of your trade or business.

(2) **Successor.** You are a "successor" if, during any calendar year, you acquire substantially all of a predecessor employer's operating assets. You are a "partial successor" if, during any calendar year, you acquire:

(a) A portion of a predecessor employer's operating assets, or

(b) A separate unit or branch of a predecessor employer's trade or business.

(3) **Operating assets.** "Operating assets" include the properties you use in the normal course of business operations to generate your operating income. They may include properties that are real or personal, and tangible or intangible.

Examples include land, buildings, machinery, equipment, stock of goods, merchandise, fixtures, or goodwill. Employees are not operating assets.

(4) **Transfer of assets.** Transfers from a predecessor to a successor employer may occur by sale, lease, gift, or any legal process, except those listed in subsection (56) below.

(5) **Simultaneous acquisition.** For purposes of successor simultaneous acquisition, the term "simultaneous" means all transfers that occurred as a result of the business acquisition or reorganization, beginning when the acquisition started and ending when the primary entity is transferred.

(6) **Exceptions.** A predecessor-successor relationship will not exist:

(a) For the purposes of chapter 50.24 RCW (payment of taxes), when the property is acquired through court proceedings, including bankruptcies, to enforce a lien, security interest, judgment, or repossession under a security agreement unless the court specifies otherwise;

(b) For the purposes of chapter 50.29 RCW (experience rating), when any four consecutive quarters, one of which includes the acquisition date, pass without reportable employment by either the predecessor, successor, or a combination of both.

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

AMENDATORY SECTION (Amending WSR 98-14-068, filed 6/30/98, effective 7/31/98)

WAC 192-310-010 Employer reports—RCW 50.12.070. (1) **Master application.** Every person or entity, which has one or more individuals performing services for it in the state of Washington, must file a master application with the department (~~a master application~~) in a format prescribed by the commissioner.

(2) **Quarterly tax and wage reports:**

(a) **Tax report.** Each employer must file a quarterly tax report with the commissioner listing the total wages paid to all individuals in its employ during that calendar quarter.

(b) **Report of employee's wages.** Each employer must file a quarterly report of employee's wages with the commissioner. This report must list each employee by name, social security number, hours worked, and wages paid during that calendar quarter.

(c) **Format.** The quarterly tax and wage reports must be filed in ~~((a))~~ one of the following formats (~~(prescribed by the commissioner-))~~):

(i) Electronically, using the current version of UIFast-Tax, UIWebTax, or ICESA Washington; or (ii) Paper forms supplied by the department (or a certified version of those forms).

(d) **Due dates.** ~~The((y))~~ quarterly tax and wage reports are due by the last day of the month following the end of the calendar quarter being reported. Calendar quarters end on March 31, June 30, September 30 and December 31 of each year. Therefore, reports are due by April 30, July 31, October 31, and January 31, respectively. Exceptions to the time and manner of filing the report must be approved in advance by the commissioner.

~~((d))e~~ Termination of business. Each employer who ceases business or whose account is closed by the department must immediately file:

(i) A tax report for the current calendar quarter which covers tax payments due to the date such account is closed;

(ii) A report of employee's wages for the current calendar quarter which includes all wages paid to the date such account is closed.

~~((3) Report form instructions. All form preparation instructions issued by the employment security department have the same force and effect as if they had been incorporated into this regulation-))~~

AMENDATORY SECTION (Amending WSR 98-14-068, filed 6/30/98, effective 7/31/98)

WAC 192-310-025 Application of payments. (1) A payment received with a tax report will be applied to the quarter for which the report is filed. A payment exceeding the legal fees, penalties, interests and taxes due for that quarter will be applied to any other debt as provided in subsection (2). If no debt exists, a credit statement will be issued for any overpayments.

(2) A payment received without a tax report will be applied in the following order of priority, beginning with the oldest quarter:

(a) ~~((Lien fees))~~ Costs of audit and collection.

(b) ~~((Warrant fees))~~ Penalties for willful misrepresentation of payroll.

(c) ~~((Late tax report penalty))~~ Lien fees.

(d) ~~((Late tax payment penalty))~~ Warrant fees.

(e) ~~((Interest charges))~~ Late tax report penalty.

(f) ~~((Tax payments-))~~ Penalties for incomplete reporting or reporting using incorrect format.

(g) Late tax payment penalty.

(h) Interest charges.

(i) Tax payments.

AMENDATORY SECTION (Amending WSR 98-14-068, filed 6/30/98, effective 7/31/98)

WAC 192-310-030 Reports and tax payments subject to penalty. (1) ~~Late ((F))~~ tax reports. An employer who files a late or incomplete tax report as described in WAC 192-310-010 (2)(a) but does not file it within the time frame prescribed in WAC 192-310-010 (2)(c) is subject to a penalty of ~~((ten))~~ twenty-five dollars per violation, unless the penalty is waived by the department.

(2) **Incomplete Tax Reports.** An employer is required to file the report required by WAC 192-310-010 in a complete manner and in the format required by the commissioner.

(a) An "incomplete report" is defined as any report submitted by either a contributory or reimbursable employer where:

(i) The entire wage report is not submitted timely; or

(ii) A required element is not reported (social security number, name, hours worked, or wages paid); or

(iii) A significant number of employees are not reported;

or

(iv) A significant number of any given element is not reported such as, but not limited to, missing social security numbers, names, hours, wages; or

(v) No employer reference number or Unified Business Identifier (UBI) number is included with the tax or wage report.

(b) An "incorrect format" means any report that is not submitted in the format required by the commissioner under WAC 192-310-010(c).

(3) Penalty for filing an incomplete or incorrect format tax report. An employer who fails to file a report required by RCW 50.12.070 is subject to penalty as follows:

(a) Incomplete tax report. The penalty for filing an incomplete tax report will be two hundred fifty dollars or ten percent of the quarterly contributions for each occurrence, whichever is less. When no quarterly tax is due and an employer has submitted an incomplete report, the following schedule will apply:

<u>(i) 1st Occurrence</u>	<u>\$ 75.00</u>
<u>(ii) 2nd Occurrence</u>	<u>\$150.00</u>
<u>(iii) 3rd and subsequent occurrences</u>	<u>\$250.00</u>

(b) Filing tax report in an incorrect format. The penalty for filing a tax report in an incorrect format will be two hundred fifty dollars or ten percent of the quarterly contributions for each occurrence, whichever is less. When no quarterly tax is due and an employer has submitted a tax report in an incorrect format, the following schedule will apply:

<u>(i) 1st Occurrence</u>	<u>\$150.00</u>
<u>(ii) 2nd and subsequent occurrences</u>	<u>\$250.00</u>

(4) Knowingly misrepresenting amount of payroll. If an employer knowingly misrepresents to the department the amount of his or her payroll, upon which contributions under this title are based, the employer is liable for a penalty of ten times the difference between the contributions paid, if any, and the amount of contributions the employer should have paid for the period. This penalty is in addition to the amount the employer should have paid. The employer is also liable to the department for the reasonable expenses of auditing his or her books and collecting such sums as provided in WAC 192-340-100.

((2)) (5) Report of employee's wages. Any decision to assess a penalty for filing a late or incomplete report of employee's wages as described in WAC 192-310-010 (2)(b) will be made on an individual basis by the chief administrative officer of the tax branch as provided in RCW 50.12.220.

((3)) (6) Delinquent tax payments. For purposes of RCW 50.12.220, tax payments are delinquent as provided in WAC 192-310-020 and RCW 1.12.070.

((4) Late penalty. For tax payments due on wages paid, a minimum \$10.00 penalty will be assessed for late payments.

(5)) (7) Penalty waivers. The department may, for good cause, waive penalties in the following situations:

(a) The return was filed on time but inadvertently mailed to another agency;

(b) The delinquency was due to an action of an employee of the department, such as providing incorrect information to

the employer when the source can be identified, or not furnishing proper forms to permit the filing of tax reports or the payment of taxes on time;

(c) The delinquency was caused by the death or serious illness, before the filing deadline, of the employer, a member of the employer's immediate family, the employer's accountant, or a member of the accountant's immediate family;

(d) The delinquency was caused by the accidental destruction of the employer's place of business or business records; or

(e) The department finds the employer to be out of compliance during an employer-requested audit, but the department determines the employer made a good faith effort to comply with all applicable laws and rules.

((6)) (8) Waiver requests. A request for a waiver of penalties must be written, contain all pertinent facts, be accompanied by available proof, and be filed through a tax office. In all cases the burden of proving the facts is on the employer.

((7)) (9) Extensions. The department, for good cause, may extend the due date for filing a report. The employer must make a deposit with the department in an amount equal to the estimated tax liability for the reporting period or periods for which the extension is granted. This deposit will be credited to the employer's account and applied to the employer's debt. The amount of the deposit is subject to approval by the department.

AMENDATORY SECTION (Amending WSR 00-05-069, filed 2/15/00, effective 3/17/00)

WAC 192-320-070 Conditions for relief of benefit charges due to a voluntary quit. (1) For claims with an effective date prior to January 4, 2004, ((A)) a contribution-paying non-local government base year employer, who has not been granted relief of charges under RCW 50.20.020(2) may request relief of charges for a voluntary quit not attributable to the employer under RCW 50.29.020(4((3))) and WAC 192-320-065.

(2) For claims with an effective date on or after January 4, 2004, a contribution-paying non-local government base year employer, who has not been granted relief of charges under RCW 50.20.021(3), may request relief of charges for a voluntary quit not attributable to the employer under RCW 50.29.021(4) and WAC 192-320-065.

(3((1))) Reasons for a voluntary quit not attributable to the employer. A claimant may have been denied unemployment benefits for voluntarily quitting work without good cause, but subsequently qualify for unemployment benefits through work and earnings. Even if the claimant has qualified for benefits, the following reasons for leaving work will be considered reasons not attributable to the employer ((may include, but are not limited to)):

(a) The claimant's illness or disability or the illness, disability or death of a member(s) of the claimant's immediate family;

(b) The claimant's domestic responsibilities;

(c) Accepting a job with another employer;

(d) Relocating for a spouse's employment;

(e) Starting or resuming school or training;

- (f) Being in jail;
- (g) The distance to the job site when the job was accepted and the distance at the time of the quit remained the same, or the job location may have changed; but the distance traveled or difficulty of travel was not increased;
- (h) Being dissatisfied with wages, hours or other working conditions generally known when the job was accepted; and the working conditions are determined suitable for the occupation in the claimant's labor market.

(4((2))) Reasons for a voluntary quit considered attributable to employer are those work-related factors of such a compelling nature as to cause a reasonably prudent person to leave employment. The work factors must have been reported to the employer if the employer has reasons not to be aware of the conditions, and the employer failed to improve the factors within a reasonable period of time. The reason for quitting may or may not have been determined good cause for voluntarily leaving work under RCW 50.20-050. For benefit charging purposes, however, ((S)) such work-related factors may include, but are not limited to:

- (a) Change in work location which causes an increase in distance and/or difficulty of travel, but only if it is clearly greater than is customary for workers in the individual's classification and labor market;
- (b) Deterioration of work site safety provided the employee has reported such safety deterioration to the employer; and the employer has failed to correct the hazards within a reasonable period of time;
- (c) Employee skills no longer required for the job;
- (d) Unreasonable hardship on the health or morals of the employee;
- (e) Reductions in hours;
- (f) Reduction in pay;
- (g) Notification of impending layoff; and
- (h) Such other work-related factors as the commissioner may deem pertinent.

NEW SECTION

WAC 192-320-075 Charges to the separating employer—RCW 50.29.021 (2)(c). (1) If a claimant voluntarily quits work to accept a job with a new employer, 100% of benefits paid on the claim will be charged to the new employer when this new employer is the claimant's last employer, a base period employer, and a contribution-paying employer.

(2) If a claimant quits work because of the working conditions listed in this subsection, the employer from whom the separation occurred will be charged for 100% of benefits paid on the claim if the employer is the claimant's last employer, a base period employer, and a contribution-paying employer. These working conditions include:

- (a) A reduction in the individual's usual compensation of 25% or more under WAC 192-150-115;
- (b) A reduction in the individual's usual hours of 25% or more under WAC 192-150-120;
- (c) A change in the work location which caused a substantial increase in distance or difficulty of travel under WAC 192-150-125;

(d) A deterioration in the individual's worksite safety under WAC 192-150-130;

(e) Illegal activities in the individual's worksite under WAC 192-150-135; or

(f) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs under WAC 192-150-140.

(3) Benefits based on wages paid by the following entities will **not** be charged to the experience-rating account of the separating employer as described in subsections (1) and (2) if they were earned:

- (a) In another state;
- (b) From a local government employer;
- (b) From the federal government; or
- (c) From any branch of the United States military.

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

NEW SECTION

WAC 192-340-100 Reasonable audit expenses—RCW 50.12.220 (1)(b). Reasonable expenses for auditing an employer's books and collecting taxes may include:

(1) Salaries and benefits based on the payrolls documented for state staff conducting the audit (including reporting and follow-up costs);

(2) Communication costs such as telephone charges for arranging the audit, e-mails, mail or similar communication services;

(3) Travel costs for expenses such as transportation, lodging, subsistence and related items incurred by state employees traveling for the purpose of conducting the audit. Such costs may be charged on an actual cost basis or on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed by the department;

(4) Customary standard commercial airfare costs (coach or equivalent);

(5) Costs for materials and supplies (including the costs of producing reports and audit findings);

(6) Equipment costs necessary for conducting the audit;

(7) Collection costs, including court costs, lien and warrant fees, and related costs; and

(8) Other costs which the department establishes that are directly related to the audit or collection of the penalty (i.e. appeal costs).

WSR 04-10-114

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed May 5, 2004, 11:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-14-140.

Title of Rule: Unemployment insurance rules related to an individual's eligibility for benefits, job search require-

ments, job search monitoring provisions, penalties, overpayments, and the calculation of maximum benefits payable.

Purpose: Chapter 4, Laws of 2003 2nd sp.s. (2ESB 6097) made substantive revisions to the unemployment insurance program. The proposed rules are intended to clarify the requirements of that legislation, define terms, and revise existing rules consistent with the amended statutes.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, and 50.12.042.

Statute Being Implemented: Chapter 4, Laws of 2003 2nd sp.s. (2ESB 6097).

Summary: Amends rules to clarify eligibility requirements for individuals with unemployment claims effective prior to January 4, 2004, or January 4, 2004, and later. Rules amended and adopted pertain to appeals, job separations, definitions of terms, notices to employers and claimants, reporting requirements, job search requirements, assessment and collection of overpayments, claimant penalties, and calculation of benefit amounts.

Reasons Supporting Proposal: To provide clarity for employers, claimants, and staff regarding how the changes in the unemployment insurance benefits program will be administered, and to replace obsolete rules with language consistent with the amended statutes.

Name of Agency Personnel Responsible for Drafting: Juanita Myers, 212 Maple Park, Olympia, (360) 902-9665; Implementation and Enforcement: Annette Copeland, 212 Maple Park, Olympia, (360) 902-9303.

Name of Proponent: Employment Security Department, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rules in Title 192 WAC are amended or adopted to conform to 2ESB 6097, passed by the 2003 legislature. The legislation made substantive changes in the laws governing eligibility for unemployment benefits, the calculation of benefits, job search requirements, and penalties and requalification requirements for claimants. The rules clarify that the maximum benefits payable on a claim will be permanently reduced to twenty-six times the weekly benefit (from thirty) when the unemployment rate reaches 6.8% or below. The rules further clarify the conditions under which an individual will be determined to have left work voluntarily without good cause or have been discharged for work-related misconduct, and the disqualification periods for such individuals. Rules regarding gross misconduct are adopted.

The job search requirements under the new law are clarified. Policies regarding excused absences from job search review interviews are established, as well as the penalties for failure to participate in a job search review interview when directed.

Overpayment regulations are updated to be consistent with the new law, and the provision that benefits paid to an individual discharged for misconduct are recoverable and repayment cannot be waived.

The changes to the law and regulations will result in fewer individuals qualifying for unemployment benefits, and those who do qualify will be eligible for fewer benefits. This should result in reduced costs to employers.

Proposal Changes the Following Existing Rules: Existing job separation and job search rules are revised to clarify that certain requirements apply only to individuals whose claim is effective prior to January 4, 2004. Certain job separation rules are revised to comply with the new voluntary quit and misconduct sections of 2ESB 6097. Other sections amended simply revise statutory or regulatory citations or references.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules will not impose more than minor costs on businesses in an industry or on small businesses in particular. Any costs associated with the changes to the unemployment insurance benefits program result from the legislation, not from the regulations implementing the legislative changes.

RCW 34.05.328 applies to this rule adoption. The rules substantively change existing rules and, as provided in 2ESB 6097, establish qualifications and requirements related to the receipt of unemployment benefits. A copy of the preliminary cost benefit analysis is available from Juanita Myers, Unemployment Insurance Rules Coordinator, at (360) 902-9665 or jmyers@esd.wa.gov.

Hearing Location: Employment Security Department, Maple Leaf Conference Room, 2nd Floor, 212 Maple Park Drive, Olympia, WA, on July 14, 2004, at 2:30 p.m.

Assistance for Persons with Disabilities: Contact Mary Mendoza by July 13, 2004, TDD (360) 902-9589 or (360) 902-9281.

Submit Written Comments to: Larry Oline, Acting Rules Coordinator, Employment Security Department, P.O. Box 9046, Olympia, WA 98506, fax (360) 438-3226, by July 13, 2004.

Date of Intended Adoption: July 23, 2004.

May 5, 2004
Annette Copeland
for Dr. Sylvia P. Mundy
Commissioner

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 04-12 issue of the Register.

WSR 04-10-014
EXPEDITED RULES
DEPARTMENT OF HEALTH

[Filed April 26, 2004, 10:01 a.m.]

Title of Rule: WAC 246-310-010 Certificate of need definitions.

Purpose: To change the definition of "established ratio" to conform with 1999 legislation, which changes the bed-to-population ratio from forty-five beds per one thousand to forty beds per one thousand.

Other Identifying Information: Chapter 376, Laws of 1999.

Statutory Authority for Adoption: Chapter 70.38 RCW.
 Statute Being Implemented: Chapter 70.38 RCW.

Summary: The proposal decreases the definition of "established ratio" from reading "bed-to-population ratio of forty-five beds per one thousand persons of the estimated or forecast resident population age sixty-five or older established for planning and policy-making purposes" to read "a bed-to-population ratio of forty beds per one thousand persons of the estimated or forecast resident population age sixty-five and older established for planning and policy making purposes."

Reasons Supporting Proposal: The amendment will assure the rules reflect the statutory standard and current agency practice.

Name of Agency Personnel Responsible for Drafting and Implementation: Janis Sigman, 310 Israel Road S.E., Tumwater, WA 98501, 236-2956; and Enforcement: Gary Bennett, 310 Israel Road S.E., Tumwater, WA 98501, 236-2900.

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 proposed rule amends the definition of "established ratio" to reflect the statute which was amended in 1999. There will be no change in certificate of need review outcomes, as current practice uses the forty bed per one thousand ratio which is according to statute, rather than the forty-five bed per one thousand ratio, which is currently written in rule. The change will assure that the rules reflect the statute and current practice.

Proposal Changes the Following Existing Rules: The proposal amends WAC 246-310-010 and changes the bed-to-population ratio from forty-five beds per one thousand to forty beds per one thousand.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Yvette Fox, Department

of Health, P.O. Box 47852, Olympia, WA 98504-7852, AND RECEIVED BY July 5, 2004.

April 23, 2004
 Mary C. Selecky
 Secretary

AMENDATORY SECTION (Amending WSR 98-10-053, filed 4/29/98, effective 5/30/98)

WAC 246-310-010 Definitions. For the purposes of chapter 246-310 WAC, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise.

"Acute care facilities" means hospitals and ambulatory surgical facilities.

"Affected person" means an interested person meeting the following criteria:

- Is located or resides in the applicant's health service area;
- Testified at a public hearing or submitted written evidence; and
- Requested in writing to be informed of the department's decision.

"Alterations," see "construction, renovation, or alteration."

"Ambulatory care facility" means any place, building, institution, or distinct part thereof not a health care facility as defined in this section and operated for the purpose of providing health services to individuals without providing such services with board and room on a continuous twenty-four-hour basis. The term "ambulatory care facility" includes the offices of private physicians, whether for individual or group practice.

"Ambulatory surgical facility" means any free-standing entity, including an ambulatory surgery center, that operates primarily for the purpose of performing surgical procedures to treat patients not requiring hospitalization. This term does not include a facility in the offices of private physicians or dentists, whether for individual or group practice; if the privilege of using such facility is not extended to physicians or dentists outside the individual or group practice.

"Applicant," means:

- Any person proposing to engage in any undertaking subject to review under the provisions of chapter 70.38 RCW.

- Any person or individual with a ten percent or greater financial interest in a partnership or corporation or other comparable legal entity engaging in any undertaking subject to review under the provisions of chapter 70.38 RCW.

"Base year" as used in the kidney dialysis station methodology means the last full calendar year preceding the first year of dialysis station need projections.

"Bed banking" means the process of retaining the rights to nursing home bed allocations which are not licensed as outlined in WAC 246-310-395.

"Bed supply" means within a geographic area the total number of:

- Nursing home beds which are licensed or certificate of need approved but not yet licensed or beds banked under the provisions of RCW 70.38.111 (8)(a) or where the need is

EXPEDITED

deemed met under the provisions of RCW 70.38.115 (13)(b), excluding:

- Those nursing home beds certified as intermediate care facility for the mentally retarded (ICF-MR) the operators of which have not signed an agreement on or before July 1, 1990, with the department of social and health services department of social and health services to give appropriate notice prior to termination of the ICF-MR service;

- New or existing nursing home beds within a CCRC which are approved under the provisions of WAC 246-310-380(5); or

- Nursing home beds within a CCRC which is excluded from the definition of a health care facility per RCW 70.38-025 (6); and

- Beds banked under the provisions of RCW 70.38.115 (13)(b) where the need is not deemed met.

- Licensed hospital beds used for long-term care or certificate of need approved hospital beds to be used for long-term care not yet in use, excluding swing-beds.

"Bed-to-population ratio" means the nursing home bed supply per one thousand persons of the estimated or forecasted resident population age sixty-five and older.

"Capital expenditure" means an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a nursing home facility as its own contractor), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. The costs of any studies, surveys, designs, plans, working drawings, specifications, and other activities (including staff effort, consulting and other services which, under generally accepted accounting principles, are not properly chargeable as an expense of operation and maintenance) shall be considered capital expenditures. Where a person makes an acquisition under lease or comparable arrangement, or through donation, which would have required certificate of need review if the acquisition had been made by purchase, such acquisition shall be deemed a capital expenditure. Capital expenditures include donations of equipment or facilities to a nursing home facility, which if acquired directly by such facility, would be subject to review under the provisions of this chapter and transfer of equipment or facilities for less than fair market value if a transfer of the equipment or facilities at fair market value would be subject to such review.

"Certificate of need" means a written authorization by the secretary's designee for a person to implement a proposal for one or more undertakings.

"Certificate of need program" means that organizational program of the department responsible for the management of the certificate of need program.

"Commencement of the project" means whichever of the following occurs first: In the case of a construction project, giving notice to proceed with construction to a contractor for a construction project provided applicable permits have been applied for or obtained within sixty days of such notice; beginning site preparation or development; excavating or starting the foundation for a construction project; or beginning alterations, modification, improvement, extension, or expansion of an existing building. In the case of other projects, initiating a health service.

"Construction, renovation, or alteration" means the erection, building, remodeling, modernization, improvement, extension, or expansion of a physical plant of a health care facility, or the conversion of a building or portion thereof to a health care facility.

"Continuing care contract" means a contract providing a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services. The contract is conditioned on the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

"Continuing care retirement community (CCRC)" means any of a variety of entities, unless excluded from the definition of health care facility under RCW 70.38.025(6), which provides shelter and services based on continuing care contracts with its residents which:

- Maintains for a period in excess of one year a CCRC contract with a resident which provides or arranges for at least the following specific services:

- Independent living units;

- Nursing home care with no limit on the number of medically needed days;

- Assistance with activities of daily living;

- Services equivalent in scope to either state chore services or Medicaid home health services;

- Continues a contract, if a resident is no longer able to pay for services;

- Offers services only to contractual residents with limited exception during a transition period; and

- Holds the Medicaid program harmless from liability for costs of care, even if the resident depletes his or her personal resources.

"Days" means calendar days. Days are counted starting the day after the date of the event from which the designated period of time begins to run. If the last day of the period falls on a Saturday, Sunday, or legal holiday observed by the state of Washington, a designated period runs until the end of the first working day following the Saturday, Sunday, or legal holiday.

"Department" means the Washington state department of health.

"Effective date of facility closure" means:

- The date on which the facility's license was relinquished, revoked or expired; or

- The date the last resident leaves the facility, whichever comes first.

"End-of-the-year incenter patients" means the number of patients receiving incenter kidney dialysis at the end of the calendar year.

"End-stage renal dialysis (ESRD) service areas" means each individual county, designated by the department as the smallest geographic area for which kidney dialysis station need projections are calculated, or other service area documented by patient origin.

"Enhance the quality of life for residents" means, for the purposes of voluntary bed banking, those services or facility

modifications which have a direct and immediate benefit to the residents. These shall include, but not be limited to: Resident activity and therapy facilities; family visiting rooms; spiritual rooms and dining areas. These services or facility modifications shall not include those that do not have direct and immediate benefit to the residents, such as: Modifications to staff offices; meeting rooms; and other staff facilities.

"Established ratio" means a bed-to-population ratio of ~~((forty-five))~~ forty beds per one thousand persons of the estimated or forecast resident population age sixty-five and older established for planning and policy-making purposes. The department may revise this established ratio using the process outlined in WAC 246-310-370.

"Estimated bed need" means the number of nursing home beds calculated by multiplying the planning area's forecasted resident population by the established ratio for the projection year.

"Estimated bed projection" means the number of nursing home beds calculated by the department statewide or within a planning area, by the end of the projection period.

"Ex parte contact" means any oral or written communication between any person in the certificate of need program or any other person involved in the decision regarding an application for, or the withdrawal of, a certificate of need and the applicant for, or holder of, a certificate of need, any person acting on behalf of the applicant or holder, or any person with an interest regarding issuance or withdrawal of a certificate of need.

"Expenditure minimum" means one million dollars for the twelve-month period beginning with July 24, 1983, adjusted annually by the department according to the provisions of WAC 246-310-900.

"Health care facility" means hospitals, psychiatric hospitals, nursing homes, kidney disease treatment centers including freestanding dialysis units, ambulatory surgical facilities, continuing care retirement communities, hospices and home health agencies, and includes such facilities when owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations, but does not include any health facility or institution conducted by and for those who rely exclusively upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination, or any health facility or institution operated for the exclusive care of members of a convent as defined in RCW 84.36.800 or rectory, monastery, or other institution operated for the care of members of the clergy. In addition, the term "health care facility" does not include any nonprofit hospital:

- Operated exclusively to provide health care services for children;
- Which does not charge fees for such services; and
- If not contrary to federal law as necessary to the receipt of federal funds by the state.
- In addition, the term "health care facility" does not include a continuing care retirement community which:
 - Offers services only to contractual residents;
 - Provides its residents a contractually guaranteed range of services from independent living through skilled nursing,

including some form of assistance with activities of daily living;

- Contractually assumes responsibility for costs of services exceeding the resident's financial responsibility as stated in contract, so that, with the exception of insurance purchased by the retirement community or its residents, no third party, including the Medicaid program, is liable for costs of care even if the resident depletes personal resources;

- Offers continuing care contracts and operates a nursing home continuously since January 1, 1988, or obtained a certificate of need to establish a nursing home;

- Maintains a binding agreement with the department of social and health services assuring financial liability for services to residents, including nursing home services, shall not fall upon the department of social and health services;

- Does not operate, and has not undertaken, a project resulting in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and

- Has undertaken no increase in the total number of nursing home beds after January 1, 1988, unless a professional review of pricing and long-term solvency was obtained by the retirement community within the prior five years and fully disclosed to residents.

"Health maintenance organization" means a public or private organization, organized under the laws of the state, which:

- Is a qualified health maintenance organization under Title XIII, Section 1310(d) of the Public Health Service Act; or

- Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, X ray, emergency and preventive services, and out-of-area coverage;

- Is compensated (except for copayments) for the provision of the basic health care services listed in this subsection to enrolled participants by a payment made on a periodic basis without regard to the date the health care services are provided and fixed without regard to the frequency, extent, or kind of health service actually provided; and

- Provides physicians' services primarily:
 - Directly through physicians who are either employees or partners of such organization, or
 - Through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

"Health service area" means a geographic region appropriate for effective health planning including a broad range of health services.

"Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse, and mental health services.

"Home health agency" means an entity which is, or has declared an intent to become, certified as a provider of home health services in the Medicaid or Medicare program.

"Hospice" means an entity which is, or has declared an intent to become, certified as a provider of hospice services in the Medicaid or Medicare program.

"Hospital" means any institution, place, building or agency or distinct part thereof which qualifies or is required to qualify for a license under chapter 70.41 RCW, or as a psychiatric hospital licensed under chapter 71.12 RCW.

"Inpatient" means a person receiving health care services with board and room in a health care facility on a continuous twenty-four-hour-a-day basis.

"Interested persons" means:

- The applicant;
- Health care facilities and health maintenance organizations providing services similar to the services under review and located in the health service area;
- Third-party payers reimbursing health care facilities in the health service area;
- Any agency establishing rates for health care facilities and health maintenance organizations in the health service area where the proposed project is to be located;
- Health care facilities and health maintenance organizations which, in the twelve months prior to receipt of the application, have submitted a letter of intent to provide similar services in the same planning area;
- Any person residing within the geographic area to be served by the applicant; and
- Any person regularly using health care facilities within the geographic area to be served by the applicant.

"Justified home training station" means a kidney dialysis station designated for home hemodialysis and/or peritoneal dialysis training. When no dialysis stations have been designated for home training at a given dialysis treatment center, one station for every six patients trained for home hemodialysis, and one station for every twenty patients for peritoneal dialysis, will be considered a justified home training station. In no case shall all stations at a given dialysis treatment center be designated as justified home training stations. To request justified home training stations at a new dialysis treatment center, the applicant must document that at least six patients are projected to be trained for home hemodialysis or twenty patients for peritoneal dialysis for each such station requested for each of the first five years of projected operations.

"Kidney disease treatment center" means any place, institution, building or agency or a distinct part thereof equipped and operated to provide services, including outpatient dialysis and/or kidney transplantation, to persons who have end-stage renal disease (ESRD).

"Licensee" means an entity or individual licensed by the department of health or the department of social and health services. For the purposes of nursing home projects, licensee refers to the operating entity and those persons specifically named in the license application as defined under chapter 388-97 WAC.

"Net estimated bed need" means estimated bed need of a planning area changed by any redistribution as follows:

- Adding nursing home beds being redistributed from another nursing home planning area or areas; or
- Subtracting nursing home beds being redistributed to another nursing home planning area or areas.

"New nursing home bed" means a nursing home bed never licensed by the state or beds banked under the provisions of RCW 70.38.115(13), where the applicant must dem-

onstrate need for the previously licensed nursing home beds. This term does not include beds banked under the provisions of RCW 70.38.111(8).

"Nursing home" means any entity licensed or required to be licensed under the provisions of chapter 18.51 RCW or distinct part long-term care units located in a hospital and licensed under chapter 70.41 RCW.

"Obligation," when used in relation to a capital expenditure, means the following has been incurred by or on behalf of a health care facility:

- An enforceable contract has been entered into by a health care facility or by a person on behalf of the health care facility for the construction, acquisition, lease, or financing of a capital asset; or
- A formal internal commitment of funds by a health care facility for a force account expenditure constituting a capital expenditure; or
- In the case of donated property, the date on which the gift is completed in accordance with state law.

"Offer," when used in connection with health services, means the health facility provides one or more specific health services.

"Over the established ratio" means the bed-to-population ratio is greater than the statewide current established ratio.

"Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.

"Planning area" means each individual county designated by the department as the smallest geographic area for which nursing home bed need projections are developed, except as follows:

- Clark and Skamania counties shall be one planning area.
- Chelan and Douglas counties shall be one planning area.

"Predevelopment expenditures" means capital expenditures, the total of which exceeds the expenditure minimum, made for architectural designs, plans, drawings, or specifications in preparation for the acquisition or construction of physical plant facilities. "Predevelopment expenditures" exclude any obligation of a capital expenditure for the acquisition or construction of physical plant facilities and any activity which the department may consider the "commencement of the project" as this term is defined in this section.

"Professional review of continuing care retirement community pricing and long-term solvency" means prospective financial statements, supported by professional analysis and documentation, which:

- Conform to Principles and Practices Board Statement Number 9 of the Healthcare Financial Management Association, "Accounting and Reporting Issues Related to Continuing Care Retirement Communities"; and
- Project the financial operations of the continuing care retirement community over a period of ten years or more into the future; and
- Are prepared and signed by a qualified actuary as defined under WAC 284-05-060 or an independent certified public accountant, or are prepared by management of the

WSR 04-10-008
NOTICE OF PUBLIC MEETINGS
CONSERVATION COMMISSION
[Memorandum—April 21, 2004]

RCW 42.30.080 provides provisions for Washington State Conservation Commission (WSCC) to call special meetings.

A telephonic special meeting is scheduled to approve the WSCC strategic plan on April 27, 2004, at 9 - 10 a.m. To participate in the meeting, please call the commission so a port can be reserved.

For more information, please contact the Conservation Commission at (360) 407-6200.

WSR 04-10-017
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed April 26, 2004, 4:12 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-53 MAA - Reissued.

Subject: Reinstatement of supplemental payments for qualified trauma services.

Effective Date: July 1, 2003. Reissue date: April 16, 2004.

Document Description: **Effective with dates of service on and after July 1, 2003**, the Medical Assistance Administration (MAA) will reinstate supplemental payments for trauma services provided to Medicaid clients.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications 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.

April 29 [26], 2004
Ann Myers, Manager
Rules and Publications Section

WSR 04-10-018
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed April 26, 2004, 4:13 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 04-16.

Subject: Nondurable medical supplies and equipment (MSE): New and deleted HCPCS codes, policy changes, and billing clarifications.

April 29 [26], 2004
Ann Myers, Manager
Rules and Publications Section

Effective Date: April 15, 2004.

Document Description: **Retroactive to dates of service on and after April 1, 2004**, the Medical Assistance Administration (MAA) has implemented the following changes to MAA's nondurable medical supplies and equipment (MSE) billing instructions: New and deleted HCPCS* codes; policy changes; and billing clarifications.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications 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.

April 29 [26], 2004
Ann Myers, Manager
Rules and Publications Section

WSR 04-10-019
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed April 26, 2004, 4:14 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 04-18.

Subject: Prosthetic and orthotic devices (P&O): New and deleted HCPCS codes, policy changes, and billing clarifications.

Effective Date: April 15, 2004.

Document Description: **Retroactive to dates of service on and after April 1, 2004**, the Medical Assistance Administration (MAA) has implemented the following changes to MAA's prosthetic and orthotic devices (P&O) billing instructions: New and deleted HCPCS* codes; policy changes; and billing clarifications.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications 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.

April 29 [26], 2004
Ann Myers, Manager
Rules and Publications Section

MISC.

WSR 04-10-020
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 [Filed April 26, 2004, 4:15 p.m.]

2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail salmobl@dshs.wa.gov.

April 29 [26], 2004
 Ann Myers, Manager
 Rules and Publications Section

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 04-19 MAA.
 Subject: Oxygen and respiratory therapy program billing instructions and fee schedule updates.
 Effective Date: April 20, 2004.

Document Description: **Retroactive to dates of service on and after April 1, 2004**, the Medical Assistance Administration (MAA) has implemented the following changes to MAA's oxygen and respiratory therapy billing instructions: New and deleted HCPCS* codes; changes to limitations; addition and deletion of expedited prior authorization codes; a new sample fax form; and place of service code additions.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications 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.

April 29 [26], 2004
 Ann Myers, Manager
 Rules and Publications Section

WSR 04-10-021
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 [Filed April 26, 2004, 4:16 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 04-20 MAA.
 Subject: Prescription drug program: Therapeutic interchange program.
 Effective Date: April 16, 2004.

Document Description: **Effective May 5, 2004**, the Medical Assistance Administration (MAA) will implement the therapeutic interchange program (TIP). This memorandum provides details about the new program.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications 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

WSR 04-10-022
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed April 26, 2004, 4:33 p.m.]

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 effective on March 5, 2003 (WSR 03-06-103) for the cement mason classification in Clark County was incorrectly adjusted. For any public works contracts let on or after May 26, 2004, the prevailing rate of wage and apprenticeship wages for this classification in this county is as follows:

Journey Level Wages:

Prevailing Wage Category	Prevailing Wage	Overtime Code	Holiday Code	Note Code
Cement Masons	\$33.94	1H	5A	N/A

Apprenticeship Wages:

State of Progression and Hour Range	Prevailing Wage	Overtime Code	Holiday Code	Note Code
1: 0 - 1000 Hours - 55%	\$23.93	1H	5A	N/A
2: 1001 - 2000 Hours - 65%	\$26.16	1H	5A	N/A
3: 2001 - 3000 Hours - 75%	\$28.38	1H	5A	N/A
4: 3001 - 4000 Hours - 85%	\$30.60	1H	5A	N/A
5: 4001 - 5000 Hours - 90%	\$31.72	1H	5A	N/A
6: 5001 - 6000 Hours - 95%	\$32.83	1H	5A	N/A

For more information on prevailing wage please visit our website at www.lni.wa.gov/prevailingwage or call (360) 902-5335.

Josh Swanson
 Industrial Statistician

WSR 04-10-029
NOTICE OF PUBLIC MEETINGS
HEALTH CARE AUTHORITY
 (Public Employees Benefits Board)
 [Memorandum—April 27, 2004]

Following is the revised 2004 Public Employees Benefits Board (PEBB) meeting information.

MISC.

Please contact Theresa Rush at (360) 923-2811, if you have any questions regarding the meeting schedule or need further information.

2004 PEBB Board Meeting Schedule

All meetings are held on Tuesdays and begin at 1:30 p.m. (unless otherwise noted).

1.	February 24, 2004 1:30-4:30 p.m. Location: DIS Forum Building Board Room 605 East 11th Olympia
2.	April 20, 2004 1:30-4:30 Location: Attorney General's Office Training Center RoweSix, Building 1 4424 6th Avenue S.E. Lacey
3.	June 22, 2004 1:30-4:30 Location: Holiday Inn - SeaTac SeaTac Room 17338 International Boulevard Seattle
4.	July 8, 2004 - Thursday 1:30-4:30 p.m. Location: Holiday Inn - SeaTac SeaTac Room 17338 International Boulevard Seattle
5.	July 27, 2004 1:30-4:30 p.m. Location: TBD
6.	August 3, 2004 1:30-4:30 p.m. Location: Attorney General's Office Training Center RoweSix, Building 1 4424 6th Avenue S.E. Lacey
7.	October 19, 2004 (Planning Session Retreat) 8:30 a.m. - 3:30 p.m. Location: TBD
8.	November 23, 2004 (TELEPHONE) 1:30-4:30 p.m.

If you are a person with a disability and need a special accommodation, please contact Theresa Rush, (360) 923-2811.

WSR 04-10-046

NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE

[Memorandum—April 30, 2004]

The board of trustees of Bellingham Technical College will meet in special session on Tuesday, May 4, 2004, 9:00 a.m. to 4:00 p.m., at 2825 Roeder Avenue, Bellingham, WA, to discuss educational access, campus master plan, college foundation, and board goals. No action will be taken. Call 738-3105 ext. 334 for information.

The regularly scheduled meeting of the board of trustees of Bellingham Technical College scheduled for May 20, 2004, has been canceled. Call 738-3105 ext. 334 for information.

WSR 04-10-050

NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE

[Memorandum—April 28, 2004]

In compliance with the Open Public Meetings Act, this letter serves as notice that the board of trustees of Shoreline Community College will hold a special meeting on Monday, May 3, beginning at 12:30 p.m., in the Central Conference Room of the Administration Building 1000. The trustees will hold a second special meeting on Tuesday, May 11, at 3:00 p.m. in the President's Office, Room 1018, in the Administration Building.

We will also notify local area media of these special meetings.

The purpose of these special meetings is for the board of trustees to meet potential candidates for the soon-to-be vacancy of a current trustee who is cycling off the board. Shoreline Community College President Holly Moore will also be present at these meetings.

Please call (206) 546-4552 or e-mail Michele Foley at mfoley@shoreline.edu if you have further questions or need additional clarification.

WSR 04-10-051

RULES COORDINATOR
BELLEVUE COMMUNITY COLLEGE

[Filed April 30, 2004, 11:22 a.m.]

As required by RCW 34.05.310(3), effective March 8, 2004, the designated rules coordinator for Bellevue Community College, Community College District VIII, will be Debra Ross, Executive Assistant to the President, Bellevue Community College, 3000 Landerholm Circle S.E., Room A201, Bellevue, WA 98007-6484, phone (425) 564-2301, fax (425) 564-2261, e-mail dross@bcc.ctc.edu.

B. Jean Floten
President

MISC.

WSR 04-10-053

DEPARTMENT OF ECOLOGY

[Filed April 30, 2004, 2:09 p.m.]

DEPARTMENT OF ECOLOGY
NOTICE OF PUBLIC HEARING

Including Yakima Regional Clean Air Authority's
PM₁₀ Limited Maintenance Plan and Redesignation Request
in the State Implementation Plan

Local air pollution control agencies periodically submit air quality plan updates and regulations to the Department of Ecology (ecology) for inclusion in Washington's state implementation plan (SIP). The SIP is a statewide plan for meeting federal health-based standards for certain air pollutants.

The Yakima area is designated nonattainment for particulate matter air pollution smaller than 10 microns in size (PM₁₀). This means that, in the past, the area did not meet federal health-based standards for PM₁₀. As the area has been meeting the standards since 1994, it can now be redesignated to attainment by the federal Environmental Protection Agency (EPA).

The Yakima Regional Clean Air Authority (YRCAA) has prepared a plan, called a limited maintenance plan, for PM₁₀. This plan demonstrates that the Yakima area meets all federal Clean Air Act requirements for PM₁₀. It also summarizes the progress of the area in attaining the PM₁₀ standard, demonstrates that the Yakima area qualifies for EPA's Clean Data Policy and Limited Maintenance Plan option, and includes a maintenance plan to assure continued attainment for ten years after the redesignation. The plan includes a formal request to EPA to redesignate the Yakima, Washington, PM₁₀ nonattainment area to attainment for the health-based 24-hour average PM₁₀ National Ambient Air Quality Standard.

The board of directors of YRCAA will conduct a public hearing on this issue. The board is expected to adopt the plan following the local hearing. Ecology will then hold a separate public hearing to receive comments on including the YRCAA's limited maintenance plan and redesignation request in the statewide plan, the SIP.

Ecology's hearing is on Wednesday, June 9, 2004, at 3:00 p.m., at the Yakima County Courthouse, 128 North 2nd Street, Room B33, Yakima, WA.

For a SIP hearing, only comments related to including air quality plans or regulations in the SIP can be considered. Written comments must be postmarked no later than June 11, 2004, and should be sent to Brett Rude, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

For more information about the content of the plan prior to the hearing, please contact Charlie Stansel, Yakima Regional Clean Air Authority, (509) 834-2050.

If you have special accommodation needs, please contact the agency receptionist at Yakima Regional Clean Air Authority, (509) 834-2050 (voice) or (509) 834-2060 (fax) by May 15, 2004.

WSR 04-10-088

INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed May 4, 2004, 3:15 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Chapter 388-542 WAC, Children's health insurance program (CHIP).

Subject: Children's health insurance program changes.

Effective Date: July 1, 2004.

Document Description: The 2004 Washington state legislature mandated an increase in the CHIP premium amount. The new premium amount and other changes to the CHIP program are as follows:

- The monthly premium for a child will increase from \$10 to \$15.
- The maximum monthly premium paid per family will increase from \$30 to \$45.
- A client's eligibility for the program will end after three consecutive months of nonpayment of premiums; the current rule allows four consecutive months.
- The waiting period before CHIP coverage can be reinstated for a client, whose coverage was terminated for not paying the premiums for three consecutive months, is being reduced from four months to three months.

To receive a copy of the interpretive or policy statement, contact Ann Myers, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504, phone (360) 725-1345, web link <http://fortress.wa.gov/dshs.maa>, TDD 1-800-848-5429, fax (360) 586-9727.

April 29, 2004

Ann Myers

WSR 04-10-103

NOTICE OF PUBLIC MEETINGS
PUBLIC DISCLOSURE COMMISSION

[Memorandum—May 4, 2004]

The Public Disclosure Commission has changed its special meeting previously scheduled for Thursday, May 27, 2004, to Wednesday, May 26, 2004. The meeting will be held in the commission's meeting room, Evergreen Plaza Building, Suite 206, 711 Capitol Way, Olympia, WA. Any discussion of rules will take place at approximately 2:00 p.m.

WSR 04-10-104

NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE UNIVERSITY

[Memorandum—April 29, 2004]

The board of regents of Washington State University will hold its next board meeting on Friday, May 7, 2004,

commencing at 9:00 a.m. at the Lighty Student Services Building, Room 405, in Pullman. The regents will consider all matters included on the agenda, plus any items that may normally come before them. In addition, the regents will hold committee meetings and activities according to the schedule below:

Thursday, May 6, 2004

12:00 noon - 2:00 p.m.	Executive, Planning, Budget, and Athletics Committee	Lighty 405
3:00 - 5:00 p.m.	Academic, Faculty, and Student Affairs Com- mittee	French 436C
3:00 - 5:00 p.m.	Business Affairs and Information Technol- ogy Committee	Lighty 403
3:00 - 5:00 p.m.	University Develop- ment and University Relations Committee	French 422B

Friday, May 7, 2004

7:30 - 8:30 a.m.	Breakfast, Holiday Inn Express	Pullman
9:00 - 11:30 a.m.	Board of Regents Meeting	Lighty 405

In addition, the regents have been invited to attend a social and dinner on Thursday evening following the committee meetings. The regents are also invited to participate in all commencement ceremonies. This notice is being sent by direction of the president of the board of regents pursuant to the requirements of the Open [Public] Meeting Act of 1971 (chapter 250, Laws of 1971 1st ex. sess.), as amended.

WSR 04-10-106
NOTICE OF PUBLIC MEETINGS
COMMISSION ON
SUPREME COURT REPORTS

[Memorandum—May 4, 2004]

The Commission on Supreme Court Reports will meet from 10:00 a.m. until noon on Monday, June 28, 2004, in the Chief Justice's Reception Room in the Temple of Justice in Olympia.

Issues before the commission include adding an errata page in the bound volumes, changing the commission's name, the licensing agreement with Statute Law Committee, adding paragraph numbers to opinions, extending the publishing contract for two years to June 30, 2007, and licensing case law data to private parties.

Please contact Tim Fuller if you have any questions or concerns regarding the commission or the June 28th meeting, phone (360) 357-2090, e-mail tim.fuller@courts.wa.gov.



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	16-170-020	NEW	04-08-062	16-170-150	NEW	04-08-062
4- 25-400	PREP	04-08-033	16-170-030	NEW-P	04-05-119	16-170-155	NEW-P	04-05-119
4- 25-410	PREP	04-08-033	16-170-030	NEW	04-08-062	16-170-155	NEW	04-08-062
4- 25-510	PREP	04-08-033	16-170-035	NEW-P	04-05-119	16-170-170	NEW-P	04-05-119
4- 25-530	PREP	04-06-085	16-170-035	NEW	04-08-062	16-170-170	NEW	04-08-062
4- 25-540	PREP	04-08-033	16-170-037	NEW-P	04-05-119	16-170-175	NEW-P	04-05-119
4- 25-550	PREP	04-08-033	16-170-037	NEW	04-08-062	16-170-175	NEW	04-08-062
4- 25-551	PREP	04-08-033	16-170-040	NEW-P	04-05-119	16-170-180	NEW-P	04-05-119
4- 25-610	PREP	04-08-033	16-170-040	NEW	04-08-062	16-170-180	NEW	04-08-062
4- 25-620	PREP	04-08-033	16-170-050	NEW-P	04-05-119	16-219-100	REP-X	04-06-073
4- 25-626	PREP	04-08-033	16-170-050	NEW	04-08-062	16-219-100	REP	04-10-105
4- 25-630	PREP	04-08-033	16-170-060	NEW-P	04-05-119	16-219-105	REP-X	04-06-073
4- 25-631	PREP	04-08-033	16-170-060	NEW	04-08-062	16-219-105	REP	04-10-105
4- 25-640	PREP	04-08-033	16-170-070	NEW-P	04-05-119	16-228-1220	PREP	04-03-005
4- 25-650	PREP	04-08-033	16-170-070	NEW	04-08-062	16-228-1231	PREP	04-03-004
4- 25-660	PREP	04-08-033	16-170-075	NEW-P	04-05-119	16-228-1250	PREP	04-03-004
4- 25-661	PREP	04-08-033	16-170-075	NEW	04-08-062	16-230-400	PREP	04-03-004
4- 25-670	PREP	04-08-033	16-170-080	NEW-P	04-05-119	16-230-410	PREP	04-03-004
4- 25-710	PREP	04-08-033	16-170-080	NEW	04-08-062	16-230-420	PREP	04-03-004
4- 25-720	PREP	04-08-033	16-170-090	NEW-P	04-05-119	16-230-430	PREP	04-03-004
4- 25-721	PREP	04-08-033	16-170-090	NEW	04-08-062	16-230-440	PREP	04-03-004
4- 25-730	PREP	04-08-033	16-170-100	NEW-P	04-05-119	16-230-450	PREP	04-03-004
4- 25-735	PREP	04-08-033	16-170-100	NEW	04-08-062	16-230-460	PREP	04-03-004
4- 25-745	PREP	04-08-033	16-170-110	NEW-P	04-05-119	16-230-470	PREP	04-03-004
4- 25-746	PREP	04-08-033	16-170-110	NEW	04-08-062	16-230-600	PREP	04-03-004
4- 25-750	PREP	04-08-033	16-170-115	NEW-P	04-05-119	16-230-605	PREP	04-03-004
4- 25-783	PREP	04-08-033	16-170-115	NEW	04-08-062	16-230-610	PREP	04-03-004
4- 25-790	PREP	04-08-033	16-170-120	NEW-P	04-05-119	16-230-615	PREP	04-03-004
4- 25-791	PREP	04-08-033	16-170-120	NEW	04-08-062	16-230-620	PREP	04-03-004
4- 25-792	PREP	04-08-033	16-170-125	NEW-P	04-05-119	16-230-625	PREP	04-03-004
4- 25-793	PREP	04-08-033	16-170-125	NEW	04-08-062	16-230-630	PREP	04-03-004
4- 25-795	PREP	04-08-033	16-170-130	NEW-P	04-05-119	16-230-635	PREP	04-03-004
4- 25-830	PREP	04-08-033	16-170-130	NEW	04-08-062	16-230-640	PREP	04-03-004
4- 25-831	PREP	04-08-033	16-170-135	NEW-P	04-05-119	16-230-645	PREP	04-03-004
4- 25-910	PREP	04-08-033	16-170-135	NEW	04-08-062	16-230-650	PREP	04-03-004
16- 08-003	NEW	04-02-063	16-170-140	NEW-P	04-05-119	16-230-655	PREP	04-03-004
16- 08-004	NEW	04-02-063	16-170-140	NEW	04-08-062	16-230-660	PREP	04-03-004
16-170-010	NEW-P	04-05-119	16-170-145	NEW-P	04-05-119	16-230-665	PREP	04-03-004
16-170-010	NEW	04-08-062	16-170-145	NEW	04-08-062	16-230-670	PREP	04-03-004
16-170-020	NEW-P	04-05-119	16-170-150	NEW-P	04-05-119	16-230-673	PREP	04-03-004

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-230-675	PREP	04-03-004	16-231-413	PREP	04-03-004	16-232-074	PREP	04-03-004
16-230-800	PREP	04-03-004	16-231-415	PREP	04-03-004	16-232-077	PREP	04-03-004
16-230-810	PREP	04-03-004	16-231-420	PREP	04-03-004	16-232-100	PREP	04-03-004
16-230-813	PREP	04-03-004	16-231-425	PREP	04-03-004	16-232-105	PREP	04-03-004
16-230-815	PREP	04-03-004	16-231-500	PREP	04-03-004	16-232-110	PREP	04-03-004
16-230-820	PREP	04-03-004	16-231-505	PREP	04-03-004	16-232-115	PREP	04-03-004
16-230-825	PREP	04-03-004	16-231-510	PREP	04-03-004	16-232-120	PREP	04-03-004
16-230-830	PREP	04-03-004	16-231-515	PREP	04-03-004	16-232-200	PREP	04-03-004
16-230-835	PREP	04-03-004	16-231-520	PREP	04-03-004	16-232-205	PREP	04-03-004
16-230-840	PREP	04-03-004	16-231-525	PREP	04-03-004	16-232-210	PREP	04-03-004
16-230-845	PREP	04-03-004	16-231-530	PREP	04-03-004	16-232-215	PREP	04-03-004
16-230-850	PREP	04-03-004	16-231-600	PREP	04-03-004	16-232-220	PREP	04-03-004
16-230-855	PREP	04-03-004	16-231-605	PREP	04-03-004	16-232-225	PREP	04-03-004
16-230-860	PREP	04-03-004	16-231-610	PREP	04-03-004	16-232-300	PREP	04-03-004
16-230-861	PREP	04-03-004	16-231-613	PREP	04-03-004	16-232-305	PREP	04-03-004
16-230-862	PREP	04-03-004	16-231-615	PREP	04-03-004	16-232-310	PREP	04-03-004
16-230-863	PREP	04-03-004	16-231-620	PREP	04-03-004	16-232-315	PREP	04-03-004
16-230-864	PREP	04-03-004	16-231-700	PREP	04-03-004	16-250-155	PREP	04-06-074
16-230-866	PREP	04-03-004	16-231-705	PREP	04-03-004	16-252-155	PREP	04-06-074
16-230-868	PREP	04-03-004	16-231-710	PREP	04-03-004	16-301-250	AMD	04-06-019
16-231-100	PREP	04-03-004	16-231-715	PREP	04-03-004	16-301-265	AMD	04-06-019
16-231-105	PREP	04-03-004	16-231-720	PREP	04-03-004	16-301-270	AMD	04-06-019
16-231-107	PREP	04-03-004	16-231-725	PREP	04-03-004	16-301-310	AMD	04-06-019
16-231-110	PREP	04-03-004	16-231-800	PREP	04-03-004	16-301-325	AMD	04-06-019
16-231-115	PREP	04-03-004	16-231-805	PREP	04-03-004	16-301-330	AMD	04-06-019
16-231-119	PREP	04-03-004	16-231-810	PREP	04-03-004	16-301-335	AMD	04-06-019
16-231-125	PREP	04-03-004	16-231-815	PREP	04-03-004	16-301-365	AMD-P	04-05-118
16-231-130	PREP	04-03-004	16-231-820	PREP	04-03-004	16-301-365	AMD	04-08-043
16-231-135	PREP	04-03-004	16-231-825	PREP	04-03-004	16-301-375	AMD-P	04-05-118
16-231-140	PREP	04-03-004	16-231-830	PREP	04-03-004	16-301-375	AMD	04-08-043
16-231-145	PREP	04-03-004	16-231-835	PREP	04-03-004	16-301-380	AMD-P	04-05-118
16-231-149	PREP	04-03-004	16-231-840	PREP	04-03-004	16-301-380	AMD	04-08-043
16-231-153	PREP	04-03-004	16-231-900	PREP	04-03-004	16-301-395	AMD-P	04-05-118
16-231-156	PREP	04-03-004	16-231-905	PREP	04-03-004	16-301-395	AMD	04-08-043
16-231-159	PREP	04-03-004	16-231-910	PREP	04-03-004	16-301-396	NEW-P	04-05-118
16-231-162	PREP	04-03-004	16-231-912	PREP	04-03-004	16-301-396	NEW	04-08-043
16-231-165	PREP	04-03-004	16-231-915	PREP	04-03-004	16-301-410	AMD-P	04-05-118
16-231-168	PREP	04-03-004	16-231-920	PREP	04-03-004	16-301-410	AMD	04-08-043
16-231-171	PREP	04-03-004	16-231-925	PREP	04-03-004	16-301-415	AMD-P	04-05-118
16-231-174	PREP	04-03-004	16-231-930	PREP	04-03-004	16-301-415	AMD	04-08-043
16-231-177	PREP	04-03-004	16-231-935	PREP	04-03-004	16-301-420	AMD-P	04-05-118
16-231-180	PREP	04-03-004	16-232-001	PREP	04-03-004	16-301-420	AMD	04-08-043
16-231-183	PREP	04-03-004	16-232-005	PREP	04-03-004	16-301-430	AMD-P	04-05-118
16-231-200	PREP	04-03-004	16-232-007	PREP	04-03-004	16-301-430	AMD	04-08-043
16-231-205	PREP	04-03-004	16-232-010	PREP	04-03-004	16-301-435	AMD-P	04-05-118
16-231-210	PREP	04-03-004	16-232-015	PREP	04-03-004	16-301-435	AMD	04-08-043
16-231-215	PREP	04-03-004	16-232-020	PREP	04-03-004	16-301-440	AMD-P	04-05-118
16-231-220	PREP	04-03-004	16-232-025	PREP	04-03-004	16-301-440	AMD	04-08-043
16-231-225	PREP	04-03-004	16-232-027	PREP	04-03-004	16-301-450	REP-P	04-05-118
16-231-230	PREP	04-03-004	16-232-030	PREP	04-03-004	16-301-450	REP	04-08-043
16-231-235	PREP	04-03-004	16-232-035	PREP	04-03-004	16-301-455	REP-P	04-05-118
16-231-300	PREP	04-03-004	16-232-041	PREP	04-03-004	16-301-455	REP	04-08-043
16-231-305	PREP	04-03-004	16-232-044	PREP	04-03-004	16-301-460	REP-P	04-05-118
16-231-310	PREP	04-03-004	16-232-047	PREP	04-03-004	16-301-460	REP	04-08-043
16-231-315	PREP	04-03-004	16-232-050	PREP	04-03-004	16-301-465	REP-P	04-05-118
16-231-320	PREP	04-03-004	16-232-053	PREP	04-03-004	16-301-465	REP	04-08-043
16-231-325	PREP	04-03-004	16-232-056	PREP	04-03-004	16-301-470	REP-P	04-05-118
16-231-330	PREP	04-03-004	16-232-059	PREP	04-03-004	16-301-470	REP	04-08-043
16-231-335	PREP	04-03-004	16-232-062	PREP	04-03-004	16-301-475	REP-P	04-05-118
16-231-400	PREP	04-03-004	16-232-065	PREP	04-03-004	16-301-475	REP	04-08-043
16-231-405	PREP	04-03-004	16-232-068	PREP	04-03-004	16-301-480	REP-P	04-05-118
16-231-410	PREP	04-03-004	16-232-071	PREP	04-03-004	16-301-480	REP	04-08-043

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-301-485	REP-P	04-05-118	16-402-100	NEW-E	04-07-046	16-530-005	NEW-P	04-03-111
16-301-485	REP	04-08-043	16-402-110	NEW-E	04-07-046	16-530-006	NEW-P	04-03-111
16-302-385	AMD-P	04-05-120	16-402-120	NEW-E	04-07-046	16-530-010	AMD-P	04-03-111
16-302-385	AMD	04-08-044	16-402-130	NEW-E	04-07-046	16-530-020	AMD-P	04-03-111
16-302-685	AMD	04-06-018	16-449-001	REP	04-05-117	16-530-030	REP-P	04-03-111
16-303-340	AMD	04-06-029	16-449-010	REP	04-05-117	16-530-040	AMD-P	04-03-111
16-319-041	AMD	04-06-028	16-449-020	REP	04-05-117	16-532-005	NEW-W	04-10-056
16-324-375	AMD-X	04-07-170	16-449-030	REP	04-05-117	16-532-006	NEW-W	04-10-056
16-324-393	AMD-X	04-07-170	16-450-005	NEW	04-05-117	16-532-010	AMD-W	04-10-056
16-324-398	AMD-X	04-07-170	16-450-010	NEW	04-05-117	16-532-020	AMD-W	04-10-056
16-324-720	REP-X	04-07-170	16-450-012	NEW	04-05-117	16-532-030	REP-W	04-10-056
16-324-730	REP-X	04-07-170	16-450-014	NEW	04-05-117	16-532-040	AMD-W	04-10-056
16-324-740	REP-X	04-07-170	16-450-016	NEW	04-05-117	16-532-060	AMD-W	04-10-056
16-324-750	REP-X	04-07-170	16-450-020	NEW	04-05-117	16-532-065	REP-W	04-10-056
16-328	PREP	04-09-082	16-450-022	NEW	04-05-117	16-532-101	REP	04-10-059
16-333	PREP	04-09-081	16-450-024	NEW	04-05-117	16-532-103	NEW-W	04-10-055
16-350-040	AMD-P	04-07-171	16-450-026	NEW	04-05-117	16-532-105	NEW-W	04-10-055
16-350-045	AMD-P	04-07-171	16-450-028	NEW	04-05-117	16-532-110	AMD-W	04-10-075
16-390-005	NEW-P	04-08-128	16-450-032	NEW	04-05-117	16-532-115	NEW-W	04-10-075
16-390-010	NEW-P	04-08-128	16-450-040	NEW	04-05-117	16-532-120	AMD	04-10-059
16-390-020	NEW-P	04-08-128	16-450-042	NEW	04-05-117	16-536-005	NEW-P	04-04-107
16-390-030	NEW-P	04-08-128	16-450-044	NEW	04-05-117	16-536-006	NEW-P	04-04-107
16-390-040	NEW-P	04-08-128	16-450-046	NEW	04-05-117	16-536-010	AMD-P	04-04-107
16-390-060	NEW-P	04-08-128	16-450-048	NEW	04-05-117	16-536-020	AMD-P	04-04-107
16-390-100	NEW-P	04-08-128	16-450-050	NEW	04-05-117	16-536-030	REP-P	04-04-107
16-390-150	NEW-P	04-08-128	16-450-060	NEW	04-05-117	16-536-040	AMD-P	04-04-107
16-390-200	NEW-P	04-08-128	16-450-070	NEW	04-05-117	16-536-060	AMD-P	04-04-107
16-390-210	NEW-P	04-08-128	16-458-075	REP-P	04-08-128	16-545-005	NEW-P	04-09-104
16-390-220	NEW-P	04-08-128	16-458-085	REP-P	04-08-128	16-545-006	NEW-P	04-09-104
16-390-230	NEW-P	04-08-128	16-459-001	REP	04-05-117	16-545-010	AMD-P	04-09-104
16-390-240	NEW-P	04-08-128	16-459-00101	REP	04-05-117	16-545-020	AMD-P	04-09-104
16-390-242	NEW-P	04-08-128	16-459-010	REP	04-05-117	16-545-030	REP-P	04-09-104
16-390-245	NEW-P	04-08-128	16-459-020	REP	04-05-117	16-561-005	NEW-P	04-07-194
16-390-250	NEW-P	04-08-128	16-459-030	REP	04-05-117	16-561-006	NEW-P	04-07-194
16-390-260	NEW-P	04-08-128	16-459-040	REP	04-05-117	16-561-010	AMD-P	04-07-194
16-390-270	NEW-P	04-08-128	16-470	PREP	04-09-080	16-561-020	AMD-P	04-07-194
16-390-280	NEW-P	04-08-128	16-470-105	AMD-C	04-05-025	16-561-030	REP-P	04-07-194
16-400-007	REP-P	04-08-128	16-470-105	AMD	04-09-027	16-561-040	AMD-P	04-07-194
16-400-008	REP-P	04-08-128	16-470-750	NEW-E	04-08-082	16-561-060	AMD-P	04-07-194
16-400-010	REP-P	04-08-128	16-470-755	NEW-E	04-08-082	16-662-105	AMD-X	04-07-044
16-400-040	REP-P	04-08-128	16-470-760	NEW-E	04-08-082	16-675	PREP	04-09-083
16-400-045	REP-P	04-08-128	16-470-765	NEW-E	04-08-082	16-690-001	REP	04-05-117
16-400-060	REP-P	04-08-128	16-470-770	NEW-E	04-08-082	16-690-010	REP	04-05-117
16-400-100	REP-P	04-08-128	16-470-775	NEW-E	04-08-082	16-690-015	REP	04-05-117
16-400-150	REP-P	04-08-128	16-481	PREP	04-09-078	16-690-020	REP	04-05-117
16-400-210	REP-P	04-08-128	16-512-002	REP	04-07-128	16-690-025	REP	04-05-117
16-400-270	REP-P	04-08-128	16-512-005	AMD	04-07-128	16-690-030	REP	04-05-117
16-401	PREP	04-04-108	16-512-006	NEW	04-07-128	16-690-035	REP	04-05-117
16-401	PREP	04-06-082	16-512-010	AMD	04-07-128	16-690-040	REP	04-05-117
16-401	PREP	04-09-079	16-512-020	AMD	04-07-128	16-690-045	REP	04-05-117
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16-402-010	AMD-P	04-06-083	16-528-005	NEW	04-10-057	36- 12	PREP	04-09-009
16-402-010	AMD	04-09-084	16-528-010	AMD	04-10-057	36- 13	PREP	04-09-009
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16-402-040	NEW-P	04-06-083	16-528-150	AMD	04-10-058	51- 11-1006	AMD-W	04-07-082
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51-11-1322	AMD-W	04-07-082	131-16-093	AMD-P	04-04-033	132L-136-060	AMD-P	04-10-052
51-11-1323	AMD-W	04-07-082	131-16-093	AMD	04-07-094	132L-136-070	AMD-P	04-10-052
51-11-1331	AMD-W	04-07-082	131-16-094	AMD-P	04-04-033	132L-136-080	AMD-P	04-10-052
51-11-1334	AMD-W	04-07-082	131-16-094	AMD	04-07-094	132L-140-010	AMD-P	04-10-052
51-11-1411	AMD-W	04-07-082	131-16-095	AMD-P	04-04-033	132L-140-020	AMD-P	04-10-052
51-11-1413	AMD-W	04-07-082	131-16-095	AMD	04-07-094	132L-140-030	REP-P	04-10-052
51-11-1414	AMD-W	04-07-082	131-16-450	AMD-P	04-07-095	132L-276-010	AMD-P	04-10-052
51-11-1416	AMD-W	04-07-082	131-28-026	AMD-P	04-07-093	132L-276-020	AMD-P	04-10-052
51-11-1423	AMD-W	04-07-082	132L-19-010	NEW-P	04-10-052	132L-276-030	REP-P	04-10-052
51-11-1432	AMD-W	04-07-082	132L-26-010	AMD-P	04-10-052	132L-276-040	REP-P	04-10-052
51-11-1433	AMD-W	04-07-082	132L-26-025	AMD-P	04-10-052	132L-276-050	AMD-P	04-10-052
51-11-1436	AMD-W	04-07-082	132L-26-030	AMD-P	04-10-052	132L-276-060	AMD-P	04-10-052
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51-11-1454	AMD-W	04-07-082	132L-26-050	REP-P	04-10-052	132L-276-090	AMD-P	04-10-052
51-11-1513	AMD-W	04-07-082	132L-26-055	REP-P	04-10-052	132L-276-100	AMD-P	04-10-052
51-11-1521	AMD-W	04-07-082	132L-26-060	REP-P	04-10-052	132L-276-110	AMD-P	04-10-052
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51-13-106	AMD	04-07-192	132L-26-070	REP-P	04-10-052	132L-276-130	AMD-P	04-10-052
51-13-201	AMD-X	04-03-033	132L-26-075	REP-P	04-10-052	132L-276-140	AMD-P	04-10-052
51-13-201	AMD	04-07-192	132L-26-080	REP-P	04-10-052	132L-276-900	AMD-P	04-10-052
51-13-302	AMD-X	04-03-033	132L-108-050	AMD-P	04-10-052	132L-280-010	REP-P	04-10-052
51-13-302	AMD	04-07-192	132L-108-090	NEW-P	04-10-052	132L-280-015	REP-P	04-10-052
51-13-303	AMD-X	04-03-033	132L-108-100	NEW-P	04-10-052	132L-280-020	REP-P	04-10-052
51-13-303	AMD	04-07-192	132L-117-010	AMD-P	04-10-052	132L-280-030	REP-P	04-10-052
51-13-304	AMD-X	04-03-033	132L-117-020	AMD-P	04-10-052	132L-280-040	REP-P	04-10-052
51-13-304	AMD	04-07-192	132L-117-030	AMD-P	04-10-052	132L-280-050	REP-P	04-10-052
51-13-402	AMD-X	04-03-033	132L-117-040	AMD-P	04-10-052	132L-280-060	REP-P	04-10-052
51-13-402	AMD	04-07-192	132L-117-060	AMD-P	04-10-052	132L-280-070	REP-P	04-10-052
51-13-502	AMD-X	04-03-033	132L-117-080	AMD-P	04-10-052	132L-280-080	REP-P	04-10-052
51-13-502	AMD	04-07-192	132L-117-090	AMD-P	04-10-052	132L-280-090	REP-P	04-10-052
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51-51-2439	NEW-W	04-07-083	132L-117-140	AMD-P	04-10-052	132L-280-120	REP-P	04-10-052
51-51-2802	NEW-W	04-07-083	132L-117-160	AMD-P	04-10-052	132L-300-010	NEW-P	04-10-052
51-52-0504	NEW-W	04-07-084	132L-117-170	AMD-P	04-10-052	132L-300-020	NEW-P	04-10-052
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67-16-030	NEW-X	04-07-110	132L-117-190	AMD-P	04-10-052	132L-300-040	NEW-P	04-10-052
67-16-040	NEW-X	04-07-110	132L-117-210	AMD-P	04-10-052	132L-300-050	NEW-P	04-10-052
82-50-021	AMD-X	04-08-126	132L-117-230	AMD-P	04-10-052	132L-300-060	NEW-P	04-10-052
106-124-900	NEW-P	04-06-014	132L-117-240	AMD-P	04-10-052	132L-300-070	NEW-P	04-10-052
106-124-910	NEW-P	04-06-014	132L-117-250	AMD-P	04-10-052	132L-300-080	NEW-P	04-10-052
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118-33-020	REP	04-08-007	132L-117-280	AMD-P	04-10-052	132L-300-100	NEW-P	04-10-052
118-33-030	REP	04-08-007	132L-117-290	AMD-P	04-10-052	132L-300-110	NEW-P	04-10-052
118-33-040	REP	04-08-007	132L-120-080	AMD-P	04-10-052	132L-400-010	REP-P	04-10-052
118-33-050	REP	04-08-007	132L-120-130	AMD-P	04-10-052	132L-400-020	REP-P	04-10-052
118-33-060	REP	04-08-007	132L-122-010	NEW-P	04-10-052	132L-400-030	REP-P	04-10-052
118-33-070	REP	04-08-007	132L-122-020	NEW-P	04-10-052	132L-400-040	REP-P	04-10-052
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118-33-090	REP	04-08-007	132L-133-020	AMD-P	04-10-052	132Q-01-010	AMD	04-10-065
118-33-100	REP	04-08-007	132L-133-030	NEW-P	04-10-052	132Q-01-020	AMD	04-10-065
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132V-120-050	AMD-P	04-09-017	173-175-725	NEW-P	04-09-109	180-72	PREP	04-09-063
132V-120-070	AMD-P	04-09-017	173-175-735	NEW-P	04-09-109	180-77	PREP	04-08-056
132V-120-080	AMD-P	04-09-017	173-175-755	NEW-P	04-09-109	180-77A	PREP	04-08-056
132V-120-090	AMD-P	04-09-017	173-175-765	NEW-P	04-09-109	180-78A	PREP	04-08-056
132V-120-100	AMD-P	04-09-017	173-175-775	NEW-P	04-09-109	180-78A-100	AMD	04-04-090
132V-120-110	AMD-P	04-09-017	173-175-785	NEW-P	04-09-109	180-78A-270	AMD	04-04-089
132V-120-120	AMD-P	04-09-017	173-175-795	NEW-P	04-09-109	180-78A-507	AMD	04-04-010
132V-120-130	AMD-P	04-09-017	173-224-030	AMD-P	04-08-104	180-79A	PREP	04-08-056
132V-120-140	AMD-P	04-09-017	173-224-040	AMD-P	04-08-104	180-79A-030	AMD	04-04-011
132V-120-150	AMD-P	04-09-017	173-224-050	AMD-P	04-08-104	180-79A-117	AMD	04-04-088
132V-120-160	AMD-P	04-09-017	173-224-090	AMD-P	04-08-104	180-79A-140	PREP	04-04-084
132V-120-170	AMD-P	04-09-017	173-303	PREP	04-04-101	180-79A-206	AMD	04-04-011
132V-120-180	AMD-P	04-09-017	173-400	PREP-W	04-10-010	180-79A-213	AMD	04-04-011
132V-120-200	AMD-P	04-09-017	173-405	PREP-W	04-10-010	180-79A-223	AMD	04-04-012
132V-120-210	AMD-P	04-09-017	173-410	PREP-W	04-10-010	180-79A-226	AMD	04-04-011
132V-120-220	AMD-P	04-09-017	173-433	PREP-W	04-10-010	180-79A-231	PREP	04-04-084
132V-120-240	AMD-P	04-09-017	173-434	PREP-W	04-10-010	180-79A-257	AMD	04-04-009
132V-120-241	AMD-P	04-09-017	173-503	PREP	04-06-027	180-79A-257	AMD	04-04-011
132V-120-245	AMD-P	04-09-017	173-517	PREP	04-07-185	180-81	PREP	04-08-056
132V-120-270	AMD-P	04-09-017	173-518	PREP	04-07-129	180-82	PREP	04-08-056
132V-120-280	AMD-P	04-09-017	173-532	PREP	04-08-061	180-82A	PREP	04-08-056
132V-120-290	AMD-P	04-09-017	180-16-220	AMD	04-04-093	180-83	PREP	04-08-056
132V-120-295	NEW-P	04-09-017	180-16-220	PREP	04-09-066	180-85	PREP	04-08-056
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132V-120-320	AMD-P	04-09-017	180-18-050	AMD	04-04-093	180-85-105	AMD	04-08-054
132V-120-335	NEW-P	04-09-017	180-18-055	AMD	04-04-093	180-86	PREP	04-08-056
132V-120-340	NEW-P	04-09-017	180-18-090	NEW	04-04-093	180-87	PREP	04-08-056
132V-120-345	NEW-P	04-09-017	180-20-009	AMD-P	04-04-087	180-88	PREP	04-09-064
132V-130	PREP	04-05-021	180-20-009	AMD	04-08-055	181-01-002	NEW-P	04-04-105
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136-130-040	AMD	04-05-001	180-20-101	AMD-P	04-04-087	181-01-003	NEW	04-08-048
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139-01-100	AMD	04-07-146	180-46	PREP	04-09-065	182-50-005	NEW	04-06-021
139-05-210	PREP	04-04-017	180-46-005	REP-W	04-07-081	182-50-010	NEW	04-06-021
139-05-210	AMD-P	04-07-145	180-46-010	REP-W	04-07-081	182-50-015	NEW	04-06-021
139-05-915	PREP	04-05-064	180-46-015	REP-W	04-07-081	182-50-025	NEW	04-06-021
139-05-915	AMD-P	04-08-130	180-46-020	REP-W	04-07-081	182-50-030	NEW	04-06-021
139-10-210	PREP	04-06-057	180-46-025	REP-W	04-07-081	182-50-035	NEW	04-06-021
139-10-210	AMD-P	04-09-069	180-46-030	REP-W	04-07-081	182-50-200	NEW	04-06-021
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173-26-105	REP	04-10-068	180-46-040	REP-W	04-07-081	192-04-040	AMD-E	04-10-071
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173-175-030	AMD-P	04-09-109	180-46-055	REP-W	04-07-081	192-04-050	AMD-E	04-10-071
173-175-070	REP-P	04-09-109	180-46-065	REP-W	04-07-081	192-04-050	AMD-P	04-10-114
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173-175-250	AMD-P	04-09-109	180-50-320	AMD-P	04-04-086	192-12-011	REP-E	04-10-071
173-175-360	AMD-P	04-09-109	180-51	PREP	04-09-062	192-12-011	REP-P	04-10-114
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192-12-020	REP-E	04-02-039	192-23-096	REP-P	04-10-114	192-140-100	NEW-E	04-02-039
192-12-020	REP-E	04-10-071	192-23-800	REP-E	04-02-039	192-140-100	NEW-E	04-10-071
192-12-020	REP-P	04-10-114	192-23-800	REP-E	04-10-071	192-140-100	NEW-P	04-10-114
192-12-180	REP-E	04-02-039	192-23-800	REP-P	04-10-114	192-140-120	NEW-E	04-02-039
192-12-180	REP-E	04-10-071	192-23-810	REP-E	04-02-039	192-140-120	NEW-E	04-10-071
192-12-180	REP-P	04-10-114	192-23-810	REP-E	04-10-071	192-140-120	NEW-P	04-10-114
192-12-184	REP-E	04-02-039	192-23-810	REP-P	04-10-114	192-140-200	NEW-E	04-02-039
192-12-184	REP-E	04-10-071	192-28-105	REP-E	04-02-039	192-140-200	NEW-E	04-10-071
192-12-184	REP-P	04-10-114	192-28-105	REP-E	04-10-071	192-140-200	NEW-P	04-10-114
192-12-190	REP-E	04-02-039	192-28-105	REP-P	04-10-114	192-140-210	NEW-E	04-02-039
192-12-190	REP-E	04-10-071	192-28-110	REP-E	04-02-039	192-140-210	NEW-E	04-10-071
192-12-190	REP-P	04-10-114	192-28-110	REP-E	04-10-071	192-140-210	NEW-P	04-10-114
192-12-300	REP-E	04-02-039	192-28-110	REP-P	04-10-114	192-150-050	AMD-E	04-02-039
192-12-300	REP-E	04-10-071	192-28-115	REP-E	04-02-039	192-150-050	AMD-E	04-10-071
192-12-300	REP-P	04-10-114	192-28-115	REP-E	04-10-071	192-150-050	AMD-P	04-10-114
192-12-310	REP-E	04-02-039	192-28-115	REP-P	04-10-114	192-150-055	AMD-E	04-02-039
192-12-310	REP-E	04-10-071	192-28-120	REP-E	04-02-039	192-150-055	AMD-E	04-10-071
192-12-310	REP-P	04-10-114	192-28-120	REP-E	04-10-071	192-150-055	AMD-P	04-10-114
192-12-320	REP-E	04-02-039	192-28-120	REP-P	04-10-114	192-150-060	AMD-E	04-02-039
192-12-320	REP-E	04-10-071	192-100-010	NEW-E	04-02-039	192-150-060	AMD-E	04-10-071
192-12-320	REP-P	04-10-114	192-100-010	NEW-E	04-10-071	192-150-060	AMD-P	04-10-114
192-12-330	REP-E	04-02-039	192-100-010	NEW-P	04-10-114	192-150-065	AMD-E	04-02-039
192-12-330	REP-E	04-10-071	192-100-020	NEW-E	04-02-039	192-150-065	AMD-E	04-10-071
192-12-330	REP-P	04-10-114	192-100-020	NEW-P	04-10-114	192-150-065	AMD-P	04-10-114
192-12-340	REP-E	04-02-039	192-100-030	NEW-E	04-02-039	192-150-085	AMD-E	04-02-039
192-12-340	REP-E	04-10-071	192-100-030	NEW-P	04-10-114	192-150-085	AMD-E	04-10-071
192-12-340	REP-P	04-10-114	192-100-035	NEW-P	04-10-114	192-150-085	AMD-P	04-10-114
192-16-009	AMD-E	04-02-039	192-110-200	NEW-E	04-02-039	192-150-090	AMD-E	04-02-039
192-16-009	AMD-E	04-10-071	192-110-200	NEW-P	04-10-114	192-150-090	AMD-E	04-10-071
192-16-009	AMD-P	04-10-114	192-110-210	NEW-E	04-02-039	192-150-090	AMD-P	04-10-114
192-16-015	AMD-E	04-02-039	192-110-210	NEW-E	04-10-071	192-150-110	NEW-E	04-02-039
192-16-015	AMD-E	04-10-071	192-110-210	NEW-P	04-10-114	192-150-110	NEW-E	04-10-071
192-16-015	AMD-P	04-10-114	192-120-050	NEW-E	04-02-039	192-150-110	NEW-P	04-10-114
192-16-016	AMD-E	04-02-039	192-120-050	NEW-E	04-10-071	192-150-115	NEW-E	04-02-039
192-16-016	AMD-E	04-10-071	192-120-050	NEW-P	04-10-114	192-150-115	NEW-E	04-10-071
192-16-016	AMD-P	04-10-114	192-130-060	NEW-E	04-02-039	192-150-115	NEW-P	04-10-114
192-16-019	REP-E	04-02-039	192-130-060	NEW-E	04-10-071	192-150-120	NEW-E	04-02-039
192-16-019	REP-E	04-10-071	192-130-060	NEW-P	04-10-114	192-150-120	NEW-E	04-10-071
192-16-019	REP-P	04-10-114	192-130-065	NEW-E	04-02-039	192-150-120	NEW-P	04-10-114
192-16-023	REP-E	04-02-039	192-130-065	NEW-E	04-10-071	192-150-125	NEW-E	04-02-039
192-16-023	REP-E	04-10-071	192-130-065	NEW-P	04-10-114	192-150-125	NEW-E	04-10-071
192-16-023	REP-P	04-10-114	192-130-070	NEW-E	04-02-039	192-150-125	NEW-P	04-10-114
192-23-014	REP-E	04-02-039	192-130-070	NEW-E	04-10-071	192-150-130	NEW-E	04-02-039
192-23-014	REP-E	04-10-071	192-130-070	NEW-P	04-10-114	192-150-130	NEW-E	04-10-071
192-23-014	REP-P	04-10-114	192-130-080	NEW-E	04-02-039	192-150-130	NEW-P	04-10-114
192-23-015	REP-E	04-02-039	192-130-080	NEW-E	04-10-071	192-150-135	NEW-E	04-02-039
192-23-015	REP-E	04-10-071	192-130-080	NEW-P	04-10-114	192-150-135	NEW-E	04-10-071
192-23-015	REP-P	04-10-114	192-140-070	NEW-E	04-02-039	192-150-135	NEW-P	04-10-114
192-23-016	REP-E	04-02-039	192-140-070	NEW-E	04-10-071	192-150-140	NEW-E	04-02-039
192-23-016	REP-E	04-10-071	192-140-070	NEW-P	04-10-114	192-150-140	NEW-E	04-10-071
192-23-016	REP-P	04-10-114	192-140-075	NEW-E	04-02-039	192-150-140	NEW-P	04-10-114
192-23-017	REP-E	04-02-039	192-140-075	NEW-E	04-10-071	192-150-150	NEW-E	04-02-039
192-23-017	REP-E	04-10-071	192-140-075	NEW-P	04-10-114	192-150-150	NEW-E	04-10-071
192-23-017	REP-P	04-10-114	192-140-080	NEW-E	04-02-039	192-150-150	NEW-P	04-10-114
192-23-019	REP-E	04-02-039	192-140-080	NEW-E	04-10-071	192-150-200	NEW-E	04-02-039
192-23-019	REP-E	04-10-071	192-140-080	NEW-P	04-10-114	192-150-200	NEW-E	04-10-071
192-23-019	REP-P	04-10-114	192-140-085	NEW-E	04-02-039	192-150-200	NEW-P	04-10-114
192-23-061	REP-E	04-02-039	192-140-085	NEW-E	04-10-071	192-150-205	NEW-E	04-02-039
192-23-061	REP-E	04-10-071	192-140-085	NEW-P	04-10-114	192-150-205	NEW-E	04-10-071
192-23-061	REP-P	04-10-114	192-140-090	NEW-E	04-02-039	192-150-205	NEW-P	04-10-114

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
192-150-210	NEW-E	04-02-039	192-310-025	AMD-P	04-10-113	196- 25-050	AMD	04-04-001
192-150-210	NEW-E	04-10-071	192-310-030	AMD-E	04-02-039	196- 25-100	REP	04-04-001
192-150-210	NEW-P	04-10-114	192-310-030	AMD-E	04-10-071	196- 26A	PREP	04-10-011
192-150-215	NEW-E	04-02-039	192-310-030	AMD-P	04-10-113	196- 27A-025	NEW-W	04-05-061
192-150-215	NEW-E	04-10-071	192-320-070	AMD-E	04-02-039	199- 08-300	NEW-E	04-10-002
192-150-215	NEW-P	04-10-114	192-320-070	AMD-E	04-10-071	199- 08-305	NEW-E	04-10-002
192-150-220	NEW-E	04-02-039	192-320-070	AMD-P	04-10-113	199- 08-310	NEW-E	04-10-002
192-150-220	NEW-E	04-10-071	192-320-075	NEW-E	04-02-039	199- 08-315	NEW-E	04-10-002
192-150-220	NEW-P	04-10-114	192-320-075	NEW-E	04-10-071	199- 08-320	NEW-E	04-10-002
192-180-010	AMD-E	04-02-039	192-320-075	NEW-P	04-10-113	199- 08-325	NEW-E	04-10-002
192-180-010	AMD-E	04-10-071	192-340-100	NEW-E	04-02-039	199- 08-335	NEW-E	04-10-002
192-180-010	AMD-P	04-10-114	192-340-100	NEW-E	04-10-071	199- 08-340	NEW-E	04-10-002
192-180-015	AMD-E	04-02-039	192-340-100	NEW-P	04-10-113	199- 08-350	NEW-E	04-10-002
192-180-015	AMD-E	04-10-071	196- 09	AMD	04-04-001	199- 08-385	NEW-E	04-10-002
192-180-015	AMD-P	04-10-114	196- 09-010	AMD	04-04-001	199- 08-390	NEW-E	04-10-002
192-180-020	AMD-E	04-02-039	196- 09-050	NEW	04-04-001	199- 08-395	NEW-E	04-10-002
192-180-020	AMD-E	04-10-071	196- 09-055	NEW	04-04-001	199- 08-400	NEW-E	04-10-002
192-180-020	AMD-P	04-10-114	196- 09-060	NEW	04-04-001	199- 08-405	NEW-E	04-10-002
192-180-025	AMD-E	04-02-039	196- 09-100	NEW	04-04-001	199- 08-410	NEW-E	04-10-002
192-180-025	AMD-E	04-10-071	196- 09-110	NEW	04-04-001	199- 08-415	NEW-E	04-10-002
192-180-025	AMD-P	04-10-114	196- 09-120	NEW	04-04-001	199- 08-420	NEW-E	04-10-002
192-180-030	AMD-E	04-02-039	196- 12-005	NEW	04-04-001	199- 08-425	NEW-E	04-10-002
192-180-030	AMD-E	04-10-071	196- 12-010	AMD	04-04-001	199- 08-426	NEW-E	04-10-002
192-180-030	AMD-P	04-10-114	196- 12-020	AMD	04-04-001	199- 08-427	NEW-E	04-10-002
192-180-040	NEW-E	04-02-039	196- 12-030	AMD	04-04-001	199- 08-428	NEW-E	04-10-002
192-180-040	NEW-E	04-10-071	196- 12-045	AMD	04-04-001	199- 08-429	NEW-E	04-10-002
192-180-040	NEW-P	04-10-114	196- 12-050	AMD	04-04-001	199- 08-430	NEW-E	04-10-002
192-200-005	NEW-E	04-02-039	196- 12-055	NEW	04-04-001	199- 08-435	NEW-E	04-10-002
192-200-005	NEW-E	04-10-071	196- 12-065	NEW	04-04-001	199- 08-440	NEW-E	04-10-002
192-200-005	NEW-P	04-10-114	196- 16-006	NEW	04-04-001	199- 08-445	NEW-E	04-10-002
192-200-010	NEW-E	04-02-039	196- 16-007	AMD	04-04-001	199- 08-450	NEW-E	04-10-002
192-200-010	NEW-E	04-10-071	196- 16-010	AMD	04-04-001	199- 08-455	NEW-E	04-10-002
192-200-010	NEW-P	04-10-114	196- 16-020	AMD	04-04-001	199- 08-460	NEW-E	04-10-002
192-200-030	NEW-E	04-02-039	196- 16-031	AMD	04-04-001	199- 08-465	NEW-E	04-10-002
192-200-030	NEW-E	04-10-071	196- 16-035	NEW	04-04-001	199- 08-470	NEW-E	04-10-002
192-200-030	NEW-P	04-10-114	196- 20-005	NEW-P	04-04-027	199- 08-475	NEW-E	04-10-002
192-220-010	NEW-E	04-02-039	196- 20-005	NEW	04-10-067	199- 08-480	NEW-E	04-10-002
192-220-010	NEW-E	04-10-071	196- 20-010	AMD-P	04-04-027	199- 08-485	NEW-E	04-10-002
192-220-010	NEW-P	04-10-114	196- 20-010	AMD	04-10-067	199- 08-490	NEW-E	04-10-002
192-220-020	NEW-E	04-02-039	196- 20-020	AMD-P	04-04-027	199- 08-495	NEW-E	04-10-002
192-220-020	NEW-E	04-10-071	196- 20-020	AMD	04-10-067	199- 08-500	NEW-E	04-10-002
192-220-020	NEW-P	04-10-114	196- 20-030	AMD-P	04-04-027	199- 08-510	NEW-E	04-10-002
192-220-030	NEW-E	04-02-039	196- 20-030	AMD	04-10-067	199- 08-515	NEW-E	04-10-002
192-220-030	NEW-E	04-10-071	196- 21-005	NEW	04-04-001	199- 08-520	NEW-E	04-10-002
192-220-030	NEW-P	04-10-114	196- 21-010	AMD	04-04-001	199- 08-525	NEW-E	04-10-002
192-230-100	NEW-E	04-02-039	196- 21-020	AMD	04-04-001	199- 08-535	NEW-E	04-10-002
192-230-100	NEW-E	04-10-071	196- 21-030	AMD	04-04-001	199- 08-540	NEW-E	04-10-002
192-230-100	NEW-P	04-10-114	196- 23	PREP	04-10-011	199- 08-545	NEW-E	04-10-002
192-240-035	AMD-E	04-02-039	196- 23-070	AMD	04-04-001	199- 08-550	NEW-E	04-10-002
192-240-035	AMD-E	04-10-071	196- 24-041	REP	04-04-001	199- 08-555	NEW-E	04-10-002
192-240-035	AMD-P	04-10-114	196- 24-080	REP	04-04-001	199- 08-565	NEW-E	04-10-002
192-240-040	AMD-E	04-02-039	196- 24-085	REP	04-04-001	199- 08-570	NEW-E	04-10-002
192-240-040	AMD-E	04-10-071	196- 24-100	REP	04-04-001	199- 08-580	NEW-E	04-10-002
192-240-040	AMD-P	04-10-114	196- 24-105	REP	04-04-001	204- 91A	PREP	04-10-054
192-300-050	AMD-E	04-02-039	196- 24-110	REP-W	04-05-061	204- 96-010	AMD	04-07-012
192-300-050	AMD-E	04-10-071	196- 25-001	AMD	04-04-001	208-690-010	NEW-E	04-07-182
192-300-050	AMD-P	04-10-113	196- 25-002	AMD-W	04-05-061	208-690-020	NEW-E	04-07-182
192-310-010	AMD-E	04-02-039	196- 25-005	AMD	04-04-001	208-690-030	NEW-E	04-07-182
192-310-010	AMD-E	04-10-071	196- 25-010	AMD	04-04-001	208-690-031	NEW-E	04-07-182
192-310-010	AMD-P	04-10-113	196- 25-020	REP	04-04-001	208-690-035	NEW-E	04-07-182
192-310-025	AMD-E	04-02-039	196- 25-030	REP	04-04-001	208-690-040	NEW-E	04-07-182
192-310-025	AMD-E	04-10-071	196- 25-040	AMD-W	04-05-061	208-690-045	NEW-E	04-07-182

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
208-690-050	NEW-E	04-07-182	220-33-01000Z	NEW-E	04-07-169	220-56-118	NEW	04-07-009
208-690-060	NEW-E	04-07-182	220-33-01000Z	REP-E	04-08-011	220-56-12800H	NEW-E	04-10-034
208-690-070	NEW-E	04-07-182	220-33-03000U	NEW-E	04-09-018	220-56-150	AMD	04-07-009
208-690-075	NEW-E	04-07-182	220-33-03000U	REP-E	04-09-018	220-56-175	AMD	04-10-033
208-690-080	NEW-E	04-07-182	220-33-04000U	REP-E	04-07-117	220-56-18000C	NEW-E	04-10-034
208-690-090	NEW-E	04-07-182	220-33-04000V	NEW-E	04-07-117	220-56-19500M	NEW-E	04-10-034
208-690-100	NEW-E	04-07-182	220-33-04000V	REP-E	04-07-117	220-56-215	AMD	04-07-009
208-690-110	NEW-E	04-07-182	220-33-070	NEW-W	04-10-074	220-56-232	NEW-W	04-10-077
208-690-112	NEW-E	04-07-182	220-44-05000A	NEW-E	04-03-010C	220-56-235	AMD	04-07-009
208-690-115	NEW-E	04-07-182	220-44-05000Z	REP-E	04-03-010C	220-56-235	AMD-W	04-10-073
208-690-120	NEW-E	04-07-182	220-48-01500T	NEW-E	04-07-029	220-56-23500S	NEW-E	04-05-057
208-690-130	NEW-E	04-07-182	220-48-02900D	NEW-E	04-05-056	220-56-23500T	NEW-E	04-07-006
208-690-140	NEW-E	04-07-182	220-48-03200C	NEW-E	04-05-056	220-56-23500T	REP-E	04-07-006
208-690-150	NEW-E	04-07-182	220-48-06200C	NEW-E	04-05-056	220-56-250	AMD	04-07-009
208-690-160	NEW-E	04-07-182	220-49-02000P	NEW-E	04-05-056	220-56-250	AMD-W	04-10-073
208-690-170	NEW-E	04-07-182	220-49-05600C	NEW-E	04-05-056	220-56-25000F	NEW-E	04-07-005
208-690-180	NEW-E	04-07-182	220-52-04000U	REP-E	04-05-007	220-56-25000G	NEW-E	04-10-042
220-12-020	AMD	04-07-009	220-52-04000V	NEW-E	04-05-007	220-56-25000G	REP-E	04-10-042
220-16-270	AMD	04-07-009	220-52-04000V	REP-E	04-05-014	220-56-25500K	NEW-E	04-10-027
220-16-47000B	NEW-E	04-10-034	220-52-04000W	NEW-E	04-05-014	220-56-25500K	REP-E	04-10-043
220-16-550	AMD	04-07-009	220-52-04000W	REP-E	04-06-003	220-56-25500L	NEW-E	04-10-043
220-16-800	NEW	04-07-009	220-52-04000X	NEW-E	04-06-003	220-56-26700B	NEW-E	04-05-057
220-16-810	NEW	04-07-009	220-52-04000X	REP-E	04-07-013	220-56-27000R	REP-E	04-07-116
220-20-056	REP	04-10-108	220-52-04000Y	NEW-E	04-07-013	220-56-27000R	REP-E	04-07-123
220-20-080	AMD	04-08-025	220-52-04000Y	REP-E	04-07-019	220-56-27000S	NEW-E	04-05-057
220-24-04000L	NEW-E	04-10-001	220-52-04000Z	NEW-E	04-07-019	220-56-27000T	NEW-E	04-07-116
220-24-04000L	REP-E	04-10-001	220-52-04600D	REP-E	04-03-049	220-56-27000T	REP-E	04-07-116
220-32-05100P	NEW-E	04-03-075	220-52-04600F	REP-E	04-05-007	220-56-27000T	REP-E	04-07-123
220-32-05100P	REP-E	04-03-075	220-52-04600G	NEW-E	04-03-049	220-56-27000U	NEW-E	04-07-123
220-32-05100P	REP-E	04-04-053	220-52-04600G	REP-E	04-06-042	220-56-27000U	REP-E	04-07-123
220-32-05100Q	NEW-E	04-04-053	220-52-04600H	NEW-E	04-05-007	220-56-282	AMD	04-07-009
220-32-05100Q	REP-E	04-04-053	220-52-04600H	REP-E	04-06-013	220-56-310	AMD	04-07-009
220-32-05100Q	REP-E	04-07-027	220-52-04600I	NEW-E	04-06-013	220-56-315	AMD	04-07-009
220-32-05100R	NEW-E	04-07-027	220-52-04600I	REP-E	04-07-013	220-56-325	AMD	04-07-009
220-32-05100R	REP-E	04-07-027	220-52-04600J	NEW-E	04-06-042	220-56-32500K	NEW-E	04-09-020
220-32-05100S	NEW-E	04-10-064	220-52-04600J	REP-E	04-08-038	220-56-32500K	REP-E	04-09-052
220-32-05100S	REP-E	04-10-064	220-52-04600K	NEW-E	04-07-013	220-56-32500L	NEW-E	04-09-052
220-32-06000B	NEW-E	04-10-064	220-52-04600K	REP-E	04-07-042	220-56-32500L	REP-E	04-09-102
220-32-06000B	REP-E	04-10-064	220-52-04600L	NEW-E	04-07-042	220-56-32500M	NEW-E	04-09-102
220-33-01000A	NEW-E	04-08-011	220-52-04600M	NEW-E	04-08-038	220-56-32500M	REP-E	04-10-028
220-33-01000A	REP-E	04-08-026	220-52-04600M	REP-E	04-08-038	220-56-32500N	NEW-E	04-10-028
220-33-01000B	NEW-E	04-08-026	220-52-05100P	NEW-E	04-09-007	220-56-330	AMD	04-07-009
220-33-01000B	REP-E	04-09-021	220-52-05100P	REP-E	04-10-025	220-56-335	AMD	04-07-009
220-33-01000C	NEW-E	04-09-021	220-52-05100Q	NEW-E	04-10-025	220-56-350	AMD	04-07-009
220-33-01000Q	REP-E	04-04-071	220-52-07100D	NEW-E	04-03-031	220-56-35000Q	NEW-E	04-03-010A
220-33-01000R	NEW-E	04-04-071	220-52-07100D	REP-E	04-05-008	220-56-35000Q	REP-E	04-06-035
220-33-01000R	REP-E	04-04-071	220-52-07100E	NEW-E	04-05-008	220-56-35000R	NEW-E	04-06-035
220-33-01000S	NEW-E	04-06-002	220-52-07100E	REP-E	04-05-045	220-56-35000R	REP-E	04-07-043
220-33-01000S	REP-E	04-06-002	220-52-07100F	NEW-E	04-05-045	220-56-35000S	NEW-E	04-07-043
220-33-01000S	REP-E	04-06-059	220-52-07100F	REP-E	04-06-041	220-56-35000S	REP-E	04-09-006
220-33-01000T	NEW-E	04-06-059	220-52-07100G	NEW-E	04-06-041	220-56-35000T	NEW-E	04-09-006
220-33-01000T	REP-E	04-07-008	220-52-07300J	REP-E	04-03-010B	220-56-36000A	NEW-E	04-10-070
220-33-01000U	NEW-E	04-07-008	220-52-07300K	NEW-E	04-03-010B	220-56-36000A	REP-E	04-10-070
220-33-01000U	REP-E	04-07-028	220-52-07300K	REP-E	04-03-074	220-56-36000W	NEW-E	04-03-048
220-33-01000V	NEW-E	04-07-028	220-52-07300L	NEW-E	04-03-074	220-56-36000W	REP-E	04-03-048
220-33-01000V	REP-E	04-07-050	220-52-07300L	REP-E	04-06-012	220-56-36000X	NEW-E	04-05-100
220-33-01000W	NEW-E	04-07-050	220-55-061	NEW-P	04-05-068	220-56-36000X	REP-E	04-05-100
220-33-01000W	REP-E	04-07-078	220-55-061	NEW	04-08-063	220-56-36000Y	NEW-E	04-07-097
220-33-01000X	NEW-E	04-07-078	220-56-100	AMD-W	04-05-060	220-56-36000Y	REP-E	04-07-097
220-33-01000X	REP-E	04-07-118	220-56-100	AMD	04-07-009	220-56-36000Z	NEW-E	04-09-058
220-33-01000Y	NEW-E	04-07-118	220-56-10000C	NEW-E	04-10-034	220-56-36000Z	REP-E	04-09-058
220-33-01000Y	REP-E	04-07-169	220-56-115	AMD	04-07-009	220-56-370	REP	04-07-009

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220- 56-38000G	NEW-E	04-03-010A	232- 12-047	AMD-P	04-05-106	232- 28-61900U	NEW-E	04-09-047
220- 56-39000B	NEW-E	04-05-057	232- 12-054	AMD-P	04-05-106	232- 28-61900V	NEW-E	04-09-019
220- 56-41000A	NEW-E	04-05-057	232- 12-064	AMD-P	04-05-099	232- 28-61900V	REP-E	04-09-019
220- 69-241	AMD	04-05-028	232- 12-168	AMD	04-07-009	232- 28-61900W	NEW-E	04-09-023
220- 72-01000B	NEW-E	04-08-037	232- 12-271	AMD-P	04-05-099	232- 28-61900W	REP-E	04-09-023
220- 72-011	AMD-P	04-05-069	232- 12-31500K	REP-E	04-08-065	232- 28-61900W	REP-E	04-09-103
220- 72-089	AMD-P	04-05-069	232- 12-31500L	NEW-E	04-08-065	232- 28-61900X	NEW-E	04-09-022
220- 72-08900C	NEW-E	04-08-037	232- 12-31500L	REP-E	04-08-065	232- 28-61900X	REP-E	04-09-022
220- 72-090	AMD-P	04-05-069	232- 12-619	AMD	04-07-009	232- 28-61900Y	NEW-E	04-09-048
220- 72-09000C	NEW-E	04-08-037	232- 12-61900V	NEW-E	04-10-034	232- 28-61900Z	NEW-E	04-09-049
220- 88B-030	AMD	04-05-027	232- 12-828	AMD-P	04-05-106	232- 28-61900Z	REP-E	04-09-049
220- 88B-040	AMD	04-05-027	232- 28-248	AMD-P	04-05-115	232- 28-61900Z	REP-E	04-10-005
220- 88C-030	AMD-P	04-07-186	232- 28-271	AMD	04-03-026	232- 28-62000P	NEW-E	04-10-034
220- 88C-030	AMD	04-10-035	232- 28-272	AMD-P	04-05-109	232- 28-62100N	NEW-E	04-10-034
220- 88C-03000	NEW-E	04-10-041	232- 28-273	AMD-P	04-05-111	236- 12-290	AMD-P	04-05-101
220- 88C-040	AMD-P	04-07-186	232- 28-282	AMD-P	04-05-111	236- 12-470	PREP	04-10-112
220- 88C-040	AMD	04-10-035	232- 28-333	AMD-P	04-05-113	236- 51-001	NEW	04-07-104
220- 88C-04000	NEW-E	04-10-041	232- 28-335	AMD-P	04-05-114	236- 51-005	NEW	04-07-104
220-100-110	AMD-X	04-09-046	232- 28-337	AMD-P	04-05-116	236- 51-006	NEW	04-07-104
220-110-035	PREP	04-04-008	232- 28-341	AMD-P	04-05-112	236- 51-010	NEW	04-07-104
220-110-035	AMD-P	04-08-064	232- 28-351	AMD-P	04-05-107	236- 51-100	NEW	04-07-104
220-125-010	AMD	04-05-026	232- 28-352	AMD-P	04-05-108	236- 51-110	NEW	04-07-104
222- 08-010	AMD	04-05-122	232- 28-619	AMD	04-07-009	236- 51-115	NEW	04-07-104
222- 08-020	AMD	04-05-122	232- 28-61900A	NEW-E	04-09-103	236- 51-120	NEW	04-07-104
222- 08-020	DECOD	04-05-122	232- 28-61900A	REP-E	04-09-103	236- 51-200	NEW	04-07-104
222- 08-030	AMD	04-05-122	232- 28-61900B	NEW-E	04-10-005	236- 51-205	NEW	04-07-104
222- 08-030	DECOD	04-05-122	232- 28-61900B	REP-E	04-10-005	236- 51-210	NEW	04-07-104
222- 08-035	DECOD	04-05-122	232- 28-61900B	REP-E	04-10-036	236- 51-215	NEW	04-07-104
222- 08-040	AMD	04-05-122	232- 28-61900C	NEW-E	04-10-034	236- 51-220	NEW	04-07-104
222- 08-050	NEW	04-05-122	232- 28-61900D	NEW-E	04-10-036	236- 51-225	NEW	04-07-104
222- 08-060	NEW	04-05-122	232- 28-61900D	REP-E	04-10-036	236- 51-300	NEW	04-07-104
222- 08-070	NEW	04-05-122	232- 28-61900E	NEW-E	04-10-063	236- 51-302	NEW	04-07-104
222- 08-080	NEW	04-05-122	232- 28-61900F	REP-E	04-07-004	236- 51-305	NEW	04-07-104
222- 08-090	NEW	04-05-122	232- 28-61900G	NEW-E	04-03-047	236- 51-306	NEW	04-07-104
222- 08-100	NEW	04-05-122	232- 28-61900G	REP-E	04-03-047	236- 51-310	NEW	04-07-104
222- 08-120	NEW	04-05-122	232- 28-61900G	REP-E	04-04-028	236- 51-320	NEW	04-07-104
222- 08-130	NEW	04-05-122	232- 28-61900H	NEW-E	04-04-028	236- 51-400	NEW	04-07-104
222- 08-140	RECOD	04-05-122	232- 28-61900H	REP-E	04-04-028	236- 51-405	NEW	04-07-104
222- 08-150	RECOD	04-05-122	232- 28-61900H	REP-E	04-05-032	236- 51-410	NEW	04-07-104
222- 08-160	RECOD	04-05-122	232- 28-61900I	NEW-E	04-04-060	236- 51-500	NEW	04-07-104
222- 12-090	AMD	04-05-087	232- 28-61900J	NEW-E	04-05-015	236- 51-502	NEW	04-07-104
222- 16-010	AMD	04-05-087	232- 28-61900J	REP-E	04-05-015	236- 51-505	NEW	04-07-104
230- 04-124	AMD-W	04-05-059	232- 28-61900K	NEW-E	04-05-033	236- 51-510	NEW	04-07-104
230- 04-192	REP-P	04-05-078	232- 28-61900K	REP-E	04-05-033	236- 51-515	NEW	04-07-104
230- 04-192	REP	04-09-028	232- 28-61900K	REP-E	04-07-026	236- 51-600	NEW	04-07-104
230- 04-196	REP-P	04-05-078	232- 28-61900L	NEW-E	04-05-048	236- 51-605	NEW	04-07-104
230- 04-196	REP	04-09-028	232- 28-61900L	REP-E	04-05-048	236- 51-610	NEW	04-07-104
230- 12-045	AMD-P	04-07-103	232- 28-61900M	NEW-E	04-07-007	236- 51-615	NEW	04-07-104
230- 20-059	AMD	04-07-102	232- 28-61900M	REP-E	04-07-007	236- 51-620	NEW	04-07-104
230- 30-033	AMD-P	04-09-088	232- 28-61900N	NEW-E	04-07-004	236- 51-700	NEW	04-07-104
230- 30-072	AMD-P	04-02-045	232- 28-61900N	REP-E	04-07-004	236- 51-710	NEW	04-07-104
230- 40-070	PREP	04-04-061	232- 28-61900P	NEW-E	04-07-026	236- 51-715	NEW	04-07-104
230- 40-070	AMD-P	04-07-147	232- 28-61900P	REP-E	04-07-026	236- 51-720	NEW	04-07-104
230- 40-070	AMD-P	04-09-087	232- 28-61900P	REP-E	04-09-049	236- 51-725	NEW	04-07-104
230- 40-120	AMD-C	04-04-036	232- 28-61900Q	NEW-E	04-07-067	236- 51-730	NEW	04-07-104
230- 40-120	AMD	04-06-005	232- 28-61900Q	REP-E	04-07-067	236- 51-735	NEW	04-07-104
230- 40-120	AMD-W	04-07-051	232- 28-61900R	NEW-E	04-08-005	236- 51-740	NEW	04-07-104
230- 40-823	AMD	04-06-058	232- 28-61900R	REP-E	04-08-005	236- 51-745	NEW	04-07-104
232- 12-004	AMD-P	04-05-099	232- 28-61900R	REP-E	04-08-013	246- 01	PREP	04-06-043
232- 12-005	NEW-P	04-05-099	232- 28-61900S	NEW-E	04-08-013	246- 08	PREP	04-06-043
232- 12-014	AMD-P	04-05-110	232- 28-61900T	NEW-E	04-08-049	246- 50-001	AMD-W	04-02-066

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246-50-005	NEW-W	04-02-066	246-260-090	REP-P	04-08-099	246-310-010	AMD-X	04-10-014
246-50-010	AMD-W	04-02-066	246-260-091	NEW-P	04-08-099	246-335-990	PREP	04-09-054
246-50-020	AMD-W	04-02-066	246-260-100	REP-P	04-08-099	246-808-190	PREP	04-02-064
246-50-030	AMD-W	04-02-066	246-260-101	NEW-P	04-08-099	246-808-535	PREP	04-02-064
246-50-035	NEW-W	04-02-066	246-260-110	REP-P	04-08-099	246-809-610	AMD	04-06-010
246-50-040	REP-W	04-02-066	246-260-111	NEW-P	04-08-099	246-809-620	AMD	04-06-010
246-50-990	AMD-W	04-02-066	246-260-120	REP-P	04-08-099	246-809-630	AMD	04-06-010
246-217-010	PREP-W	04-06-020	246-260-121	NEW-P	04-08-099	246-809-700	NEW	04-06-011
246-217-010	AMD-P	04-09-056	246-260-130	REP-P	04-08-099	246-809-710	NEW	04-06-011
246-217-015	PREP-W	04-06-020	246-260-131	NEW-P	04-08-099	246-809-720	NEW	04-06-011
246-232-020	AMD	04-04-055	246-260-140	REP-P	04-08-099	246-817-135	PREP	04-08-096
246-232-040	AMD	04-04-055	246-260-141	NEW-P	04-08-099	246-817-440	PREP	04-08-095
246-232-050	AMD	04-04-055	246-260-150	REP-P	04-08-099	246-817-560	PREP	04-09-055
246-232-060	AMD	04-04-055	246-260-151	NEW-P	04-08-099	246-828-030	REP	04-02-068
246-233-001	AMD	04-04-055	246-260-160	REP-P	04-08-099	246-828-045	AMD	04-02-068
246-233-005	NEW	04-04-055	246-260-170	REP-P	04-08-099	246-828-055	REP	04-02-068
246-233-015	NEW	04-04-055	246-260-171	NEW-P	04-08-099	246-828-061	REP	04-02-068
246-233-020	AMD	04-04-055	246-260-181	NEW-P	04-08-099	246-828-070	REP	04-02-068
246-233-025	NEW	04-04-055	246-260-191	NEW-P	04-08-099	246-828-075	AMD	04-02-068
246-233-030	NEW	04-04-055	246-260-200	REP-P	04-08-099	246-828-090	AMD	04-02-068
246-233-035	NEW	04-04-055	246-260-201	NEW-P	04-08-099	246-828-095	AMD	04-02-068
246-233-040	NEW	04-04-055	246-260-210	REP-P	04-08-099	246-828-100	AMD	04-02-068
246-235-093	AMD	04-04-055	246-260-211	NEW-P	04-08-099	246-828-105	AMD	04-02-068
246-235-095	AMD	04-04-055	246-260-220	REP-P	04-08-099	246-828-220	AMD	04-02-068
246-235-097	AMD	04-04-055	246-260-221	NEW-P	04-08-099	246-828-270	AMD	04-02-068
246-239-080	AMD	04-04-055	246-260-230	REP-P	04-08-099	246-828-290	AMD	04-02-068
246-247-010	AMD-P	04-07-180	246-260-240	REP-P	04-08-099	246-828-320	AMD	04-02-068
246-247-040	AMD-P	04-07-180	246-260-250	REP-P	04-08-099	246-828-330	AMD	04-02-068
246-247-045	NEW-P	04-07-180	246-260-260	REP-P	04-08-099	246-828-350	AMD	04-02-068
246-247-075	AMD-W	04-02-067	246-260-999	NEW-P	04-08-099	246-828-500	AMD	04-02-068
246-247-075	AMD-P	04-07-180	246-260-99901	NEW-P	04-08-099	246-828-550	AMD	04-02-068
246-247-080	AMD-P	04-07-180	246-260-99902	NEW-P	04-08-099	246-828-990	AMD	04-02-068
246-247-085	AMD-P	04-07-180	246-272B	PREP	04-03-010	246-840-010	AMD-E	04-05-043
246-247-110	AMD-W	04-02-067	246-290	PREP	04-06-044	246-840-010	AMD-P	04-09-057
246-247-110	AMD-P	04-07-180	246-290-010	AMD	04-04-056	246-840-700	AMD-E	04-06-009
246-247-120	AMD-W	04-02-067	246-290-025	AMD	04-04-056	246-840-700	AMD-P	04-10-078
246-247-120	AMD-P	04-07-180	246-290-130	AMD	04-04-056	246-840-840	AMD-E	04-05-043
246-247-130	AMD-W	04-02-067	246-290-300	AMD	04-04-056	246-840-840	AMD-P	04-09-057
246-247-130	AMD-P	04-07-180	246-290-310	AMD	04-04-056	246-840-850	AMD-E	04-05-043
246-254-053	AMD-P	04-07-181	246-290-320	AMD	04-04-056	246-840-850	AMD-P	04-09-057
246-254-070	AMD-P	04-07-175	246-290-480	AMD	04-04-056	246-840-860	AMD-E	04-05-043
246-254-080	AMD-P	04-07-175	246-290-601	AMD	04-04-056	246-840-860	AMD-P	04-09-057
246-254-090	AMD	04-04-055	246-290-630	AMD	04-04-056	246-840-870	AMD-E	04-05-043
246-254-090	AMD-P	04-07-175	246-290-660	AMD	04-04-056	246-840-870	AMD-P	04-09-057
246-254-100	AMD-P	04-07-175	246-290-664	AMD	04-04-056	246-840-880	AMD-E	04-05-043
246-254-120	AMD-P	04-07-175	246-290-666	AMD	04-04-056	246-840-880	AMD-P	04-09-057
246-260-001	AMD-P	04-08-099	246-290-72010	AMD	04-04-056	246-840-890	AMD-E	04-05-043
246-260-010	AMD-P	04-08-099	246-290-72012	AMD	04-04-056	246-840-890	AMD-P	04-09-057
246-260-020	REP-P	04-08-099	246-290-990	AMD-P	04-06-046	246-840-900	REP-E	04-05-043
246-260-021	NEW-P	04-08-099	246-290-990	AMD-C	04-10-013	246-840-900	AMD-P	04-09-057
246-260-030	REP-P	04-08-099	246-292-160	AMD-P	04-06-046	246-840-905	NEW-P	04-09-057
246-260-031	NEW-P	04-08-099	246-292-160	AMD-C	04-10-013	246-840-910	AMD-E	04-06-009
246-260-040	REP-P	04-08-099	246-294-001	AMD	04-06-047	246-840-910	AMD-P	04-10-078
246-260-041	NEW-P	04-08-099	246-294-010	AMD	04-06-047	246-840-930	AMD-E	04-06-009
246-260-050	REP-P	04-08-099	246-294-020	AMD	04-06-047	246-840-930	AMD-P	04-10-078
246-260-051	NEW-P	04-08-099	246-294-030	AMD	04-06-047	246-840-940	AMD-E	04-06-009
246-260-060	REP-P	04-08-099	246-294-040	AMD	04-06-047	246-840-940	AMD-P	04-10-078
246-260-061	NEW-P	04-08-099	246-294-050	AMD	04-06-047	246-840-990	AMD	04-04-054
246-260-070	REP-P	04-08-099	246-294-060	AMD	04-06-047	246-841-405	AMD-E	04-06-008
246-260-071	NEW-P	04-08-099	246-294-070	AMD	04-06-047	246-841-405	AMD-P	04-10-079
246-260-080	REP-P	04-08-099	246-294-080	AMD	04-06-047	246-851-570	NEW	04-05-004
246-260-081	NEW-P	04-08-099	246-294-090	AMD	04-06-047	246-851-580	NEW-P	04-06-045

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246-851-590	NEW-P	04-06-045	246-930-010	PREP-W	04-10-012	260-48-890	AMD	04-07-077
246-851-600	NEW	04-05-004	246-930-030	PREP-W	04-10-012	260-48-900	AMD-P	04-04-048
246-851-610	NEW-P	04-06-045	246-930-040	PREP-W	04-10-012	260-48-900	AMD	04-07-077
246-873-090	PREP-W	04-07-010	246-930-050	PREP-W	04-10-012	260-48-910	AMD-P	04-04-048
246-887-160	AMD-X	04-03-105	246-930-075	PREP-W	04-10-012	260-48-910	AMD	04-07-077
246-888-010	AMD-P	04-08-097	246-930-200	PREP-W	04-10-012	260-60-350	AMD	04-05-093
246-888-020	AMD-P	04-08-097	246-930-310	PREP-W	04-10-012	260-60-360	AMD	04-05-093
246-888-030	AMD-P	04-08-097	246-930-320	PREP-W	04-10-012	260-70-545	NEW	04-05-094
246-888-040	RECOD-P	04-08-097	246-930-330	PREP-W	04-10-012	260-70-630	AMD	04-05-095
246-888-040	REP-P	04-08-097	246-930-410	PREP-W	04-10-012	260-75	PREP	04-10-049
246-888-050	DECOD-P	04-08-097	246-976-161	AMD	04-08-103	260-88	PREP	04-10-015
246-888-050	RECOD-P	04-08-097	246-976-171	AMD	04-08-103	260-88-010	AMD	04-05-096
246-888-060	DECOD-P	04-08-097	246-976-930	AMD	04-08-103	284-74-400	NEW	04-04-070
246-888-060	RECOD-P	04-08-097	246-976-935	AMD-P	04-07-179	284-74-410	NEW	04-04-070
246-888-070	AMD-P	04-08-097	250-20-041	AMD-P	04-03-108	284-74-420	NEW	04-04-070
246-888-070	DECOD-P	04-08-097	250-20-041	AMD	04-08-060	284-74-430	NEW	04-04-070
246-888-070	RECOD-P	04-08-097	250-65	PREP	04-08-059	284-74-440	NEW	04-04-070
246-888-080	DECOD-P	04-08-097	251-14-015	NEW-W	04-07-187	284-74-450	NEW	04-04-070
246-888-080	RECOD-P	04-08-097	251-30-010	AMD-P	04-07-188	284-74-460	NEW	04-04-070
246-888-090	DECOD-P	04-08-097	251-30-010	DECOD-P	04-07-188	287-01-030	AMD	04-03-114
246-888-090	RECOD-P	04-08-097	251-30-010	RECOD-P	04-07-188	287-02-030	AMD	04-03-114
246-888-100	DECOD-P	04-08-097	251-30-020	AMD-P	04-07-188	287-02-130	AMD	04-03-114
246-888-100	RECOD-P	04-08-097	251-30-020	DECOD-P	04-07-188	296-05-007	AMD-P	04-04-014
246-888-110	DECOD-P	04-08-097	251-30-020	RECOD-P	04-07-188	296-05-007	AMD	04-10-032
246-915-010	AMD-P	04-08-046	251-30-030	AMD-P	04-07-188	296-05-008	NEW-P	04-04-014
246-915-040	PREP	04-07-195	251-30-030	DECOD-P	04-07-188	296-05-008	NEW	04-10-032
246-915-050	PREP	04-07-178	251-30-030	RECOD-P	04-07-188	296-17	PREP	04-04-098
246-915-078	AMD-P	04-08-046	251-30-032	NEW-P	04-07-188	296-17	PREP	04-04-100
246-915-085	AMD-P	04-03-104	251-30-034	NEW-P	04-07-188	296-17	PREP	04-09-098
246-915-085	AMD	04-08-101	251-30-040	REP-P	04-07-188	296-17-31013	AMD-P	04-07-122
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246-915-105	PREP	04-07-174	251-30-055	AMD-P	04-07-188	296-17-67701	NEW-P	04-07-122
246-915-120	PREP	04-07-176	251-30-057	AMD-P	04-07-188	296-17-870	AMD-P	04-07-121
246-915-140	AMD-P	04-08-046	251-30-060	REP-P	04-07-188	296-17-870	AMD	04-10-045
246-915-160	AMD-P	04-08-046	260	PREP	04-08-057	296-17-895	AMD-P	04-07-122
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246-915-182	NEW	04-08-102	260-08-620	AMD	04-05-089	296-19A-480	AMD-S	04-03-035
246-915-210	AMD-P	04-03-107	260-08-630	AMD	04-05-089	296-19A-480	AMD	04-08-045
246-915-210	AMD	04-08-100	260-08-640	REP	04-05-089	296-20-01002	AMD-P	04-03-082
246-915-220	AMD-P	04-03-107	260-08-650	AMD	04-05-089	296-20-01002	AMD	04-08-040
246-915-220	AMD	04-08-100	260-08-660	AMD	04-05-089	296-20-02704	AMD-P	04-03-082
246-915-230	AMD-P	04-03-107	260-14-010	AMD	04-05-090	296-20-02704	AMD	04-08-040
246-915-230	AMD	04-08-100	260-14-050	PREP	04-10-047	296-20-02705	AMD-P	04-03-082
246-915-240	AMD-P	04-03-107	260-16-065	NEW	04-05-091	296-20-02705	AMD	04-08-040
246-915-240	AMD	04-08-100	260-24-510	AMD-P	04-07-144	296-20-03011	AMD-P	04-03-082
246-915-250	AMD-P	04-03-107	260-24-510	AMD-E	04-09-053	296-20-03011	AMD	04-08-040
246-915-250	AMD	04-08-100	260-24-510	AMD-W	04-10-006	296-20-03012	AMD-P	04-03-082
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246-915-280	AMD	04-08-100	260-36-120	AMD	04-07-075	296-20-2015	NEW	04-04-029
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246-919-330	AMD-W	04-04-078	260-40-160	AMD	04-07-076	296-20-210	REP	04-04-029
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296-23-26501	REP	04-04-029	296-24-16519	REP-P	04-03-085	296-24-20525	REP-P	04-03-085
296-23-26502	REP	04-04-029	296-24-16521	REP-P	04-03-085	296-24-20527	REP-P	04-03-085
296-23-26503	REP	04-04-029	296-24-16523	REP-P	04-03-085	296-24-20529	REP-P	04-03-085
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296-23-26506	REP	04-04-029	296-24-16529	REP-P	04-03-085	296-24-20699	REP-P	04-03-085
296-23-267	REP	04-04-029	296-24-16531	REP-P	04-03-085	296-24-20700	REP-P	04-03-085
296-23-270	REP	04-04-029	296-24-16533	REP-P	04-03-085	296-24-20710	REP-P	04-03-085
296-23-302	NEW	04-04-029	296-24-16535	REP-P	04-03-085	296-24-20720	REP-P	04-03-085
296-23-307	NEW	04-04-029	296-24-16537	REP-P	04-03-085	296-24-20730	REP-P	04-03-085
296-23-312	NEW	04-04-029	296-24-16539	REP-P	04-03-085	296-24-230	REP-P	04-08-039
296-23-317	NEW	04-04-029	296-24-180	REP-P	04-03-085	296-24-23001	REP-P	04-08-039
296-23-322	NEW	04-04-029	296-24-18001	REP-P	04-03-085	296-24-23003	REP-P	04-08-039
296-23-327	NEW	04-04-029	296-24-18003	REP-P	04-03-085	296-24-23005	REP-P	04-08-039
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296-23-357	NEW	04-04-029	296-24-19003	REP-P	04-03-085	296-24-23017	REP-P	04-08-039
296-23-362	NEW	04-04-029	296-24-19005	REP-P	04-03-085	296-24-23019	REP-P	04-08-039
296-23-367	NEW	04-04-029	296-24-19007	REP-P	04-03-085	296-24-23021	REP-P	04-08-039
296-23-372	NEW	04-04-029	296-24-19009	REP-P	04-03-085	296-24-23023	REP-P	04-08-039
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296-23-387	NEW	04-04-029	296-24-195	REP-P	04-03-085	296-24-23031	REP-P	04-08-039
296-23-392	NEW	04-04-029	296-24-19501	REP-P	04-03-085	296-24-23033	REP-P	04-08-039
296-24	PREP	04-05-074	296-24-19503	REP-P	04-03-085	296-24-23035	REP-P	04-08-039
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296-24	PREP	04-07-154	296-24-19507	REP-P	04-03-085	296-24-260	REP	04-09-099
296-24	PREP	04-07-157	296-24-19509	REP-P	04-03-085	296-24-47511	AMD-P	04-08-039
296-24	PREP	04-08-090	296-24-19511	REP-P	04-03-085	296-24-56527	AMD	04-07-161
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296-24-11003	REP-P	04-03-102	296-24-197	REP-P	04-03-085	296-24-69003	AMD-P	04-03-085
296-24-11005	REP-P	04-03-102	296-24-200	REP-P	04-03-085	296-24-75011	AMD	04-07-161
296-24-11007	REP-P	04-03-102	296-24-20001	REP-P	04-03-085	296-24-88020	AMD-P	04-03-085
296-24-11009	REP-P	04-03-102	296-24-20003	REP-P	04-03-085	296-24-90003	AMD-P	04-03-085
296-24-11011	REP-P	04-03-102	296-24-20005	REP-P	04-03-085	296-24-95603	AMD	04-07-161
296-24-11013	REP-P	04-03-102	296-24-20007	REP-P	04-03-085	296-24-975	AMD-P	04-03-102
296-24-11015	REP-P	04-03-102	296-24-20009	REP-P	04-03-085	296-30-081	PREP	04-04-099
296-24-11017	REP-P	04-03-102	296-24-20011	REP-P	04-03-085	296-30-081	AMD-P	04-08-091
296-24-119	REP-P	04-03-102	296-24-20013	REP-P	04-03-085	296-31-070	AMD-P	04-08-091
296-24-120	REP	04-07-161	296-24-20015	REP-P	04-03-085	296-37-575	AMD	04-10-026
296-24-150	REP-P	04-03-085	296-24-20017	REP-P	04-03-085	296-45-125	AMD	04-07-160
296-24-15001	REP-P	04-03-085	296-24-20019	REP-P	04-03-085	296-45-175	AMD-P	04-03-102
296-24-15003	REP-P	04-03-085	296-24-20021	REP-P	04-03-085	296-46B-010	AMD-P	04-08-088
296-24-15005	REP-P	04-03-085	296-24-205	REP-P	04-03-085	296-46B-020	AMD-P	04-08-088
296-24-15007	REP-P	04-03-085	296-24-20501	REP-P	04-03-085	296-46B-030	AMD-P	04-08-088
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296-24-165	REP-P	04-03-085	296-24-20505	REP-P	04-03-085	296-46B-210	AMD-P	04-08-088
296-24-16501	REP-P	04-03-085	296-24-20507	REP-P	04-03-085	296-46B-250	AMD-P	04-08-088
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296-46B-910	AMD-P	04-08-088	296-78-660	AMD-P	04-03-085	296-96-02330	AMD-P	04-08-087
296-46B-911	AMD-P	04-08-088	296-78-665	AMD-P	04-03-085	296-96-02340	AMD-P	04-08-087
296-46B-915	AMD-P	04-08-088	296-78-690	AMD-P	04-03-085	296-96-02350	AMD-P	04-08-087
296-46B-920	AMD-P	04-08-088	296-78-70503	AMD-P	04-03-085	296-96-02360	AMD-P	04-08-087
296-46B-925	AMD-P	04-08-088	296-78-710	PREP	04-06-078	296-96-02361	NEW-P	04-08-087
296-46B-930	AMD-P	04-08-088	296-78-71007	AMD-P	04-03-085	296-96-02362	NEW-P	04-08-087
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296-46B-940	AMD-P	04-08-088	296-78-71505	AMD-P	04-03-085	296-96-02364	NEW-P	04-08-087
296-46B-945	AMD-P	04-08-088	296-79-030	AMD-P	04-03-085	296-96-02365	REP-P	04-08-087
296-46B-950	AMD-P	04-08-088	296-79-220	AMD-P	04-03-102	296-96-02366	NEW-P	04-08-087
296-46B-970	AMD-P	04-08-088	296-96-00500	AMD-P	04-08-087	296-96-02367	NEW-P	04-08-087
296-46B-990	AMD-P	04-08-088	296-96-00600	AMD-P	04-08-087	296-96-02370	NEW-P	04-08-087
296-46B-995	AMD-P	04-08-088	296-96-00650	AMD-P	04-08-087	296-96-02371	NEW-P	04-08-087
296-46B-999	AMD-P	04-08-088	296-96-00700	AMD-P	04-08-087	296-96-05010	AMD-P	04-08-087
296-54-573	AMD-P	04-03-085	296-96-00800	AMD-P	04-08-087	296-96-05030	AMD-P	04-08-087
296-54-57310	AMD-P	04-03-102	296-96-00805	NEW-P	04-08-087	296-96-05070	AMD-P	04-08-087
296-56	PREP	04-07-154	296-96-00900	NEW-P	04-08-087	296-96-05160	AMD-P	04-08-087
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296-56-60243	AMD-X	04-05-072	296-96-00903	NEW-P	04-08-087	296-96-05230	AMD-P	04-08-087
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296-62	PREP	04-05-073	296-96-00906	NEW-P	04-08-087	296-96-07010	AMD-P	04-08-087
296-62	PREP	04-07-155	296-96-00910	NEW-P	04-08-087	296-96-07021	NEW-P	04-08-087
296-62	PREP	04-07-156	296-96-00912	NEW-P	04-08-087	296-96-07024	NEW-P	04-08-087
296-62	PREP	04-09-097	296-96-00914	NEW-P	04-08-087	296-96-07080	AMD-P	04-08-087
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296-62-05201	REP	04-10-026	296-96-00918	NEW-P	04-08-087	296-96-07170	AMD-P	04-08-087
296-62-05203	REP	04-10-026	296-96-00920	NEW-P	04-08-087	296-96-07180	AMD-P	04-08-087
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296-62-05213	REP	04-10-026	296-96-00930	NEW-P	04-08-087	296-96-07230	AMD-P	04-08-087
296-62-05215	REP	04-10-026	296-96-01000	AMD-P	04-08-087	296-96-07250	AMD-P	04-08-087
296-62-05217	REP	04-10-026	296-96-01005	AMD-P	04-08-087	296-96-08010	AMD-P	04-08-087
296-62-05219	REP	04-10-026	296-96-01006	NEW-P	04-08-087	296-96-08020	AMD-P	04-08-087
296-62-05221	REP	04-10-026	296-96-01007	NEW-P	04-08-087	296-96-08022	NEW-P	04-08-087
296-62-05223	REP	04-10-026	296-96-01009	NEW-P	04-08-087	296-96-08024	NEW-P	04-08-087
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296-62-07336	AMD	04-10-026	296-96-01070	AMD-P	04-08-087	296-96-08090	AMD-P	04-08-087
296-62-07342	AMD	04-10-026	296-96-01075	NEW-P	04-08-087	296-96-08100	AMD-P	04-08-087
296-62-07375	AMD	04-10-026	296-96-01080	REP-P	04-08-087	296-96-08110	AMD-P	04-08-087
296-62-07427	AMD	04-10-026	296-96-02230	NEW-P	04-08-087	296-96-08140	AMD-P	04-08-087
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296-62-07470	AMD	04-10-026	296-96-02235	NEW-P	04-08-087	296-96-08160	AMD-P	04-08-087
296-62-07521	AMD	04-10-026	296-96-02240	AMD-P	04-08-087	296-96-08170	AMD-P	04-08-087
296-62-07540	AMD	04-10-026	296-96-02275	AMD-P	04-08-087	296-96-08175	AMD-P	04-08-087
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296-62-09041	AMD	04-10-026	296-96-02278	AMD-P	04-08-087	296-96-08200	AMD-P	04-08-087
296-62-141	AMD	04-03-081	296-96-02280	AMD-P	04-08-087	296-96-08215	NEW-P	04-08-087
296-62-14533	AMD	04-10-026	296-96-02281	AMD-P	04-08-087	296-96-08220	AMD-P	04-08-087
296-62-20023	AMD	04-10-026	296-96-02282	NEW-P	04-08-087	296-96-08230	AMD-P	04-08-087
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296-96-11019	AMD-P	04-08-087	296-155-617	PREP	04-07-154	296-400A-023	NEW-P	04-08-089
296-96-11022	AMD-P	04-08-087	296-155-682	AMD-P	04-03-085	296-400A-026	AMD-P	04-08-089
296-96-11045	AMD-P	04-08-087	296-200A-900	AMD-P	04-08-092	296-400A-028	NEW-P	04-08-089
296-96-11057	AMD-P	04-08-087	296-301-020	AMD-P	04-03-085	296-400A-029	NEW-P	04-08-089
296-96-11078	AMD-P	04-08-087	296-301-020	PREP	04-06-078	296-400A-030	AMD-P	04-08-089
296-96-11080	NEW-P	04-08-087	296-301-170	AMD-P	04-03-085	296-400A-031	AMD-P	04-08-089
296-96-13135	NEW-P	04-08-087	296-302-010	REP-P	04-03-085	296-400A-035	AMD-P	04-08-089
296-96-13139	NEW-P	04-08-087	296-302-015	REP-P	04-03-085	296-400A-045	AMD-P	04-08-089
296-96-13143	NEW-P	04-08-087	296-302-020	REP-P	04-03-085	296-400A-120	AMD-P	04-08-089
296-96-13145	NEW-P	04-08-087	296-302-025	REP-P	04-03-085	296-400A-121	AMD-P	04-08-089
296-96-13147	NEW-P	04-08-087	296-302-02501	REP-P	04-03-085	296-400A-122	AMD-P	04-08-089
296-96-13149	NEW-P	04-08-087	296-302-02503	REP-P	04-03-085	296-400A-130	AMD-P	04-08-089
296-96-13151	NEW-P	04-08-087	296-302-02505	REP-P	04-03-085	296-400A-135	NEW-P	04-08-089
296-96-13153	NEW-P	04-08-087	296-302-02507	REP-P	04-03-085	296-400A-140	AMD-P	04-08-089
296-96-13155	NEW-P	04-08-087	296-302-02509	REP-P	04-03-085	296-400A-150	NEW-P	04-08-089
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296-96-14045	AMD-P	04-08-087	296-302-03003	REP-P	04-03-085	296-800-150	AMD	04-07-160
296-96-14060	AMD-P	04-08-087	296-302-035	REP-P	04-03-085	296-800-15005	AMD	04-07-160
296-96-14070	AMD-P	04-08-087	296-302-040	REP-P	04-03-085	296-800-15010	REP	04-07-160
296-96-14080	AMD-P	04-08-087	296-302-045	REP-P	04-03-085	296-800-15015	REP	04-07-160
296-96-16040	AMD-P	04-08-087	296-302-050	REP-P	04-03-085	296-800-15025	REP	04-07-160
296-96-16150	AMD-P	04-08-087	296-302-05501	REP-P	04-03-085	296-800-17005	AMD	04-10-026
296-96-23100	AMD-P	04-08-087	296-302-05503	REP-P	04-03-085	296-800-180	AMD	04-10-026
296-96-23101	AMD-P	04-08-087	296-302-060	REP-P	04-03-085	296-800-35052	PREP	04-06-078
296-96-23117	NEW-P	04-08-087	296-302-065	REP-P	04-03-085	296-802-100	NEW	04-10-026
296-96-23118	NEW-P	04-08-087	296-302-06501	REP-P	04-03-085	296-802-200	NEW	04-10-026
296-96-23119	NEW-P	04-08-087	296-302-06503	REP-P	04-03-085	296-802-20005	NEW	04-10-026
296-96-23151	AMD-P	04-08-087	296-302-06505	REP-P	04-03-085	296-802-20010	NEW	04-10-026
296-96-23240	AMD-P	04-08-087	296-302-06507	REP-P	04-03-085	296-802-20015	NEW	04-10-026
296-96-23270	AMD-P	04-08-087	296-302-06509	REP-P	04-03-085	296-802-300	NEW	04-10-026
296-96-23287	AMD-P	04-08-087	296-302-06511	REP-P	04-03-085	296-802-30005	NEW	04-10-026
296-96-23610	AMD-P	04-08-087	296-302-06513	REP-P	04-03-085	296-802-400	NEW	04-10-026
296-104	PREP	04-08-114	296-302-06515	REP-P	04-03-085	296-802-40005	NEW	04-10-026
296-104-700	AMD-P	04-08-115	296-302-06517	REP-P	04-03-085	296-802-40010	NEW	04-10-026
296-115-050	AMD-P	04-03-085	296-302-06519	REP-P	04-03-085	296-802-40015	NEW	04-10-026
296-127	PREP	04-06-063	296-302-06521	REP-P	04-03-085	296-802-500	NEW	04-10-026
296-127-011	AMD-X	04-03-083	296-302-06523	REP-P	04-03-085	296-802-50005	NEW	04-10-026
296-127-011	AMD	04-10-083	296-302-06525	REP-P	04-03-085	296-802-50010	NEW	04-10-026
296-150C-3000	AMD-P	04-08-092	296-302-06527	REP-P	04-03-085	296-802-600	NEW	04-10-026
296-150F-3000	AMD-P	04-08-092	296-302-06529	REP-P	04-03-085	296-802-60005	NEW	04-10-026
296-150M-3000	AMD-P	04-08-092	296-302-06531	REP-P	04-03-085	296-802-900	NEW	04-10-026
296-150P-3000	AMD-P	04-08-092	296-303-030	AMD-P	04-03-085	296-803-100	NEW-P	04-03-102
296-150R-3000	AMD-P	04-08-092	296-305-01515	AMD	04-07-160	296-803-200	NEW-P	04-03-102
296-150T-3000	AMD-P	04-08-092	296-305-02501	AMD	04-10-026	296-803-20005	NEW-P	04-03-102
296-150V-3000	AMD-P	04-08-092	296-305-04501	PREP	04-08-090	296-803-300	NEW-P	04-03-102
296-155	PREP	04-03-084	296-305-06519	AMD-P	04-03-085	296-803-30005	NEW-P	04-03-102
296-155	PREP	04-05-074	296-307	PREP	04-09-097	296-803-400	NEW-P	04-03-102
296-155-120	AMD	04-07-160	296-307-039	AMD	04-07-160	296-803-40005	NEW-P	04-03-102
296-155-17331	AMD	04-10-026	296-307-03905	AMD	04-07-160	296-803-40010	NEW-P	04-03-102
296-155-174	AMD	04-10-026	296-307-03910	REP	04-07-160	296-803-40015	NEW-P	04-03-102
296-155-429	AMD-P	04-03-102	296-307-03915	REP	04-07-160	296-803-40020	NEW-P	04-03-102
296-155-487	AMD-P	04-03-085	296-307-03925	REP	04-07-160	296-803-500	NEW-P	04-03-102
296-155-488	AMD-P	04-03-085	296-307-14505	AMD-X	04-07-162	296-803-50005	NEW-P	04-03-102
296-155-525	AMD-P	04-03-085	296-307-14510	AMD-X	04-07-162	296-803-50010	NEW-P	04-03-102
296-155-575	REP	04-09-099	296-400A-005	AMD-P	04-08-089	296-803-50015	NEW-P	04-03-102
296-155-576	REP	04-09-099	296-400A-020	AMD-P	04-08-089	296-803-50020	NEW-P	04-03-102

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296-841	PREP	04-07-155	296-863-40005	NEW-P	04-08-039	308-93-050	PREP	04-07-054
296-841	PREP	04-07-156	296-863-40010	NEW-P	04-08-039	308-96A	PREP	04-03-002
296-843-100	NEW	04-02-053	296-863-40015	NEW-P	04-08-039	308-96A	PREP	04-03-003
296-843-110	NEW	04-02-053	296-863-40020	NEW-P	04-08-039	308-96A-005	PREP	04-03-002
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296-843-13005	NEW	04-02-053	296-863-40050	NEW-P	04-08-039	308-96A-070	PREP	04-09-032
296-843-13010	NEW	04-02-053	296-863-40055	NEW-P	04-08-039	308-96A-070	AMD-E	04-09-044
296-843-140	NEW	04-02-053	296-863-40060	NEW-P	04-08-039	308-96A-071	PREP	04-09-032
296-843-14005	NEW	04-02-053	296-863-40065	NEW-P	04-08-039	308-96A-071	AMD-E	04-09-044
296-843-150	NEW	04-02-053	296-863-500	NEW-P	04-08-039	308-96A-072	AMD-P	04-03-121
296-843-15005	NEW	04-02-053	296-863-50005	NEW-P	04-08-039	308-96A-072	AMD	04-08-079
296-843-15010	NEW	04-02-053	296-863-600	NEW-P	04-08-039	308-96A-074	AMD-P	04-03-121
296-843-15015	NEW	04-02-053	296-863-60005	NEW-P	04-08-039	308-96A-074	AMD	04-08-079
296-843-160	NEW	04-02-053	296-863-60010	NEW-P	04-08-039	308-96A-076	PREP	04-09-029
296-843-16005	NEW	04-02-053	296-863-60015	NEW-P	04-08-039	308-96A-077	PREP	04-09-031
296-843-170	NEW	04-02-053	296-863-700	NEW-P	04-08-039	308-96A-078	PREP	04-09-030
296-843-17005	NEW	04-02-053	308-13-150	PREP	04-06-030	308-96A-079	PREP	04-09-060
296-843-180	NEW	04-02-053	308-15	PREP	04-04-050	308-96A-175	PREP	04-09-032
296-843-18005	NEW	04-02-053	308-17-150	AMD-P	04-07-032	308-96A-175	AMD-E	04-09-044
296-843-18010	NEW	04-02-053	308-18-150	AMD-P	04-07-031	308-96A-306	AMD-P	04-10-003
296-843-18015	NEW	04-02-053	308-20-010	AMD	04-05-005	308-96A-307	PREP	04-09-059
296-843-18020	NEW	04-02-053	308-20-040	AMD	04-05-005	308-96A-311	PREP	04-03-003
296-843-190	NEW	04-02-053	308-20-055	NEW	04-05-005	308-96A-311	AMD-P	04-10-003
296-843-19005	NEW	04-02-053	308-20-090	AMD	04-05-005	308-96A-312	AMD-P	04-10-003
296-843-200	NEW	04-02-053	308-20-101	NEW	04-05-005	308-96A-313	AMD-P	04-10-003
296-843-20005	NEW	04-02-053	308-20-110	AMD	04-05-005	308-96A-314	AMD-P	04-10-003
296-843-20010	NEW	04-02-053	308-20-550	AMD	04-05-005	308-96A-316	AMD-P	04-10-003
296-843-20015	NEW	04-02-053	308-20-555	NEW	04-05-005	308-96A-550	AMD-P	04-03-121
296-843-20020	NEW	04-02-053	308-56A	PREP	04-05-121	308-96A-550	AMD	04-08-079
296-843-20025	NEW	04-02-053	308-56A-020	AMD-P	04-04-006	308-96A-560	AMD-P	04-03-121
296-843-20030	NEW	04-02-053	308-56A-020	AMD	04-08-080	308-96A-560	AMD	04-08-079
296-843-20035	NEW	04-02-053	308-56A-030	AMD-P	04-03-120	308-99-020	AMD-P	04-07-047
296-843-210	NEW	04-02-053	308-56A-030	AMD	04-07-168	308-99-020	AMD-W	04-08-001
296-843-21005	NEW	04-02-053	308-56A-040	AMD-P	04-03-120	308-99-040	AMD-P	04-07-047
296-843-220	NEW	04-02-053	308-56A-040	AMD	04-07-168	308-99-040	AMD-W	04-08-001
296-843-22005	NEW	04-02-053	308-56A-075	AMD-X	04-09-033	308-99-060	AMD-P	04-07-047
296-843-22010	NEW	04-02-053	308-56A-140	AMD-P	04-04-006	308-99-060	AMD-W	04-08-001
296-843-300	NEW	04-02-053	308-56A-140	AMD	04-08-080	308-124A-025	AMD-P	04-03-039
296-863-10005	NEW-P	04-08-039	308-56A-150	AMD-P	04-04-022	308-124A-025	AMD	04-08-012
296-863-200	NEW-P	04-08-039	308-56A-150	AMD	04-08-002	308-124A-110	AMD-P	04-03-039
296-863-20005	NEW-P	04-08-039	308-56A-250	PREP	04-08-006	308-124A-110	AMD	04-07-153
296-863-20010	NEW-P	04-08-039	308-56A-450	AMD-P	04-04-022	308-124A-440	AMD-P	04-03-039
296-863-20015	NEW-P	04-08-039	308-56A-450	AMD	04-08-002	308-124A-440	AMD	04-08-012
296-863-20020	NEW-P	04-08-039	308-56A-455	AMD-P	04-04-006	308-124C-030	AMD-P	04-03-037
296-863-20025	NEW-P	04-08-039	308-56A-455	AMD	04-08-080	308-124C-030	AMD	04-07-151
296-863-20030	NEW-P	04-08-039	308-56A-460	AMD-P	04-04-006	308-124D-030	AMD-P	04-03-038
296-863-20035	NEW-P	04-08-039	308-56A-460	AMD	04-08-080	308-124D-030	AMD	04-07-152
296-863-20040	NEW-P	04-08-039	308-56A-500	AMD-P	04-04-049	308-125-200	AMD	04-04-052
296-863-300	NEW-P	04-08-039	308-56A-500	AMD	04-08-081	308-127-140	AMD-P	04-05-098
296-863-30005	NEW-P	04-08-039	308-56A-505	AMD-P	04-04-049	308-127-140	AMD	04-08-003
296-863-30010	NEW-P	04-08-039	308-56A-505	AMD	04-08-081	308-127-160	AMD-P	04-05-098
296-863-30015	NEW-P	04-08-039	308-56A-525	PREP	04-08-058	308-127-160	AMD	04-08-003
296-863-30020	NEW-P	04-08-039	308-56A-640	AMD	04-03-016	308-127-160	AMD-P	04-09-095
296-863-30025	NEW-P	04-08-039	308-61-190	AMD-P	04-06-004	308-127-225	AMD-P	04-05-098
296-863-30030	NEW-P	04-08-039	308-77-180	REP	04-09-012	308-127-225	AMD	04-08-003
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308-390-101	AMD-P	04-09-105	326-20-010	AMD	04-08-093	356-60-057	AMD-P	04-07-188
308-390-102	AMD-P	04-09-105	326-20-045	NEW-P	04-02-043	356-60-060	REP-P	04-07-188
308-390-104	AMD-P	04-09-105	326-20-045	NEW	04-08-093	357-10-005	NEW-P	04-04-109
308-390-105	AMD-P	04-09-105	326-20-046	NEW-P	04-02-043	357-10-005	NEW	04-07-052
308-390-108	AMD-P	04-09-105	326-20-046	NEW	04-08-093	357-10-010	NEW-P	04-04-109
308-390-200	REP-P	04-09-105	326-20-047	NEW-P	04-02-043	357-10-010	NEW	04-07-052
308-390-201	AMD-P	04-09-105	326-20-047	NEW	04-08-093	357-10-020	NEW-P	04-04-109
308-390-203	AMD-P	04-09-105	326-20-048	NEW-P	04-02-043	357-10-020	NEW	04-07-052
308-390-204	AMD-P	04-09-105	326-20-048	NEW	04-08-093	363-116-070	AMD-P	04-10-030
308-390-300	AMD-P	04-09-105	326-20-050	AMD-P	04-02-043	363-116-185	AMD-P	04-10-031
308-390-302	AMD-P	04-09-105	326-20-050	AMD	04-08-093	363-116-300	AMD-P	04-08-008
308-390-401	AMD-P	04-09-105	326-20-070	AMD-P	04-02-043	365-230-010	NEW-P	04-05-062
308-390-500	AMD-P	04-09-105	326-20-070	AMD	04-08-093	365-230-010	NEW	04-10-037
308-390-502	AMD-P	04-09-105	326-20-080	AMD-P	04-02-043	365-230-015	NEW-P	04-05-062
308-390-503	AMD-P	04-09-105	326-20-080	AMD	04-08-093	365-230-015	NEW	04-10-037
308-390-505	AMD-P	04-09-105	326-20-092	AMD-P	04-02-041	365-230-015	NEW	04-10-037
308-390-602	AMD-P	04-09-105	326-20-092	AMD	04-08-075	365-230-016	NEW-P	04-05-062
308-420-200	AMD-P	04-05-097	326-20-094	AMD-P	04-02-041	365-230-016	NEW	04-10-037
308-420-200	AMD-W	04-08-004	326-20-094	AMD	04-08-075	365-230-020	NEW-P	04-05-062
314-02	PREP	04-08-107	326-20-095	AMD-P	04-02-041	365-230-020	NEW	04-10-037
314-02	PREP	04-08-108	326-20-095	AMD	04-08-075	365-230-030	NEW-P	04-05-062
314-02-105	AMD-P	04-02-075	326-20-096	AMD-P	04-02-041	365-230-030	NEW	04-10-037
314-02-105	AMD	04-07-020	326-20-096	AMD	04-08-075	365-230-035	NEW-P	04-05-062
314-02-105	PREP	04-09-111	326-20-098	AMD-P	04-02-041	365-230-035	NEW	04-10-037
314-09	PREP	04-08-106	326-20-098	AMD	04-08-075	365-230-040	NEW-P	04-05-062
314-11-015	AMD-X	04-08-112	326-20-098	AMD	04-08-075	365-230-040	NEW	04-10-037
314-11-020	AMD-X	04-08-112	326-20-110	AMD-P	04-02-043	365-230-040	NEW	04-10-037
314-11-065	AMD-X	04-08-112	326-20-110	AMD	04-08-093	365-230-050	NEW-P	04-05-062
314-11-070	AMD-X	04-08-112	326-20-120	AMD-P	04-02-043	365-230-050	NEW	04-10-037
314-12	PREP	04-08-107	326-20-120	AMD	04-08-093	365-230-060	NEW-P	04-05-062
314-12	PREP	04-08-108	326-20-125	AMD-P	04-02-042	365-230-060	NEW	04-10-037
314-16	PREP	04-08-107	326-20-125	AMD	04-08-074	365-230-070	NEW-P	04-05-062
314-16	PREP	04-08-108	326-20-160	AMD-P	04-02-043	365-230-070	NEW	04-10-037
314-17	PREP	04-02-074	326-20-160	AMD	04-08-093	365-230-080	NEW-P	04-05-062
314-17-020	AMD-P	04-08-111	326-20-173	AMD-P	04-02-043	365-230-080	NEW	04-10-037
314-17-030	AMD-P	04-08-111	326-20-173	AMD	04-08-093	365-230-090	NEW-P	04-05-062
314-17-050	AMD-P	04-08-111	326-20-180	AMD-P	04-02-043	365-230-090	NEW	04-10-037
314-17-055	AMD-P	04-08-111	326-20-180	AMD	04-08-093	365-230-100	NEW-P	04-05-062
314-17-060	AMD-P	04-08-111	332-24-301	AMD-X	04-08-094	365-230-100	NEW	04-10-037
314-17-065	AMD-P	04-08-111	332-130-100	AMD-X	04-05-030	365-230-110	NEW-P	04-05-062
314-17-070	AMD-P	04-08-111	352-32	PREP	04-06-089	365-230-110	NEW	04-10-037
314-17-080	AMD-P	04-08-111	352-32-030	AMD-W	04-10-076	365-230-120	NEW-P	04-05-062
314-17-085	AMD-P	04-08-111	352-44	PREP	04-06-088	365-230-120	NEW	04-10-037
314-17-095	AMD-P	04-08-111	352-44-020	PREP	04-06-088	365-230-130	NEW-P	04-05-062
314-17-105	AMD-P	04-08-111	356-18-140	AMD-E	04-07-053	365-230-130	NEW	04-10-037
314-20	PREP	04-08-105	356-18-220	AMD-E	04-07-053	365-230-132	NEW-P	04-05-062
314-20-020	AMD	04-06-007	356-26-030	AMD-P	04-08-119	365-230-132	NEW	04-10-037
314-24	PREP	04-08-105	356-26-140	AMD-P	04-08-119	365-230-134	NEW-P	04-05-062
314-29	PREP	04-08-109	356-30-330	AMD-P	04-08-119	365-230-134	NEW	04-10-037
314-42	PREP	04-08-109	356-60-010	AMD-P	04-07-188	365-230-140	NEW-P	04-05-062
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326-02-010	AMD	04-08-093	356-60-010	RECOD-P	04-07-188	365-230-150	NEW-P	04-05-062
326-02-030	AMD-P	04-02-043	356-60-020	AMD-P	04-07-188	365-230-150	NEW	04-10-037
326-02-030	AMD	04-08-093	356-60-020	DECOD-P	04-07-188	365-230-160	NEW-P	04-05-062
326-02-034	AMD-P	04-07-041	356-60-020	DECOD-P	04-07-188	365-230-160	NEW	04-10-037
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326-02-040	AMD	04-08-093	356-60-030	DECOD-P	04-07-188	365-230-170	NEW	04-10-037
326-02-045	AMD-P	04-02-043	356-60-030	RECOD-P	04-07-188	365-230-180	NEW-P	04-05-062
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326-07-030	AMD-P	04-02-043	356-60-034	NEW-P	04-07-188	365-230-190	NEW-P	04-05-062
326-07-030	AMD	04-08-093	356-60-040	REP-P	04-07-188	365-230-190	NEW	04-10-037
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388- 14A-1020	PREP	04-09-036	388- 27-0190	AMD	04-06-024	388- 71-0915	PREP	04-07-061
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388- 14A-3370	PREP	04-09-036	388- 27-0195	AMD	04-06-024	388- 71-0915	AMD-P	04-10-101
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388- 14A-3810	PREP	04-06-053	388- 27-0200	AMD	04-06-024	388- 71-0925	PREP	04-07-061
388- 14A-3810	PREP	04-09-036	388- 27-0210	AMD-E	04-03-018	388- 71-0930	PREP	04-07-061
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388- 14A-4100	PREP	04-07-062	388- 27-0220	AMD-E	04-03-018	388- 71-0950	PREP	04-07-061
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388-148-0050	AMD-P	04-03-116	388-148-0220	AMD-E	04-05-035	388-148-0385	AMD	04-08-073
388-148-0050	AMD-E	04-05-035	388-148-0220	AMD	04-08-073	388-148-0395	AMD-P	04-03-116
388-148-0050	AMD	04-08-073	388-148-0225	AMD-P	04-03-116	388-148-0395	AMD-E	04-05-035
388-148-0055	AMD-P	04-03-116	388-148-0225	AMD	04-08-073	388-148-0395	AMD	04-08-073
388-148-0055	AMD	04-08-073	388-148-0230	AMD-P	04-03-116	388-148-0400	AMD-P	04-03-116
388-148-0058	NEW-P	04-03-116	388-148-0230	AMD	04-08-073	388-148-0400	AMD	04-08-073
388-148-0058	NEW-E	04-05-035	388-148-0235	AMD-P	04-03-116	388-148-0422	NEW-P	04-03-116
388-148-0058	NEW	04-08-073	388-148-0235	AMD	04-08-073	388-148-0422	NEW	04-08-073
388-148-0060	AMD-P	04-03-116	388-148-0240	AMD-P	04-03-116	388-148-0425	AMD-P	04-03-116
388-148-0060	AMD-E	04-05-035	388-148-0240	AMD	04-08-073	388-148-0425	AMD	04-08-073
388-148-0060	AMD	04-08-073	388-148-0245	AMD-P	04-03-116	388-148-0427	NEW-E	04-05-035
388-148-0065	AMD-P	04-03-116	388-148-0245	AMD	04-08-073	388-148-0430	AMD-P	04-03-116
388-148-0065	AMD-E	04-05-035	388-148-0250	AMD-P	04-03-116	388-148-0430	AMD	04-08-073
388-148-0065	AMD	04-08-073	388-148-0250	AMD	04-08-073	388-148-0445	AMD-P	04-03-116
388-148-0065	AMD	04-08-073	388-148-0255	AMD-P	04-03-116	388-148-0445	AMD	04-08-073
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388-148-0070	AMD	04-08-073	388-148-0260	AMD-P	04-03-116	388-148-0450	REP	04-08-073
388-148-0075	AMD-P	04-03-116	388-148-0260	AMD-E	04-05-035	388-148-0455	AMD-P	04-03-116
388-148-0075	AMD	04-08-073	388-148-0260	AMD	04-08-073	388-148-0455	AMD	04-08-073
388-148-0085	AMD-P	04-03-116	388-148-0265	AMD-P	04-03-116	388-148-0460	AMD-P	04-03-116
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388-148-0090	AMD-P	04-03-116	388-148-0270	AMD-P	04-03-116	388-148-0460	AMD	04-08-073
388-148-0090	AMD	04-08-073	388-148-0270	AMD-E	04-05-035	388-148-0462	NEW-E	04-05-035
388-148-0095	AMD-P	04-03-116	388-148-0270	AMD	04-08-073	388-148-0470	AMD-P	04-03-116
388-148-0095	AMD-E	04-05-035	388-148-0275	AMD-P	04-03-116	388-148-0470	AMD	04-08-073
388-148-0095	AMD	04-08-073	388-148-0275	AMD	04-08-073	388-148-0480	AMD-P	04-03-116
388-148-0098	NEW-P	04-03-116	388-148-0285	REP-P	04-03-116	388-148-0480	AMD	04-08-073
388-148-0098	NEW	04-08-073	388-148-0285	REP	04-08-073	388-148-0485	AMD-P	04-03-116
388-148-0100	AMD-P	04-03-116	388-148-0300	AMD-P	04-03-116	388-148-0485	AMD	04-08-073
388-148-0100	AMD	04-08-073	388-148-0300	AMD	04-08-073	388-148-0487	NEW-P	04-03-116
388-148-0110	AMD-P	04-03-116	388-148-0305	AMD-P	04-03-116	388-148-0487	NEW	04-08-073
388-148-0110	AMD	04-08-073	388-148-0305	AMD	04-08-073	388-148-0488	NEW-P	04-03-116
388-148-0120	AMD-P	04-03-116	388-148-0315	AMD-P	04-03-116	388-148-0488	NEW	04-08-073
388-148-0120	AMD-E	04-05-035	388-148-0315	AMD	04-08-073	388-148-0490	AMD-P	04-03-116
388-148-0120	AMD	04-08-073	388-148-0320	AMD-P	04-03-116	388-148-0490	AMD	04-08-073
388-148-0125	AMD-P	04-03-116	388-148-0320	AMD	04-08-073	388-148-0500	REP-P	04-03-116
388-148-0125	AMD-E	04-05-035	388-148-0325	AMD-P	04-03-116	388-148-0500	REP	04-08-073
388-148-0125	AMD	04-08-073	388-148-0325	AMD	04-08-073	388-148-0520	AMD-P	04-03-116
388-148-0127	NEW-P	04-03-116	388-148-0335	AMD-P	04-03-116	388-148-0520	AMD-E	04-05-035
388-148-0127	NEW	04-08-073	388-148-0335	AMD-E	04-05-035	388-148-0520	AMD	04-08-073
388-148-0130	AMD-P	04-03-116	388-148-0335	AMD	04-08-073	388-148-0525	AMD-P	04-03-116
388-148-0130	AMD	04-08-073	388-148-0340	AMD-P	04-03-116	388-148-0525	AMD	04-08-073
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388-148-0135	AMD	04-08-073	388-148-0345	AMD-P	04-03-116	388-148-0535	AMD	04-08-073
388-148-0140	AMD-P	04-03-116	388-148-0345	AMD-E	04-05-035	388-148-0540	AMD-P	04-03-116
388-148-0140	AMD-E	04-05-035	388-148-0345	AMD	04-08-073	388-148-0540	AMD	04-08-073
388-148-0140	AMD	04-08-073	388-148-0350	AMD-P	04-03-116	388-148-0541	NEW-P	04-03-116
388-148-0150	AMD-P	04-03-116	388-148-0350	AMD-E	04-05-035	388-148-0541	NEW	04-08-073
388-148-0150	AMD	04-08-073	388-148-0350	AMD	04-08-073	388-148-0542	NEW-P	04-03-116
388-148-0165	AMD-P	04-03-116	388-148-0352	NEW-P	04-03-116	388-148-0542	NEW-E	04-05-035
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388-148-0560	AMD-P	04-03-116	388-148-0735	REP	04-08-073	388-148-1060	AMD-P	04-03-116
388-148-0560	AMD-E	04-05-035	388-148-0750	AMD-P	04-03-116	388-148-1060	AMD-E	04-05-035
388-148-0560	AMD	04-08-073	388-148-0750	AMD	04-08-073	388-148-1060	AMD	04-08-073
388-148-0585	AMD-P	04-03-116	388-148-0765	AMD-P	04-03-116	388-148-1065	REP-P	04-03-116
388-148-0585	AMD-E	04-05-035	388-148-0765	AMD	04-08-073	388-148-1065	REP	04-08-073
388-148-0585	AMD	04-08-073	388-148-0775	AMD-P	04-03-116	388-148-1066	NEW-P	04-03-116
388-148-0600	AMD-P	04-03-116	388-148-0775	AMD	04-08-073	388-148-1066	NEW	04-08-073
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388-148-0605	AMD-P	04-03-116	388-148-0785	AMD-E	04-05-035	388-148-1070	AMD-E	04-05-035
388-148-0605	AMD	04-08-073	388-148-0785	AMD	04-08-073	388-148-1070	AMD	04-08-073
388-148-0610	AMD-P	04-03-116	388-148-0795	AMD-P	04-03-116	388-148-1076	NEW-P	04-03-116
388-148-0610	AMD	04-08-073	388-148-0795	AMD	04-08-073	388-148-1076	NEW-E	04-05-035
388-148-0615	REP-P	04-03-116	388-148-0800	AMD-P	04-03-116	388-148-1076	NEW	04-08-073
388-148-0615	REP	04-08-073	388-148-0800	AMD	04-08-073	388-148-1077	NEW-P	04-03-116
388-148-0620	AMD-P	04-03-116	388-148-0805	AMD-P	04-03-116	388-148-1077	NEW-E	04-05-035
388-148-0620	AMD	04-08-073	388-148-0805	AMD	04-08-073	388-148-1077	NEW	04-08-073
388-148-0625	AMD-P	04-03-116	388-148-0810	AMD-P	04-03-116	388-148-1078	NEW-P	04-03-116
388-148-0625	AMD	04-08-073	388-148-0810	AMD	04-08-073	388-148-1078	NEW-E	04-05-035
388-148-0630	REP-P	04-03-116	388-148-0830	AMD-P	04-03-116	388-148-1078	NEW	04-08-073
388-148-0630	AMD-E	04-05-035	388-148-0830	AMD	04-08-073	388-148-1079	NEW-P	04-03-116
388-148-0630	REP	04-08-073	388-148-0860	AMD-P	04-03-116	388-148-1079	NEW-E	04-05-035
388-148-0635	REP-P	04-03-116	388-148-0860	AMD	04-08-073	388-148-1079	NEW	04-08-073
388-148-0635	REP	04-08-073	388-148-0870	AMD-P	04-03-116	388-148-1085	AMD-P	04-03-116
388-148-0640	AMD-P	04-03-116	388-148-0870	AMD	04-08-073	388-148-1085	AMD	04-08-073
388-148-0640	AMD	04-08-073	388-148-0875	AMD-P	04-03-116	388-148-1115	AMD-P	04-03-116
388-148-0645	AMD-P	04-03-116	388-148-0875	AMD	04-08-073	388-148-1115	AMD-E	04-05-035
388-148-0645	AMD	04-08-073	388-148-0880	AMD-P	04-03-116	388-148-1115	AMD	04-08-073
388-148-0650	REP-P	04-03-116	388-148-0880	AMD-E	04-05-035	388-148-1120	AMD-P	04-03-116
388-148-0650	REP	04-08-073	388-148-0880	AMD	04-08-073	388-148-1120	AMD-E	04-05-035
388-148-0655	AMD-P	04-03-116	388-148-0885	AMD-P	04-03-116	388-148-1120	AMD	04-08-073
388-148-0655	AMD	04-08-073	388-148-0885	AMD	04-08-073	388-148-1205	NEW-P	04-03-116
388-148-0660	AMD-P	04-03-116	388-148-0890	AMD-P	04-03-116	388-148-1205	NEW	04-08-073
388-148-0660	AMD	04-08-073	388-148-0890	AMD	04-08-073	388-148-1210	NEW-P	04-03-116
388-148-0670	AMD-P	04-03-116	388-148-0892	NEW-P	04-03-116	388-148-1210	NEW	04-08-073
388-148-0670	AMD	04-08-073	388-148-0892	NEW-E	04-05-035	388-148-1215	NEW-P	04-03-116
388-148-0685	AMD-P	04-03-116	388-148-0892	NEW	04-08-073	388-148-1215	NEW	04-08-073
388-148-0685	AMD	04-08-073	388-148-0895	AMD-P	04-03-116	388-148-1220	NEW-P	04-03-116
388-148-0695	AMD-P	04-03-116	388-148-0895	AMD	04-08-073	388-148-1220	NEW	04-08-073
388-148-0695	AMD	04-08-073	388-148-0900	AMD-P	04-03-116	388-148-1225	NEW-P	04-03-116
388-148-0700	AMD-P	04-03-116	388-148-0900	AMD	04-08-073	388-148-1225	NEW	04-08-073
388-148-0700	AMD-E	04-05-035	388-148-0905	AMD-P	04-03-116	388-148-1230	NEW-P	04-03-116
388-148-0700	AMD	04-08-073	388-148-0905	AMD	04-08-073	388-148-1230	NEW	04-08-073
388-148-0705	AMD-P	04-03-116	388-148-0915	AMD-P	04-03-116	388-148-1235	NEW-P	04-03-116
388-148-0705	AMD	04-08-073	388-148-0915	AMD-E	04-05-035	388-148-1235	NEW	04-08-073
388-148-0710	AMD-P	04-03-116	388-148-0915	AMD	04-08-073	388-148-1240	NEW-P	04-03-116
388-148-0710	AMD	04-08-073	388-148-0935	REP-P	04-03-116	388-148-1240	NEW	04-08-073
388-148-0715	AMD-P	04-03-116	388-148-0935	REP	04-08-073	388-148-1245	NEW-P	04-03-116
388-148-0715	AMD	04-08-073	388-148-0995	AMD-P	04-03-116	388-148-1245	NEW	04-08-073
388-148-0718	NEW-P	04-03-116	388-148-0995	AMD-E	04-05-035	388-148-1250	NEW-P	04-03-116
388-148-0718	NEW	04-08-073	388-148-0995	AMD	04-08-073	388-148-1250	NEW	04-08-073
388-148-0720	AMD-P	04-03-116	388-148-1020	REP-P	04-03-116	388-148-1255	NEW-P	04-03-116
388-148-0720	AMD-E	04-05-035	388-148-1020	REP	04-08-073	388-148-1255	NEW	04-08-073
388-148-0720	AMD	04-08-073	388-148-1025	AMD-P	04-03-116	388-148-1260	NEW-P	04-03-116
388-148-0722	NEW-P	04-03-116	388-148-1025	AMD	04-08-073	388-148-1260	NEW	04-08-073
388-148-0722	NEW-E	04-05-035	388-148-1030	AMD-P	04-03-116	388-148-1265	NEW-P	04-03-116
388-148-0722	NEW	04-08-073	388-148-1030	AMD	04-08-073	388-148-1265	NEW	04-08-073
388-148-0725	AMD-P	04-03-116	388-148-1035	AMD-P	04-03-116	388-148-1270	NEW-P	04-03-116
388-148-0725	AMD-E	04-05-035	388-148-1035	AMD	04-08-073	388-148-1270	NEW	04-08-073
388-148-0725	AMD	04-08-073	388-148-1045	AMD-P	04-03-116	388-148-1275	NEW-P	04-03-116
388-148-0730	AMD-P	04-03-116	388-148-1045	AMD	04-08-073	388-148-1275	NEW	04-08-073

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388-148-1280	NEW	04-08-073	388-155-610	REP-P	04-07-134	388-290-0060	AMD-P	04-02-047
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388-155-005	REP-P	04-07-134	388-155-630	REP-P	04-07-134	388-290-0060	AMD	04-08-134
388-155-010	REP-P	04-07-134	388-155-640	REP-P	04-07-134	388-290-0065	AMD-P	04-02-047
388-155-020	REP-P	04-07-134	388-155-650	REP-P	04-07-134	388-290-0065	AMD	04-08-021
388-155-040	REP-P	04-07-134	388-155-660	REP-P	04-07-134	388-290-0065	AMD	04-08-134
388-155-050	REP-P	04-07-134	388-155-670	REP-P	04-07-134	388-290-0070	AMD-P	04-02-047
388-155-060	REP-P	04-07-134	388-155-680	REP-P	04-07-134	388-290-0070	AMD	04-08-021
388-155-070	REP-P	04-07-134	388-155-991	REP-P	04-07-134	388-290-0070	AMD	04-08-134
388-155-080	REP-P	04-07-134	388-155-992	REP-P	04-07-134	388-290-0075	AMD-P	04-02-047
388-155-083	REP-P	04-07-134	388-155-993	REP-P	04-07-134	388-290-0075	AMD-E	04-05-079
388-155-085	REP-P	04-07-134	388-273-0025	AMD-E	04-03-097	388-290-0075	AMD	04-08-021
388-155-090	REP-P	04-07-134	388-273-0025	AMD-P	04-07-089	388-290-0075	AMD	04-08-134
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388-155-093	REP-P	04-07-134	388-273-0030	AMD-P	04-07-089	388-290-0080	REP	04-08-021
388-155-094	REP-P	04-07-134	388-273-0035	AMD-E	04-03-097	388-290-0080	REP	04-08-134
388-155-095	REP-P	04-07-134	388-273-0035	AMD-P	04-07-089	388-290-0082	NEW-P	04-02-047
388-155-096	REP-P	04-07-134	388-290-0001	AMD-P	04-02-047	388-290-0082	NEW	04-08-021
388-155-097	REP-P	04-07-134	388-290-0001	AMD	04-08-021	388-290-0082	NEW	04-08-134
388-155-098	REP-P	04-07-134	388-290-0001	AMD	04-08-134	388-290-0085	AMD-P	04-02-047
388-155-100	REP-P	04-07-134	388-290-0005	AMD-P	04-02-047	388-290-0085	AMD-E	04-05-079
388-155-110	REP-P	04-07-134	388-290-0005	AMD	04-08-021	388-290-0085	AMD	04-08-021
388-155-120	REP-P	04-07-134	388-290-0005	AMD	04-08-134	388-290-0085	AMD	04-08-134
388-155-130	REP-P	04-07-134	388-290-0010	AMD-P	04-02-047	388-290-0090	AMD-P	04-02-047
388-155-140	REP-P	04-07-134	388-290-0010	AMD	04-08-021	388-290-0090	AMD	04-08-021
388-155-150	REP-P	04-07-134	388-290-0010	AMD	04-08-134	388-290-0090	AMD	04-08-134
388-155-160	REP-P	04-07-134	388-290-0012	NEW-P	04-02-047	388-290-0095	AMD-P	04-02-047
388-155-165	REP-P	04-07-134	388-290-0012	NEW	04-08-021	388-290-0095	AMD	04-08-021
388-155-170	REP-P	04-07-134	388-290-0012	NEW	04-08-134	388-290-0095	AMD	04-08-134
388-155-180	REP-P	04-07-134	388-290-0015	AMD-P	04-02-047	388-290-0100	AMD-P	04-02-047
388-155-190	REP-P	04-07-134	388-290-0015	AMD	04-08-021	388-290-0100	AMD	04-08-021
388-155-200	REP-P	04-07-134	388-290-0015	AMD	04-08-134	388-290-0100	AMD	04-08-134
388-155-220	REP-P	04-07-134	388-290-0020	AMD-P	04-02-047	388-290-0105	AMD-P	04-02-047
388-155-230	REP-P	04-07-134	388-290-0020	AMD	04-08-021	388-290-0105	AMD	04-08-021
388-155-240	REP-P	04-07-134	388-290-0020	AMD	04-08-134	388-290-0105	AMD	04-08-134
388-155-250	REP-P	04-07-134	388-290-0025	AMD-P	04-02-047	388-290-0107	NEW-P	04-02-047
388-155-270	REP-P	04-07-134	388-290-0025	AMD	04-08-021	388-290-0107	NEW	04-08-021
388-155-280	REP-P	04-07-134	388-290-0025	AMD	04-08-134	388-290-0107	NEW	04-08-134
388-155-290	REP-P	04-07-134	388-290-0030	AMD-P	04-02-047	388-290-0108	NEW-P	04-02-047
388-155-295	REP-P	04-07-134	388-290-0030	AMD	04-08-021	388-290-0108	NEW	04-08-021
388-155-310	REP-P	04-07-134	388-290-0030	AMD	04-08-134	388-290-0108	NEW	04-08-134
388-155-320	REP-P	04-07-134	388-290-0031	NEW-P	04-02-047	388-290-0110	AMD-P	04-02-047
388-155-330	REP-P	04-07-134	388-290-0031	NEW	04-08-021	388-290-0110	AMD	04-08-021
388-155-340	REP-P	04-07-134	388-290-0031	NEW	04-08-134	388-290-0110	AMD	04-08-134
388-155-350	REP-P	04-07-134	388-290-0032	NEW-P	04-02-047	388-290-0120	AMD-P	04-02-047
388-155-360	REP-P	04-07-134	388-290-0032	NEW	04-08-021	388-290-0120	AMD	04-08-021
388-155-370	REP-P	04-07-134	388-290-0032	NEW	04-08-134	388-290-0120	AMD	04-08-134
388-155-380	REP-P	04-07-134	388-290-0035	AMD-P	04-02-047	388-290-0125	AMD-P	04-02-047
388-155-390	REP-P	04-07-134	388-290-0035	AMD	04-08-021	388-290-0125	AMD	04-08-021
388-155-400	REP-P	04-07-134	388-290-0035	AMD	04-08-134	388-290-0125	AMD	04-08-134
388-155-410	REP-P	04-07-134	388-290-0040	AMD-P	04-02-047	388-290-0130	AMD-P	04-02-047
388-155-420	REP-P	04-07-134	388-290-0040	AMD	04-08-021	388-290-0130	AMD-E	04-04-030
388-155-430	REP-P	04-07-134	388-290-0040	AMD	04-08-134	388-290-0130	AMD	04-08-021
388-155-440	REP-P	04-07-134	388-290-0045	AMD-P	04-02-047	388-290-0130	AMD	04-08-134
388-155-450	REP-P	04-07-134	388-290-0045	AMD	04-08-021	388-290-0135	AMD-P	04-02-047
388-155-460	REP-P	04-07-134	388-290-0045	AMD	04-08-134	388-290-0135	AMD	04-08-021
388-155-470	REP-P	04-07-134	388-290-0050	AMD-P	04-02-047	388-290-0135	AMD	04-08-134
388-155-480	REP-P	04-07-134	388-290-0050	AMD	04-08-021	388-290-0140	AMD-P	04-02-047
388-155-490	REP-P	04-07-134	388-290-0050	AMD	04-08-134	388-290-0140	AMD	04-08-021
388-155-500	REP-P	04-07-134	388-290-0055	AMD-P	04-02-047	388-290-0140	AMD	04-08-134
388-155-600	REP-P	04-07-134	388-290-0055	AMD	04-08-021	388-290-0143	AMD-P	04-02-047

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388-290-0143	AMD	04-08-134	388-290-0260	AMD	04-08-134	388-296-0180	NEW-P	04-07-134
388-290-0145	AMD-P	04-02-047	388-290-0265	AMD-P	04-02-047	388-296-0190	NEW-P	04-07-134
388-290-0145	AMD	04-08-021	388-290-0265	AMD	04-08-021	388-296-0200	NEW-P	04-07-134
388-290-0145	AMD	04-08-134	388-290-0265	AMD	04-08-134	388-296-0210	NEW-P	04-07-134
388-290-0150	AMD-P	04-02-047	388-290-0270	AMD-P	04-02-047	388-296-0220	NEW-P	04-07-134
388-290-0150	AMD	04-08-021	388-290-0270	AMD	04-08-021	388-296-0230	NEW-P	04-07-134
388-290-0150	AMD	04-08-134	388-290-0270	AMD	04-08-134	388-296-0240	NEW-P	04-07-134
388-290-0155	AMD-P	04-02-047	388-290-0271	NEW-P	04-02-047	388-296-0250	NEW-P	04-07-134
388-290-0155	AMD	04-08-021	388-290-0271	NEW	04-08-021	388-296-0260	NEW-P	04-07-134
388-290-0155	AMD	04-08-134	388-290-0271	NEW	04-08-134	388-296-0270	NEW-P	04-07-134
388-290-0160	AMD-P	04-02-047	388-290-0273	NEW-P	04-02-047	388-296-0280	NEW-P	04-07-134
388-290-0160	AMD	04-08-021	388-290-0273	NEW	04-08-021	388-296-0290	NEW-P	04-07-134
388-290-0160	AMD	04-08-134	388-290-0273	NEW	04-08-134	388-296-0300	NEW-P	04-07-134
388-290-0165	AMD-P	04-02-047	388-295-0020	AMD-P	04-05-084	388-296-0310	NEW-P	04-07-134
388-290-0165	AMD	04-08-021	388-295-0020	AMD	04-09-093	388-296-0320	NEW-P	04-07-134
388-290-0165	AMD	04-08-134	388-295-0060	AMD-P	04-05-084	388-296-0330	NEW-P	04-07-134
388-290-0167	AMD-P	04-02-047	388-295-0060	AMD	04-09-093	388-296-0340	NEW-P	04-07-134
388-290-0167	AMD	04-08-021	388-295-0070	AMD-P	04-05-084	388-296-0350	NEW-P	04-07-134
388-290-0167	AMD	04-08-134	388-295-0070	AMD	04-09-093	388-296-0360	NEW-P	04-07-134
388-290-0180	AMD-P	04-02-047	388-295-0090	AMD-P	04-05-084	388-296-0370	NEW-P	04-07-134
388-290-0180	AMD	04-08-021	388-295-0090	AMD	04-09-093	388-296-0380	NEW-P	04-07-134
388-290-0180	AMD	04-08-134	388-295-0100	AMD-P	04-05-084	388-296-0390	NEW-P	04-07-134
388-290-0190	AMD-P	04-02-047	388-295-0100	AMD	04-09-093	388-296-0400	NEW-P	04-07-134
388-290-0190	AMD-E	04-05-079	388-295-0110	AMD-P	04-05-084	388-296-0410	NEW-P	04-07-134
388-290-0190	AMD	04-08-021	388-295-0110	AMD	04-09-093	388-296-0420	NEW-P	04-07-134
388-290-0190	AMD	04-08-134	388-295-1070	AMD-P	04-05-084	388-296-0430	NEW-P	04-07-134
388-290-0200	AMD-P	04-02-047	388-295-1070	AMD	04-09-093	388-296-0440	NEW-P	04-07-134
388-290-0200	AMD	04-08-021	388-295-1110	AMD-P	04-05-084	388-296-0450	NEW-P	04-07-134
388-290-0200	AMD	04-08-134	388-295-1110	AMD	04-09-093	388-296-0460	NEW-P	04-07-134
388-290-0205	AMD-P	04-02-047	388-295-2010	AMD-P	04-05-084	388-296-0470	NEW-P	04-07-134
388-290-0205	AMD	04-08-021	388-295-2010	AMD	04-09-093	388-296-0480	NEW-P	04-07-134
388-290-0205	AMD	04-08-134	388-295-2090	AMD-P	04-05-084	388-296-0490	NEW-P	04-07-134
388-290-0210	REP-P	04-02-047	388-295-2090	AMD	04-09-093	388-296-0500	NEW-P	04-07-134
388-290-0210	REP-E	04-05-079	388-295-2100	AMD-P	04-05-084	388-296-0510	NEW-P	04-07-134
388-290-0210	REP	04-08-021	388-295-2100	AMD	04-09-093	388-296-0520	NEW-P	04-07-134
388-290-0210	REP	04-08-134	388-295-3010	AMD-P	04-05-084	388-296-0530	NEW-P	04-07-134
388-290-0220	AMD-P	04-02-047	388-295-3010	AMD	04-09-093	388-296-0540	NEW-P	04-07-134
388-290-0220	AMD	04-08-021	388-295-4010	AMD-P	04-05-084	388-296-0550	NEW-P	04-07-134
388-290-0220	AMD	04-08-134	388-295-4010	AMD	04-09-093	388-296-0560	NEW-P	04-07-134
388-290-0225	AMD-P	04-02-047	388-295-4100	AMD-P	04-05-084	388-296-0570	NEW-P	04-07-134
388-290-0225	AMD	04-08-021	388-295-4100	AMD	04-09-093	388-296-0580	NEW-P	04-07-134
388-290-0225	AMD	04-08-134	388-295-5030	AMD-P	04-05-084	388-296-0590	NEW-P	04-07-134
388-290-0230	AMD-P	04-02-047	388-295-5030	AMD	04-09-093	388-296-0600	NEW-P	04-07-134
388-290-0230	AMD	04-08-021	388-295-5150	AMD-P	04-05-084	388-296-0610	NEW-P	04-07-134
388-290-0230	AMD	04-08-134	388-295-5150	AMD	04-09-093	388-296-0620	NEW-P	04-07-134
388-290-0235	AMD-P	04-02-047	388-295-7010	AMD-P	04-05-084	388-296-0630	NEW-P	04-07-134
388-290-0235	AMD	04-08-021	388-295-7010	AMD	04-09-093	388-296-0640	NEW-P	04-07-134
388-290-0235	AMD	04-08-134	388-295-7040	AMD-P	04-05-084	388-296-0650	NEW-P	04-07-134
388-290-0245	AMD-P	04-02-047	388-295-7040	AMD	04-09-093	388-296-0700	NEW-P	04-07-134
388-290-0245	AMD	04-08-021	388-295-7050	AMD-P	04-05-084	388-296-0710	NEW-P	04-07-134
388-290-0245	AMD	04-08-134	388-295-7050	AMD	04-09-093	388-296-0720	NEW-P	04-07-134
388-290-0247	NEW-P	04-02-047	388-296	NEW-C	04-10-095	388-296-0730	NEW-P	04-07-134
388-290-0247	NEW	04-08-021	388-296-0010	NEW-P	04-07-134	388-296-0740	NEW-P	04-07-134
388-290-0247	NEW	04-08-134	388-296-0020	NEW-P	04-07-134	388-296-0750	NEW-P	04-07-134
388-290-0250	AMD-P	04-02-047	388-296-0110	NEW-P	04-07-134	388-296-0760	NEW-P	04-07-134
388-290-0250	AMD	04-08-021	388-296-0120	NEW-P	04-07-134	388-296-0770	NEW-P	04-07-134
388-290-0250	AMD	04-08-134	388-296-0125	NEW-P	04-07-134	388-296-0780	NEW-P	04-07-134
388-290-0255	AMD-P	04-02-047	388-296-0130	NEW-P	04-07-134	388-296-0790	NEW-P	04-07-134
388-290-0255	AMD	04-08-021	388-296-0140	NEW-P	04-07-134	388-296-0800	NEW-P	04-07-134
388-290-0255	AMD	04-08-134	388-296-0150	NEW-P	04-07-134	388-296-0810	NEW-P	04-07-134
388-290-0260	AMD-P	04-02-047	388-296-0160	NEW-P	04-07-134	388-296-0820	NEW-P	04-07-134

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388-296-0840	NEW-P	04-07-134	388-310-1500	AMD	04-05-010	388-442-0010	PREP	04-10-091
388-296-0850	NEW-P	04-07-134	388-310-1600	AMD-P	04-03-095	388-444-0055	AMD-C	04-02-058
388-296-0860	NEW-P	04-07-134	388-310-1600	AMD	04-07-025	388-444-0055	AMD	04-05-010
388-296-0870	NEW-P	04-07-134	388-310-1650	AMD-P	04-03-095	388-446-0005	AMD-P	04-03-094
388-296-0880	NEW-P	04-07-134	388-310-1650	AMD	04-07-025	388-448-0001	AMD-P	04-02-048
388-296-0890	NEW-P	04-07-134	388-310-2000	AMD-C	04-02-058	388-448-0001	AMD	04-07-140
388-296-0900	NEW-P	04-07-134	388-310-2000	AMD	04-05-010	388-448-0010	AMD-P	04-02-048
388-296-0910	NEW-P	04-07-134	388-400-0005	AMD-P	04-10-099	388-448-0010	AMD	04-07-140
388-296-0920	NEW-P	04-07-134	388-400-0010	AMD-P	04-10-099	388-448-0020	AMD-P	04-02-048
388-296-0930	NEW-P	04-07-134	388-400-0025	AMD-P	04-10-099	388-448-0020	AMD	04-07-140
388-296-0940	NEW-P	04-07-134	388-400-0040	AMD-P	04-10-096	388-448-0030	AMD-P	04-02-048
388-296-0950	NEW-P	04-07-134	388-400-0040	AMD-P	04-10-099	388-448-0030	AMD	04-07-140
388-296-0960	NEW-P	04-07-134	388-408-0015	PREP	04-07-164	388-448-0120	AMD-P	04-02-048
388-296-0970	NEW-P	04-07-134	388-408-0034	AMD-P	04-02-050	388-448-0120	AMD	04-07-140
388-296-0980	NEW-P	04-07-134	388-408-0034	AMD	04-06-025	388-448-0160	AMD-P	04-02-048
388-296-0990	NEW-P	04-07-134	388-408-0035	AMD-P	04-02-050	388-448-0160	AMD-E	04-02-051
388-296-1000	NEW-P	04-07-134	388-408-0035	AMD	04-06-025	388-448-0160	AMD-E	04-03-010E
388-296-1010	NEW-P	04-07-134	388-408-0035	AMD-P	04-10-096	388-448-0160	AMD	04-07-140
388-296-1020	NEW-P	04-07-134	388-410-0001	AMD-C	04-02-058	388-448-0170	REP-P	04-02-048
388-296-1030	NEW-P	04-07-134	388-410-0001	AMD	04-05-010	388-448-0170	REP-E	04-02-051
388-296-1040	NEW-P	04-07-134	388-414-0001	AMD-P	04-04-076	388-448-0170	REP-E	04-03-010E
388-296-1050	NEW-P	04-07-134	388-414-0001	AMD	04-07-139	388-448-0170	REP	04-07-140
388-296-1060	NEW-P	04-07-134	388-414-0001	PREP	04-08-036	388-448-0180	AMD-P	04-02-048
388-296-1070	NEW-P	04-07-134	388-414-0001	AMD-E	04-10-061	388-448-0180	AMD	04-07-140
388-296-1080	NEW-P	04-07-134	388-414-0001	AMD-P	04-10-098	388-448-0190	REP-P	04-02-048
388-296-1090	NEW-P	04-07-134	388-416-0015	AMD	04-03-019	388-448-0190	REP-E	04-02-051
388-296-1100	NEW-P	04-07-134	388-416-0030	REP-P	04-04-074	388-448-0190	REP-E	04-03-010E
388-296-1110	NEW-P	04-07-134	388-416-0030	REP	04-07-141	388-448-0190	REP	04-07-140
388-296-1120	NEW-P	04-07-134	388-418-0005	AMD-W	04-02-052	388-448-0200	AMD-P	04-02-048
388-296-1130	NEW-P	04-07-134	388-418-0005	AMD-P	04-02-072	388-448-0200	AMD	04-07-140
388-296-1140	NEW-P	04-07-134	388-418-0005	AMD-E	04-02-073	388-448-0210	AMD-P	04-02-048
388-296-1150	NEW-P	04-07-134	388-418-0005	AMD	04-06-026	388-448-0210	AMD	04-07-140
388-296-1160	NEW-P	04-07-134	388-418-0025	AMD	04-03-019	388-450-0005	AMD-C	04-02-058
388-296-1170	NEW-P	04-07-134	388-424-0001	NEW-P	04-10-100	388-450-0005	AMD-W	04-04-034
388-296-1180	NEW-P	04-07-134	388-424-0005	REP-P	04-10-100	388-450-0005	PREP	04-10-094
388-296-1190	NEW-P	04-07-134	388-424-0006	NEW-P	04-10-100	388-450-0020	REP	04-09-005
388-296-1200	NEW-P	04-07-134	388-424-0007	NEW-P	04-10-100	388-450-0100	PREP	04-05-034
388-296-1210	NEW-P	04-07-134	388-424-0008	NEW-P	04-10-100	388-450-0100	AMD-P	04-10-099
388-296-1220	NEW-P	04-07-134	388-424-0009	NEW-P	04-10-100	388-450-0106	AMD-P	04-10-099
388-296-1230	NEW-P	04-07-134	388-424-0010	AMD-P	04-10-100	388-450-0116	AMD-P	04-10-099
388-296-1240	NEW-P	04-07-134	388-424-0015	AMD-P	04-10-100	388-450-0140	AMD-P	04-10-096
388-296-1250	NEW-P	04-07-134	388-424-0016	NEW-P	04-10-100	388-450-0150	REP	04-09-005
388-296-1260	NEW-P	04-07-134	388-424-0020	AMD-P	04-10-100	388-450-0156	AMD-P	04-10-099
388-296-1270	NEW-P	04-07-134	388-424-0025	AMD-P	04-10-100	388-450-0165	AMD-C	04-02-058
388-296-1280	NEW-P	04-07-134	388-426	PREP-W	04-03-052	388-450-0165	AMD	04-05-010
388-296-1290	NEW-P	04-07-134	388-426-0005	AMD	04-03-050	388-450-0170	AMD	04-03-051
388-296-1300	NEW-P	04-07-134	388-434-0005	AMD	04-03-019	388-450-0190	AMD-P	04-04-075
388-296-1320	NEW-P	04-07-134	388-434-0005	PREP	04-07-086	388-450-0190	AMD	04-07-138
388-296-1330	NEW-P	04-07-134	388-436-0002	AMD-P	04-02-049	388-450-0215	AMD	04-06-052
388-296-1340	NEW-P	04-07-134	388-436-0002	AMD-E	04-03-098	388-450-0500	PREP	04-07-085
388-296-1350	NEW-P	04-07-134	388-436-0002	AMD	04-07-023	388-452-0005	AMD-P	04-06-040
388-296-1360	NEW-P	04-07-134	388-436-0015	AMD-C	04-02-057	388-452-0005	AMD	04-10-102
388-296-1370	NEW-P	04-07-134	388-436-0015	AMD	04-05-013	388-454-0010	AMD-C	04-03-010F
388-296-1380	NEW-P	04-07-134	388-436-0040	AMD-C	04-02-058	388-454-0010	AMD	04-05-012
388-296-1390	NEW-P	04-07-134	388-436-0040	AMD	04-05-010	388-462-0020	AMD-P	04-10-099
388-296-1400	NEW-P	04-07-134	388-438-0100	REP-P	04-04-074	388-466-0130	AMD-C	04-02-058
388-296-1410	NEW-P	04-07-134	388-438-0100	REP-E	04-06-023	388-466-0130	AMD	04-05-010
388-296-1420	NEW-P	04-07-134	388-438-0100	REP	04-07-141	388-470-0040	REP	04-09-003
388-296-1430	NEW-P	04-07-134	388-438-0110	AMD-P	04-10-099	388-472-0010	AMD-P	04-03-093
388-296-1440	NEW-P	04-07-134	388-440	PREP-W	04-03-052	388-475-0050	NEW	04-09-002
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388-475-0150	NEW	04-09-002	388-515-1550	NEW-E	04-10-062	388-533-0390	NEW-P	04-05-083
388-475-0200	NEW	04-09-002	388-515-1550	NEW-P	04-10-101	388-533-701	NEW-P	04-07-136
388-475-0250	NEW	04-09-002	388-517-0300	PREP	04-10-090	388-533-710	NEW-P	04-07-136
388-475-0300	NEW	04-09-002	388-526	PREP	04-04-096	388-533-720	NEW-P	04-07-136
388-475-0350	NEW	04-09-003	388-527-2700	AMD-P	04-05-082	388-533-730	NEW-P	04-07-136
388-475-0400	NEW	04-09-003	388-527-2700	AMD	04-10-060	388-535	PREP	04-07-115
388-475-0450	NEW	04-09-003	388-527-2730	AMD-P	04-05-082	388-535-1050	AMD-X	04-07-142
388-475-0500	NEW	04-09-003	388-527-2730	AMD	04-10-060	388-535-1065	AMD-X	04-07-142
388-475-0550	NEW	04-09-004	388-527-2733	AMD-P	04-05-082	388-535A-0050	AMD-E	04-04-073
388-475-0600	NEW	04-09-004	388-527-2733	AMD	04-10-060	388-535A-0060	AMD-E	04-04-073
388-475-0650	NEW	04-09-004	388-527-2740	AMD-P	04-05-082	388-538-063	PREP	04-04-095
388-475-0700	NEW	04-09-004	388-527-2740	AMD	04-10-060	388-538-063	NEW-P	04-09-090
388-475-0750	NEW	04-09-004	388-527-2742	AMD-P	04-05-082	388-538-112	AMD-P	04-07-135
388-475-0800	NEW	04-09-005	388-527-2742	AMD	04-10-060	388-542	PREP	04-10-093
388-475-0820	NEW	04-09-005	388-527-2750	AMD-P	04-05-082	388-542-0100	AMD	04-08-018
388-475-0840	NEW	04-09-005	388-527-2750	AMD	04-10-060	388-542-0125	AMD	04-08-018
388-475-0860	NEW	04-09-005	388-527-2754	AMD-P	04-05-082	388-542-0500	AMD	04-08-018
388-475-0880	NEW	04-09-005	388-527-2754	AMD	04-10-060	388-544	PREP-W	04-04-031
388-475-0900	NEW	04-09-005	388-527-2790	AMD-P	04-05-082	388-544	PREP	04-07-087
388-475-1050	AMD-X	04-09-091	388-527-2790	AMD	04-10-060	388-545	PREP-W	04-04-031
388-475-1250	AMD-X	04-09-091	388-527-2792	NEW-P	04-05-082	388-546	PREP	04-02-060
388-478-0005	AMD-C	04-02-058	388-527-2792	NEW	04-10-060	388-547	PREP-W	04-04-031
388-478-0005	AMD	04-05-010	388-527-2795	AMD-P	04-05-082	388-550	PREP	04-03-092
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388-478-0055	AMD	04-07-024	388-529	PREP	04-06-054	388-550-2900	PREP	04-03-091
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388-478-0075	PREP	04-07-165	388-530-1125	PREP	04-09-035	388-550-3100	AMD-P	04-08-123
388-478-0075	AMD-E	04-09-001	388-530-1200	PREP	04-09-035	388-550-4900	PREP	04-03-090
388-478-0085	AMD-E	04-07-167	388-530-1250	PREP	04-09-035	388-550-4900	AMD-P	04-08-124
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388-484-0005	AMD	04-05-010	388-530-1850	PREP	04-03-089	388-550-5100	PREP	04-03-090
388-492	PREP-W	04-04-094	388-530-1850	AMD-P	04-07-137	388-550-5100	AMD-P	04-08-124
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388-492-0030	AMD-E	04-05-003	388-532-110	NEW	04-05-011	388-550-5220	NEW-P	04-08-124
388-492-0040	AMD-E	04-05-003	388-532-120	NEW	04-05-011	388-551	PREP	04-02-061
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388-492-0060	AMD-E	04-05-003	388-532-140	NEW	04-05-011	388-551	PREP	04-07-114
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388-492-0080	AMD-E	04-05-003	388-532-510	NEW	04-05-011	388-553-200	NEW-C	04-02-055
388-492-0090	AMD-E	04-05-003	388-532-520	NEW	04-05-011	388-553-300	NEW-C	04-02-055
388-492-0100	AMD-E	04-05-003	388-532-530	NEW	04-05-011	388-553-400	NEW-C	04-02-055
388-492-0110	AMD-E	04-05-003	388-532-540	NEW	04-05-011	388-553-500	NEW-C	04-02-055
388-492-0120	AMD-E	04-05-003	388-532-550	NEW	04-05-011	388-720-0020	AMD-C	04-02-059
388-492-0130	AMD-E	04-05-003	388-532-720	AMD-P	04-10-099	388-720-0020	AMD	04-05-080
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388-505-0110	AMD-P	04-09-090	388-533-0330	NEW-P	04-05-083	388-820-060	AMD	04-04-043
388-505-0210	AMD-P	04-10-099	388-533-0340	NEW-P	04-05-083	388-820-070	AMD	04-04-043
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388-513-1350	AMD-C	04-02-056	388-533-0370	NEW-P	04-05-083	388-820-120	AMD	04-04-043
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388-513-1380	AMD	04-04-072	388-533-0385	NEW-P	04-05-083	388-820-290	AMD	04-04-043
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388-820-400	AMD	04-04-043	388-835-0135	REP-E	04-10-016	388-845-1110	NEW-E	04-08-020
388-820-405	NEW	04-04-043	388-835-0140	AMD-E	04-10-016	388-845-1200	NEW-E	04-08-020
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388-820-550	AMD	04-04-043	388-837-9015	NEW-E	04-10-016	388-845-1210	NEW-E	04-08-020
388-820-555	NEW	04-04-043	388-837-9020	NEW-E	04-10-016	388-845-1300	NEW-E	04-08-020
388-820-560	AMD	04-04-043	388-837-9030	NEW-E	04-10-016	388-845-1305	NEW-E	04-08-020
388-820-600	AMD	04-04-043	388-837-9040	NEW-E	04-10-016	388-845-1310	NEW-E	04-08-020
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388-825-170	REP-E	04-08-020	388-845-0085	NEW-E	04-08-020	388-845-1800	NEW-E	04-08-020
388-825-180	REP-E	04-08-020	388-845-0090	NEW-E	04-08-020	388-845-1805	NEW-E	04-08-020
388-825-190	REP-E	04-08-020	388-845-0095	NEW-E	04-08-020	388-845-1810	NEW-E	04-08-020
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388-825-262	REP-E	04-08-020	388-845-0105	NEW-E	04-08-020	388-845-1905	NEW-E	04-08-020
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388-825-270	REP-E	04-08-020	388-845-0200	NEW-E	04-08-020	388-845-2010	NEW-E	04-08-020
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388-825-284	REP-E	04-08-020	388-845-0305	NEW-E	04-08-020	388-845-2210	NEW-E	04-08-020
388-825-300	NEW-E	04-08-020	388-845-0310	NEW-E	04-08-020	388-845-3000	NEW-E	04-08-020
388-825-305	NEW-E	04-08-020	388-845-0400	NEW-E	04-08-020	388-845-3005	NEW-E	04-08-020
388-825-310	NEW-E	04-08-020	388-845-0405	NEW-E	04-08-020	388-845-3010	NEW-E	04-08-020
388-825-315	NEW-E	04-08-020	388-845-0410	NEW-E	04-08-020	388-845-3015	NEW-E	04-08-020
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388-825-325	NEW-E	04-08-020	388-845-0505	NEW-E	04-08-020	388-845-3025	NEW-E	04-08-020
388-825-330	NEW-E	04-08-020	388-845-0510	NEW-E	04-08-020	388-845-3030	NEW-E	04-08-020
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388-825-345	NEW-E	04-08-020	388-845-0610	NEW-E	04-08-020	388-845-4005	NEW-E	04-08-020
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388-825-375	NEW-E	04-08-020	388-845-0805	NEW-E	04-08-020	388-865-0340	PREP	04-05-085
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388-825-385	NEW-E	04-08-020	388-845-0820	NEW-E	04-08-020	388-865-0500	AMD	04-07-014
388-825-390	NEW-E	04-08-020	388-845-0900	NEW-E	04-08-020	388-865-0501	REP	04-07-014
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388-865-0511	NEW	04-07-014	392-142-130	REP-P	04-05-054	434-12-130	REP	04-05-041
388-865-0515	REP	04-07-014	392-142-130	REP	04-08-116	434-12-140	REP	04-05-041
388-865-0516	NEW	04-07-014	392-142-135	REP-P	04-05-054	434-12-150	REP	04-05-041
388-865-0520	NEW	04-07-014	392-142-135	REP	04-08-116	434-12-160	REP	04-05-041
388-865-0525	REP	04-07-014	392-142-165	AMD-P	04-05-054	434-12-170	REP	04-05-041
388-865-0526	NEW	04-07-014	392-142-165	AMD	04-08-116	434-12-180	REP	04-05-041
388-865-0530	REP	04-07-014	392-142-205	AMD-P	04-05-054	434-12-200	REP	04-05-041
388-865-0531	NEW	04-07-014	392-142-205	AMD	04-08-116	434-12-210	REP	04-05-041
388-865-0535	REP	04-07-014	392-143-010	AMD-P	04-05-055	434-12-220	REP	04-05-041
388-865-0536	NEW	04-07-014	392-143-010	AMD	04-08-117	434-12-230	REP	04-05-041
388-865-0540	REP	04-07-014	392-143-015	AMD-P	04-05-055	434-110-070	REP	04-04-018
388-865-0541	NEW	04-07-014	392-143-015	AMD	04-08-117	434-110-080	REP	04-04-018
388-865-0545	REP-W	04-08-028	392-143-030	AMD-P	04-05-055	434-110-090	REP	04-04-018
388-865-0546	REP-W	04-08-028	392-143-030	AMD	04-08-117	434-110-100	AMD	04-04-018
388-865-0547	NEW	04-07-014	392-143-031	AMD-P	04-05-055	434-112-010	NEW	04-04-018
388-865-0550	REP	04-07-014	392-143-031	AMD	04-08-117	434-112-020	NEW	04-04-018
388-865-0551	NEW	04-07-014	392-143-032	AMD-P	04-05-055	434-112-025	NEW	04-04-018
388-865-0555	REP	04-07-014	392-143-032	AMD	04-08-117	434-112-030	NEW	04-04-018
388-865-0557	REP	04-07-014	392-143-050	AMD-P	04-05-055	434-112-040	NEW	04-04-018
388-865-0560	REP	04-07-014	392-143-050	AMD	04-08-117	434-112-045	NEW	04-04-018
388-865-0561	NEW	04-07-014	392-143-061	REP-P	04-05-055	434-112-050	NEW	04-04-018
388-865-0565	REP	04-07-014	392-143-061	REP	04-08-117	434-112-065	NEW	04-04-018
388-865-0566	NEW	04-07-014	392-143-065	REP-P	04-05-055	434-112-070	NEW	04-04-018
388-865-0570	NEW	04-07-014	392-143-065	REP	04-08-117	434-112-075	NEW	04-04-018
388-865-0575	NEW	04-07-014	392-143-070	AMD-P	04-05-055	434-112-080	NEW	04-04-018
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392-140-605	AMD	04-08-118	415-110-710	AMD	04-04-037	434-120-215	AMD	04-04-018
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392-140-640	AMD	04-08-118	434-12-040	REP	04-05-041	434-120-355	NEW	04-04-018
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392-140-646	AMD	04-08-118	434-12-080	REP	04-05-041	434-135-020	REP	04-04-018
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TABLE



WSR 04-10-014
EXPEDITED RULES
DEPARTMENT OF HEALTH
 [Filed April 26, 2004, 10:01 a.m.]

Title of Rule: WAC 246-310-010 Certificate of need definitions.

Purpose: To change the definition of "established ratio" to conform with 1999 legislation, which changes the bed-to-population ratio from forty-five beds per one thousand to forty beds per one thousand.

Other Identifying Information: Chapter 376, Laws of 1999.

Statutory Authority for Adoption: Chapter 70.38 RCW.
 Statute Being Implemented: Chapter 70.38 RCW.

Summary: The proposal decreases the definition of "established ratio" from reading "bed-to-population ratio of forty-five beds per one thousand persons of the estimated or forecast resident population age sixty-five or older established for planning and policy-making purposes" to read "a bed-to-population ratio of forty beds per one thousand persons of the estimated or forecast resident population age sixty-five and older established for planning and policy making purposes."

Reasons Supporting Proposal: The amendment will assure the rules reflect the statutory standard and current agency practice.

Name of Agency Personnel Responsible for Drafting and Implementation: Janis Sigman, 310 Israel Road S.E., Tumwater, WA 98501, 236-2956; and Enforcement: Gary Bennett, 310 Israel Road S.E., Tumwater, WA 98501, 236-2900.

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 proposed rule amends the definition of "established ratio" to reflect the statute which was amended in 1999. There will be no change in certificate of need review outcomes, as current practice uses the forty bed per one thousand ratio which is according to statute, rather than the forty-five bed per one thousand ratio, which is currently written in rule. The change will assure that the rules reflect the statute and current practice.

Proposal Changes the Following Existing Rules: The proposal amends WAC 246-310-010 and changes the bed-to-population ratio from forty-five beds per one thousand to forty beds per one thousand.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Yvette Fox, Department

of Health, P.O. Box 47852, Olympia, WA 98504-7852, AND RECEIVED BY July 5, 2004.

April 23, 2004
 Mary C. Selecky
 Secretary

AMENDATORY SECTION (Amending WSR 98-10-053, filed 4/29/98, effective 5/30/98)

WAC 246-310-010 Definitions. For the purposes of chapter 246-310 WAC, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise.

"Acute care facilities" means hospitals and ambulatory surgical facilities.

"Affected person" means an interested person meeting the following criteria:

- Is located or resides in the applicant's health service area;
- Testified at a public hearing or submitted written evidence; and
- Requested in writing to be informed of the department's decision.

"Alterations," see "construction, renovation, or alteration."

"Ambulatory care facility" means any place, building, institution, or distinct part thereof not a health care facility as defined in this section and operated for the purpose of providing health services to individuals without providing such services with board and room on a continuous twenty-four-hour basis. The term "ambulatory care facility" includes the offices of private physicians, whether for individual or group practice.

"Ambulatory surgical facility" means any free-standing entity, including an ambulatory surgery center, that operates primarily for the purpose of performing surgical procedures to treat patients not requiring hospitalization. This term does not include a facility in the offices of private physicians or dentists, whether for individual or group practice, if the privilege of using such facility is not extended to physicians or dentists outside the individual or group practice.

"Applicant," means:

- Any person proposing to engage in any undertaking subject to review under the provisions of chapter 70.38 RCW.

- Any person or individual with a ten percent or greater financial interest in a partnership or corporation or other comparable legal entity engaging in any undertaking subject to review under the provisions of chapter 70.38 RCW.

"Base year" as used in the kidney dialysis station methodology means the last full calendar year preceding the first year of dialysis station need projections.

"Bed banking" means the process of retaining the rights to nursing home bed allocations which are not licensed as outlined in WAC 246-310-395.

"Bed supply" means within a geographic area the total number of:

- Nursing home beds which are licensed or certificate of need approved but not yet licensed or beds banked under the provisions of RCW 70.38.111 (8)(a) or where the need is

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deemed met under the provisions of RCW 70.38.115 (13)(b), excluding:

- Those nursing home beds certified as intermediate care facility for the mentally retarded (ICF-MR) the operators of which have not signed an agreement on or before July 1, 1990, with the department of social and health services department of social and health services to give appropriate notice prior to termination of the ICF-MR service;

- New or existing nursing home beds within a CCRC which are approved under the provisions of WAC 246-310-380(5); or

- Nursing home beds within a CCRC which is excluded from the definition of a health care facility per RCW 70.38-025 (6); and

- Beds banked under the provisions of RCW 70.38.115 (13)(b) where the need is not deemed met.

- Licensed hospital beds used for long-term care or certificate of need approved hospital beds to be used for long-term care not yet in use, excluding swing-beds.

"Bed-to-population ratio" means the nursing home bed supply per one thousand persons of the estimated or forecasted resident population age sixty-five and older.

"Capital expenditure" means an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a nursing home facility as its own contractor), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. The costs of any studies, surveys, designs, plans, working drawings, specifications, and other activities (including staff effort, consulting and other services which, under generally accepted accounting principles, are not properly chargeable as an expense of operation and maintenance) shall be considered capital expenditures. Where a person makes an acquisition under lease or comparable arrangement, or through donation, which would have required certificate of need review if the acquisition had been made by purchase, such acquisition shall be deemed a capital expenditure. Capital expenditures include donations of equipment or facilities to a nursing home facility, which if acquired directly by such facility, would be subject to review under the provisions of this chapter and transfer of equipment or facilities for less than fair market value if a transfer of the equipment or facilities at fair market value would be subject to such review.

"Certificate of need" means a written authorization by the secretary's designee for a person to implement a proposal for one or more undertakings.

"Certificate of need program" means that organizational program of the department responsible for the management of the certificate of need program.

"Commencement of the project" means whichever of the following occurs first: In the case of a construction project, giving notice to proceed with construction to a contractor for a construction project provided applicable permits have been applied for or obtained within sixty days of such notice; beginning site preparation or development; excavating or starting the foundation for a construction project; or beginning alterations, modification, improvement, extension, or expansion of an existing building. In the case of other projects, initiating a health service.

"Construction, renovation, or alteration" means the erection, building, remodeling, modernization, improvement, extension, or expansion of a physical plant of a health care facility, or the conversion of a building or portion thereof to a health care facility.

"Continuing care contract" means a contract providing a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services. The contract is conditioned on the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

"Continuing care retirement community (CCRC)" means any of a variety of entities, unless excluded from the definition of health care facility under RCW 70.38.025(6), which provides shelter and services based on continuing care contracts with its residents which:

- Maintains for a period in excess of one year a CCRC contract with a resident which provides or arranges for at least the following specific services:

- Independent living units;
- Nursing home care with no limit on the number of medically needed days;
- Assistance with activities of daily living;
- Services equivalent in scope to either state chore services or Medicaid home health services;
- Continues a contract, if a resident is no longer able to pay for services;
- Offers services only to contractual residents with limited exception during a transition period; and
- Holds the Medicaid program harmless from liability for costs of care, even if the resident depletes his or her personal resources.

"Days" means calendar days. Days are counted starting the day after the date of the event from which the designated period of time begins to run. If the last day of the period falls on a Saturday, Sunday, or legal holiday observed by the state of Washington, a designated period runs until the end of the first working day following the Saturday, Sunday, or legal holiday.

"Department" means the Washington state department of health.

"Effective date of facility closure" means:

- The date on which the facility's license was relinquished, revoked or expired; or
- The date the last resident leaves the facility, whichever comes first.

"End-of-the-year incenter patients" means the number of patients receiving incenter kidney dialysis at the end of the calendar year.

"End-stage renal dialysis (ESRD) service areas" means each individual county, designated by the department as the smallest geographic area for which kidney dialysis station need projections are calculated, or other service area documented by patient origin.

"Enhance the quality of life for residents" means, for the purposes of voluntary bed banking, those services or facility

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modifications which have a direct and immediate benefit to the residents. These shall include, but not be limited to: Resident activity and therapy facilities; family visiting rooms; spiritual rooms and dining areas. These services or facility modifications shall not include those that do not have direct and immediate benefit to the residents, such as: Modifications to staff offices; meeting rooms; and other staff facilities.

"Established ratio" means a bed-to-population ratio of ~~((forty-five))~~ forty beds per one thousand persons of the estimated or forecast resident population age sixty-five and older established for planning and policy-making purposes. The department may revise this established ratio using the process outlined in WAC 246-310-370.

"Estimated bed need" means the number of nursing home beds calculated by multiplying the planning area's forecasted resident population by the established ratio for the projection year.

"Estimated bed projection" means the number of nursing home beds calculated by the department statewide or within a planning area, by the end of the projection period.

"Ex parte contact" means any oral or written communication between any person in the certificate of need program or any other person involved in the decision regarding an application for, or the withdrawal of, a certificate of need and the applicant for, or holder of, a certificate of need, any person acting on behalf of the applicant or holder, or any person with an interest regarding issuance or withdrawal of a certificate of need.

"Expenditure minimum" means one million dollars for the twelve-month period beginning with July 24, 1983, adjusted annually by the department according to the provisions of WAC 246-310-900.

"Health care facility" means hospitals, psychiatric hospitals, nursing homes, kidney disease treatment centers including freestanding dialysis units, ambulatory surgical facilities, continuing care retirement communities, hospices and home health agencies, and includes such facilities when owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations, but does not include any health facility or institution conducted by and for those who rely exclusively upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination, or any health facility or institution operated for the exclusive care of members of a convent as defined in RCW 84.36.800 or rectory, monastery, or other institution operated for the care of members of the clergy. In addition, the term "health care facility" does not include any nonprofit hospital:

- Operated exclusively to provide health care services for children;
 - Which does not charge fees for such services; and
 - If not contrary to federal law as necessary to the receipt of federal funds by the state.
- In addition, the term "health care facility" does not include a continuing care retirement community which:
- Offers services only to contractual residents;
 - Provides its residents a contractually guaranteed range of services from independent living through skilled nursing,

including some form of assistance with activities of daily living;

- Contractually assumes responsibility for costs of services exceeding the resident's financial responsibility as stated in contract, so that, with the exception of insurance purchased by the retirement community or its residents, no third party, including the Medicaid program, is liable for costs of care even if the resident depletes personal resources;

- Offers continuing care contracts and operates a nursing home continuously since January 1, 1988, or obtained a certificate of need to establish a nursing home;

- Maintains a binding agreement with the department of social and health services assuring financial liability for services to residents, including nursing home services, shall not fall upon the department of social and health services;

- Does not operate, and has not undertaken, a project resulting in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and

- Has undertaken no increase in the total number of nursing home beds after January 1, 1988, unless a professional review of pricing and long-term solvency was obtained by the retirement community within the prior five years and fully disclosed to residents.

"Health maintenance organization" means a public or private organization, organized under the laws of the state, which:

- Is a qualified health maintenance organization under Title XIII, Section 1310(d) of the Public Health Service Act; or

- Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, X ray, emergency and preventive services, and out-of-area coverage;

- Is compensated (except for copayments) for the provision of the basic health care services listed in this subsection to enrolled participants by a payment made on a periodic basis without regard to the date the health care services are provided and fixed without regard to the frequency, extent, or kind of health service actually provided; and

- Provides physicians' services primarily:
- Directly through physicians who are either employees or partners of such organization, or

- Through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

"Health service area" means a geographic region appropriate for effective health planning including a broad range of health services.

"Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse, and mental health services.

"Home health agency" means an entity which is, or has declared an intent to become, certified as a provider of home health services in the Medicaid or Medicare program.

"Hospice" means an entity which is, or has declared an intent to become, certified as a provider of hospice services in the Medicaid or Medicare program.

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"Hospital" means any institution, place, building or agency or distinct part thereof which qualifies or is required to qualify for a license under chapter 70.41 RCW, or as a psychiatric hospital licensed under chapter 71.12 RCW.

"Inpatient" means a person receiving health care services with board and room in a health care facility on a continuous twenty-four-hour-a-day basis.

"Interested persons" means:

- The applicant;
- Health care facilities and health maintenance organizations providing services similar to the services under review and located in the health service area;
- Third-party payers reimbursing health care facilities in the health service area;
- Any agency establishing rates for health care facilities and health maintenance organizations in the health service area where the proposed project is to be located;
- Health care facilities and health maintenance organizations which, in the twelve months prior to receipt of the application, have submitted a letter of intent to provide similar services in the same planning area;
- Any person residing within the geographic area to be served by the applicant; and
- Any person regularly using health care facilities within the geographic area to be served by the applicant.

"Justified home training station" means a kidney dialysis station designated for home hemodialysis and/or peritoneal dialysis training. When no dialysis stations have been designated for home training at a given dialysis treatment center, one station for every six patients trained for home hemodialysis, and one station for every twenty patients for peritoneal dialysis, will be considered a justified home training station. In no case shall all stations at a given dialysis treatment center be designated as justified home training stations. To request justified home training stations at a new dialysis treatment center, the applicant must document that at least six patients are projected to be trained for home hemodialysis or twenty patients for peritoneal dialysis for each such station requested for each of the first five years of projected operations.

"Kidney disease treatment center" means any place, institution, building or agency or a distinct part thereof equipped and operated to provide services, including outpatient dialysis and/or kidney transplantation, to persons who have end-stage renal disease (ESRD).

"Licensee" means an entity or individual licensed by the department of health or the department of social and health services. For the purposes of nursing home projects, licensee refers to the operating entity and those persons specifically named in the license application as defined under chapter 388-97 WAC.

"Net estimated bed need" means estimated bed need of a planning area changed by any redistribution as follows:

- Adding nursing home beds being redistributed from another nursing home planning area or areas; or
- Subtracting nursing home beds being redistributed to another nursing home planning area or areas.

"New nursing home bed" means a nursing home bed never licensed by the state or beds banked under the provisions of RCW 70.38.115(13), where the applicant must dem-

onstrate need for the previously licensed nursing home beds. This term does not include beds banked under the provisions of RCW 70.38.111(8).

"Nursing home" means any entity licensed or required to be licensed under the provisions of chapter 18.51 RCW or distinct part long-term care units located in a hospital and licensed under chapter 70.41 RCW.

"Obligation," when used in relation to a capital expenditure, means the following has been incurred by or on behalf of a health care facility:

- An enforceable contract has been entered into by a health care facility or by a person on behalf of the health care facility for the construction, acquisition, lease, or financing of a capital asset; or
- A formal internal commitment of funds by a health care facility for a force account expenditure constituting a capital expenditure; or
- In the case of donated property, the date on which the gift is completed in accordance with state law.

"Offer," when used in connection with health services, means the health facility provides one or more specific health services.

"Over the established ratio" means the bed-to-population ratio is greater than the statewide current established ratio.

"Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.

"Planning area" means each individual county designated by the department as the smallest geographic area for which nursing home bed need projections are developed, except as follows:

- Clark and Skamania counties shall be one planning area.
- Chelan and Douglas counties shall be one planning area.

"Predevelopment expenditures" means capital expenditures, the total of which exceeds the expenditure minimum, made for architectural designs, plans, drawings, or specifications in preparation for the acquisition or construction of physical plant facilities. "Predevelopment expenditures" exclude any obligation of a capital expenditure for the acquisition or construction of physical plant facilities and any activity which the department may consider the "commencement of the project" as this term is defined in this section.

"Professional review of continuing care retirement community pricing and long-term solvency" means prospective financial statements, supported by professional analysis and documentation, which:

- Conform to Principles and Practices Board Statement Number 9 of the Healthcare Financial Management Association, "Accounting and Reporting Issues Related to Continuing Care Retirement Communities"; and
- Project the financial operations of the continuing care retirement community over a period of ten years or more into the future; and

- Are prepared and signed by a qualified actuary as defined under WAC 284-05-060 or an independent certified public accountant, or are prepared by management of the

continuing care retirement community and reviewed by a qualified actuary or independent certified public accountant who issues a signed examination or compilation report on the prospective financial statements; and

- Include a finding by management that the intended expansion project of the continuing care retirement project is financially feasible.

"Project" means all undertakings proposed in a single certificate of need application or for which a single certificate of need is issued.

"Project completion" for projects requiring construction, means the date the facility is licensed. For projects not requiring construction, project completion means initiating the health service.

"Projection period" means the three-year time interval following the projection year.

"Projection year" for nursing home purposes, means the one-year time interval preceding the projection period. For kidney dialysis station projection purposes, means the base year plus three years.

"Public comment period" means the time interval during which the department shall accept comments regarding a certificate of need application.

"Redistribution" means the shift of nursing home bed allocations between two or more planning areas or the shift of nursing home beds between two or more nursing homes.

"Replacement authorization" means a written authorization by the secretary's designee for a person to implement a proposal to replace existing nursing home beds in accordance with the eligibility requirements in WAC 246-310-044 and notice requirements in WAC 246-310-396.

"Resident population" for purposes of nursing home projects, means the number of residents sixty-five years of age and older living within the same geographic area which:

- Excludes contract holders living within a recognized CCRC:

- With approval for new nursing home beds under the provisions of WAC 246-310-380(5); or

- Excluded from the definition of a health care facility per RCW 70.38.025(6);

- Is calculated using demographic data obtained from:
 - The office of financial management; and
 - Certificate of need applications and exemption requests previously submitted by a CCRC.

"Secretary" means the secretary of the Washington state department of health or the secretary's designee.

"State Health Planning and Resources Development Act" means chapter 70.38 RCW.

"Statewide current ratio" means a bed-to-population ratio computed from the most recent statewide nursing home bed supply and the most recent estimate of the statewide resident population.

"Swing beds" means up to the first five hospital beds designated by an eligible rural hospital which are available to provide either acute care or nursing home services.

"Tertiary health service" means a specialized service meeting complicated medical needs of people and requires sufficient patient volume to optimize provider effectiveness, quality of service, and improved outcomes of care.

"Transition period" means the period of time, not exceeding five years, between the date a CCRC is inhabited by a member, and the date it fully meets the requirements of a CCRC.

"Under the established ratio" means the bed-to-population ratio is less than the statewide current established ratio.

"Undertaking" means any action subject to the provisions of chapter 246-310 WAC.

"Working days" excludes Saturdays, Sundays, and legal holidays observed by the state of Washington. Working days are counted in the same way as calendar days.

WSR 04-10-084

EXPEDITED RULES

SECRETARY OF STATE

[Filed May 4, 2004, 1:30 p.m.]

Title of Rule: Title 434 WAC update.

Purpose: The purpose is to update all of the statutory references in Title 434 WAC from Title 29 RCW to Title 29A RCW after the legislature passed a bill reorganizing Title 29 RCW into Title 29A RCW. Their only changes to the rule are to amend the citations to the appropriate section in Title 29A RCW.

Statutory Authority for Adoption: RCW 29.04.080.

Summary: The legislature passed a bill reorganizing Title 29 RCW into Title 29A RCW. Their only changes to the rules contained herein are to amend the citations to the appropriate section in Title 29A RCW.

Reasons Supporting Proposal: Without this update the rules governing the conduct of elections will not have the appropriate RCW citation making it difficult to determine which statute is being referenced by the rule.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Shawn Merchant, 520 Union Avenue, P.O. Box 40229, Olympia, WA 98504, (360) 902-4154.

Name of Proponent: Office of the Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose is to amend all of the RCW citations to the new election statutes that become effective on July 1, 2004. The anticipated effect is to allow users to find and reference the statute that the rule refers to and is implementing.

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 Shawn Merchant, Office

of the Secretary of State, P.O. Box 40229, Olympia, WA 98504, AND RECEIVED BY July 5, 2004.

April 3, 2004

Steve Excell

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 02-15-156, filed 7/23/02, effective 8/23/02)

WAC 434-208-060 Filing of electronic facsimile documents. In addition to those documents specified by RCW ((~~29.04.230~~) 29A.04.255), the secretary of state or the county auditor shall accept and file in his or her office electronic facsimile transmissions of the following documents:

(1) The text of any proposed initiative, referendum, or recall measure and any accompanying documents required by law;

(2) Any minor party or independent candidate filing material except nominating petitions;

(3) Lists of presidential electors selected by political parties or independent candidates;

(4) Voted ballots, provided the voter agrees to waive the secrecy of his or her ballot;

(5) Resolutions from cities, towns, and other districts calling for a special election;

(6) Filling of vacancies on the ticket by a major political party;

(7) Voter registration form.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-215-005 Filing information—Questionnaire—Compiling and dissemination. Prior to May 1 of each year, the county auditor shall send a questionnaire to the administrative authority of each local jurisdiction for which the auditor is the candidate filing officer subject to the provisions of RCW ((~~29.13.010 and 29.13.020~~) 29A.04.320 and 29A.04.330). The purpose of the questionnaire shall be to confirm information which the auditor may disseminate to the public regarding the filing for elective offices. The questionnaire should request, as a minimum, confirmation of offices to be filled at the general election that year, the name of the incumbent, the annual salary for the position at the time of the filing period, and the statutory reference for candidate eligibility. Responses should be received prior to June 1 of that year so that the filing information can be compiled and disseminated to the public at least two weeks prior to the candidate filing period.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-230-010 Sample ballots. Sample paper ballots shall be printed in substantially the same form as official ballots, but shall be a different color than the official ballot. Sample ballots for counties using electronic or mechanical voting systems shall be printed in a manner that makes them easily distinguishable from the official ballot. Sample ballots shall be available starting fifteen days prior to an election.

Such sample ballots shall be made available through the office of the county auditor and at least one shall be available at all polling places on election day.

Names of the candidates in each office to appear on the primary ballot shall be arranged on the sample ballot in the order provided by RCW ((~~29.30.020~~) 29A.36.120). The names of the candidates in each office to appear on the general election ballot shall be listed on the sample ballot in the order in which their names appear on the official ballot. State measures and local measures shall be in the same order as they appear on the official ballot.

At any primary or election when a local voters' pamphlet is published which contains a full sample ballot, a separate sample ballot need not be printed.

Counties with populations of over five hundred thousand may produce more than one sample ballot for a primary or election, each of which lists a portion of the offices and issues to be voted on at that election. Sample ballots may be printed by region or area (e.g., legislative district, municipal, or other district boundary) of the county, provided that all offices and issues to be voted upon at the election appears on at least one of the various sample ballots printed for such county. Each regional sample ballot shall contain all offices and issues to be voted upon within that region. A given office or issue may appear on more than one sample ballot, provided it is to be voted upon within that region. Sample ballots shall be made available and distributed to each polling place and to other locations within the appropriate region or area.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-230-070 Method for billing expense for printing and distributing ballot materials. As provided by RCW ((~~29.30.130~~) 29A.36.220), the cost of printing ballots, ballot cards, and instructions and the delivery of materials to the precinct election officers shall be an election cost that shall be borne as determined under RCW ((~~29.13.045 and 29.13.047~~) 29A.04.410 and 29A.04.420). These costs shall include all expenses associated with, but not limited to, the printing of election related materials including costs associated with the ordering, administration, design, typesetting, layout, and printing of ballots, ballot cards, instructions, election signs, sample ballots, official tally sheets, and other related materials. Costs associated with the delivery of supplies include, but are not limited to, the transportation and delivery of election materials and voting devices; plus costs associated with coordinating the delivery and return of these items. Each jurisdiction or entity shall be responsible for its proportionate share of these election printing costs. Counties may choose to compute election costs utilizing the state auditor's allocation formula.

AMENDATORY SECTION (Amending WSR 00-11-042, filed 5/11/00, effective 6/11/00)

WAC 434-230-170 Electronic voting devices—Ballot form. Each office on the ballot shall be identified, along with a statement designating how many candidates are to be voted on for such office (e.g., vote for , with the words, "one," "two," or a spelled number). The office term shall be

EXPEDITED

included on the ballot if such term is other than a full term (e.g., short/full term, two-year unexpired term, etc.). Each office shall be listed on the ballot in the manner prescribed by law or administrative rule. Following the office designation the names of all candidates for that position shall be listed together with political party designation certified by the secretary of state as provided in RCW ((29-27-020)) 29A.36.010 or the word "nonpartisan," or "NP" as applicable. Each office listed on the ballot shall be separated by a bold line. In a year in which a President of the United States is to be elected, the names of all candidates for President and Vice-President for each party shall be grouped together. Each group shall be enclosed in brackets with one vote response position for each party, where the voter may indicate their choice.

Candidate names shall be printed in a type style and point size which is easily read. If a candidate's name exceeds the space provided, the election official shall take whatever steps necessary to place the name on the ballot in a manner which is readable. These steps may include using a smaller point size, a different type style, or setting the name in upper/lower case letters, rather than upper case, if appropriate.

Each position, with the candidates running for that office, shall be clearly delineated from the following one by a bold line. Following each listing of candidates shall be a blank space for writing in the name of any candidate, if desired, on the ballot card, or a write-in space provided on the ballot envelope.

AMENDATORY SECTION (Amending WSR 00-11-042, filed 5/11/00, effective 6/11/00)

WAC 434-230-210 Paper ballots—Ballot form. Following ballot measures, each office to be elected shall be identified along with a statement designating how many candidates are to be voted on for such office (e.g., vote for, with the words, "one," "two," or a spelled number). Office term shall be included on the ballot if such term is other than a full term (e.g., short/full term, two-year unexpired term, etc.). Offices shall be arranged in the manner described in RCW ((29-30-020)) 29A.36.120. Immediately following shall be the names of all candidates for that position, together with the political party designation certified by the secretary of state as provided in RCW ((29-27-020)) 29A.36.010 or the word "nonpartisan" or "NP." Each office to be elected shall be separated by a bold line. In a year in which a President of the United States is to be elected, the names of all candidates for President and Vice-President for each party shall be grouped together. Each group shall be enclosed in brackets with a single square to either the left or right in which the voter indicates their choice.

Candidates names shall be printed in a type style and point size which is easily read. If a candidate's name exceeds the space provided, the election official shall take whatever steps necessary to place the name on the ballot in a manner which is readable. These steps may include using a smaller point size, a different type style, or setting the name in upper/lower case letters, rather than upper case, if appropriate.

There shall be a box at either the left or right of the name of each candidate so that a voter may clearly indicate the candidate or candidates for whom they wish to cast their vote.

Immediately following the list of candidates for a given position shall appear a blank space or spaces for writing in the name of a candidate, followed by a box to the right of the blank space.

AMENDATORY SECTION (Amending WSR 00-11-042, filed 5/11/00, effective 6/11/00)

WAC 434-230-220 Same party designations used for primary and general elections. The party designations certified by the secretary of state in RCW ((29-27-020)) 29A.36.010 for primary elections shall be used on all general election ballots.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-238-030 Request for mail ballot election. At any nonpartisan, special election, not conducted in conjunction with a primary or general election, the jurisdiction requesting the election may also request that the election be conducted entirely by mail ballot. Such a request may be included in the resolution calling for the special election adopted pursuant to RCW ((29-13-010 or 29-13-020)) 29A.04.320 or 29A.04.330, or it may be done by separate resolution. Not less than forty days prior to the date for which a mail ballot special election has been requested, the county auditor shall inform the requesting jurisdiction, in writing, that either (1) the request for the mail ballot special election is granted, or (2) that the request for the mail ballot special election is not granted, for reasons specified.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-238-060 Notice of election. In any mail ballot election, the notice of election published pursuant to RCW ((29-27-080)) 29A.52.350 shall include the following:

- (1) The title of each office to be voted upon, if any;
- (2) The names and addresses of all candidates; and
- (3) The ballot titles of all ballot measures.

The notice shall also list:

- (a) The precincts that are voting by mail ballot only if not the entire election;
- (b) The location where voters may obtain replacement ballots; and
- (c) The location(s) where unmailed ballots may be deposited between the hours of 7:00 a.m. and 8:00 p.m. on the day of the election, and any other dates and times such locations will be open.

The auditor shall additionally notify local radio, television, and newspapers, if applicable, that the election is to be conducted by mail ballot only.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-238-100 Depositing of ballots. Ballots may be deposited in the auditor's office at any time, during normal business hours, prior to the day of the election and from 7:00 a.m. to 8:00 p.m. on election day. The county auditor shall designate at least one other place for the deposit of ballots not returned by mail within the jurisdiction holding the mail ballot special election whenever, in his or her judgment, having only the auditor's office as a place of deposit would unduly inconvenience the voter. If other places of deposit are designated, each shall be staffed by two persons designated by the auditor. Whenever possible, the persons designated by the county auditor to staff places of deposit shall be representatives of each political party entitled to nominate precinct election officers pursuant to chapter ((29.45)) 29A.44 RCW. The person designated by the auditor shall not be an employee of the jurisdiction for whom the election is conducted and shall subscribe to an oath regarding the discharge of his or her duties, administered by the county auditor. All designated places of deposit shall be open from 7:00 a.m. until 8:00 p.m. on the day of the election and shall have a secure ballot box. The county auditor may designate additional dates and times during which any or all places of deposit may be open prior to election day. The ballot box shall be constructed in such a manner that return envelopes, once deposited, may be removed only by the county auditor or the persons appointed to staff the place(s) of deposit. These persons shall ensure that the affidavit on the return envelope is signed before the ballot is deposited in the ballot box. The person(s) staffing the designated place of deposit shall add the time and place of deposit to any ballot envelope deposited after 8:00 p.m. on election day. Such ballots shall be referred to the canvassing board for consideration if special circumstances are involved and documented by the persons staffing the place of deposit.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-238-110 Obtaining replacement ballots. The county auditor may issue replacement ballots to a registered voter who claims that the original issued ballot is destroyed, spoiled, lost, or not received. The voter may obtain the ballot by telephone request, by mail, electronically, or in person at the county auditor's office. The county auditor shall keep a record of each replacement ballot provided under this subsection.

The county auditor shall maintain a record of each replacement ballot so issued. Any absentee ballot request made wherein the voter lists an address different from that to which his or her mail ballot has been or is to be mailed shall be handled as provided by RCW ((29.36.030)) 29A.40.060.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-238-170 Logic and accuracy test. At least three days before any mail ballot special election, if an electronic vote tallying system is to be used, the auditor shall con-

duct a logic and accuracy test of all programming. Wherever applicable, this test shall be conducted in accordance with RCW ((29.33.350)) 29A.12.130, except that the secretary of state need not be present.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-240-005 Authority and purpose. This chapter is adopted pursuant to RCW ((29.36.150)) 29A.40.150 and chapter 34.04 RCW in order to establish uniform procedures governing the requesting, processing, and canvassing of absentee ballots.

AMENDATORY SECTION (Amending WSR 03-15-054, filed 7/11/03, effective 8/11/03)

WAC 434-240-010 Definitions. As used in this chapter:

(1) An "elector" of the state of Washington is any person who qualifies under state or federal law as an overseas voter, service voter, or out-of-state voter and who:

(a) Is not currently a registered voter in Washington or any other state;

(b) Will be at least eighteen years of age at the time of the next election;

(c) Is a citizen of the United States;

(d) Is a legal resident of the state, county, and precinct for at least thirty days preceding the election at which he or she offers to vote;

(e) Is not currently being denied his or her civil rights by being convicted of a crime for which he or she could have been sentenced to the state penitentiary;

(2) "Out-of-state voters," "overseas voters," "protected records voters," and "service voters" are electors of the state of Washington and are **not** registered voters of Washington or any other state; electors of the state of Washington who are spouses or dependents of service voters shall be considered to be either out-of-state voters or overseas voters;

(3) "Service voters" are electors of the state of Washington who are outside the state during the period available for voter registration and who are members of the armed forces while in active service, are students or members of the faculty at a United States military academy, are members of the merchant marine of the United States, are members of a religious group or welfare agency officially attached to and serving with the armed forces of the United States, or are certified participants in the address confidentiality program authorized by chapter 40.24 RCW.

(4) "Canvassing" is that process of examining, in detail, a ballot, groups of ballots, election subtotals, or grand totals in order to determine the final official returns of a primary, special, or general election and in order to safeguard the integrity of the election process;

(5) "Territorial limits of the United States" means the fifty United States and the District of Columbia;

(6) "Ongoing absentee ballot" is a ballot provided to voters who have requested in writing to automatically receive an absentee ballot for each ensuing election for which he or she is entitled to vote, and provided to voters who are certified participants in the address confidentiality program, pursuant to the provisions of chapter 40.24 RCW;

(7) "Hospital absentee ballot" is that absentee ballot provided to voters confined to a health care facility on the day of a primary or election;

(8) "Regular absentee ballot" is that absentee ballot provided to voters or electors who request an absentee ballot and who do not either request or qualify for an ongoing absentee ballot, hospital absentee ballot, or special absentee ballot;

(9) "Secure storage" are those locations provided for the storage of all material connected with the absentee ballot process, including ballots, and shall be under the direct control of the county auditor. Secure storage shall employ the use of numbered seals and logs or any other security measures which will detect any inappropriate access to the secured materials when such materials are not being prepared or processed by the county auditor or persons authorized by the county canvassing board;

(10) "Challenged ballot" is that ballot issued to any voter whose registration has been challenged pursuant to the provisions of chapter ((29-10)) 29A.08 RCW and this chapter;

(11) "Special ballot" is that ballot issued to a voter by precinct election officers pursuant to WAC 434-253-043.

(12) "County auditor" shall be as defined by RCW ((29-01-043)) 29A.04.025, and with respect to the processing of absentee ballots and applications, the term includes any employee of the county auditor who is directed in writing to perform those duties on behalf of the county auditor.

(13) "Mail ballot precinct" is any precinct containing less than two hundred active registered voters at the closing of voter registration under RCW ((29-07-160)) 29A.08.140 in which the county auditor has determined to conduct the voting by mail ballot.

AMENDATORY SECTION (Amending WSR 02-07-028, filed 3/12/02, effective 4/12/02)

WAC 434-240-060 Termination of ongoing absentee voter status. Status as an ongoing absentee voter shall be terminated upon the occurrence of any of the following:

- (1) The cancellation of the voter's registration record;
- (2) The written request of the voter;
- (3) The death or disqualification of the voter;
- (4) The return of an ongoing absentee ballot as undeliverable;
- (5) Upon being placed on inactive status.

A service voter, as defined in RCW ((29-01-155)) 29A.04.163, who is a certified participant in the address confidentiality program authorized by chapter 40.24 RCW, shall maintain ongoing absentee voter status throughout the term of their program participation.

AMENDATORY SECTION (Amending WSR 02-07-028, filed 3/12/02, effective 4/12/02)

WAC 434-240-320 Mail ballot precincts. At any primary or election, general or special, the county auditor may, in any precinct having fewer than two hundred active registered voters, excluding ongoing absentee voters, at the time of closing of voter registration as provided in chapter ((29-07)) 29A.08 RCW, conduct the voting in that precinct by mail ballot. For any precinct so designated, the county auditor shall mail or deliver to each active and inactive registered

voter within that precinct a notice that the voting in the precinct will be by mail ballot. A mail ballot shall be issued to each active registered voter, as soon as they are available, for all elections in that precinct. The auditor shall send each inactive voter either a ballot or an application to receive a ballot. The auditor shall determine which of the two is to be sent. If the inactive voter returns a voted ballot, the ballot shall be counted and the voter's inactive status restored to active. If the inactive voter returns an application form, a ballot shall be sent and the voter's inactive status restored to active.

If the precinct exceeds two hundred registered voters, or the auditor determines to return to a polling place election environment, the auditor shall notify each registered voter, by mail, of this and shall provide the address of the polling place to be used.

Unless otherwise provided for by law or administrative rule, mail ballot precinct ballots shall be processed in the same manner as absentee ballots. For all other purposes, including the rotation of ballots and the reporting of returns, mail ballot precinct ballots shall be treated in the same manner as polling place ballots unless otherwise provided for by law or administrative rule.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-253-290 Counting and tabulation of paper ballots where more than one set of precinct election officers are appointed—Procedure. In paper ballot precincts, when two or more teams of precinct election officers have been appointed as provided in RCW ((29-45-050)) 29A.44-450 the following procedure shall apply:

(1) The teams or teams designated as the counting board or boards shall commence the tabulation of the primary or election ballots at a time set by the county auditor;

(2) A second ballot container for receiving ballots shall be used, and the first ballot container shall be closed and delivered to the counting board or boards: Provided, That there have been at least ten ballots cast. The counting board or boards shall at a time set by the auditor proceed to the place provided for them and at once count the votes. When counted they shall return the emptied ballot container to the inspector and judges conducting the election and the latter shall then deliver to the counting board or boards the second ballot container, if there have been at least ten ballots cast, who shall then proceed as before. The counting of ballots and exchange of ballot containers shall continue until the polls are closed, after which the election board conducting the election shall conclude their duties and the counting board or boards shall continue until all ballots are counted;

(3) The receiving board conducting the election shall perform all of the duties as now provided by law except for the counting of the ballots, the posting and certification of the unofficial returns and the delivery of the official returns, together with the election supplies, to the county auditor;

(4) The oaths of office for all precinct election officials, when two or more sets of officials are employed, shall be as required by law.

AMENDATORY SECTION (Amending WSR 02-02-066, filed 12/28/01, effective 1/28/02)

WAC 434-257-010 Purpose. These regulations are adopted (~~pursuant to RCW 29.57.170~~) to implement the provisions of chapter (~~29.57~~) 29A.16 RCW regarding the accessibility of polling places for all elections.

AMENDATORY SECTION (Amending WSR 02-02-066, filed 12/28/01, effective 1/28/02)

WAC 434-257-030 Standards for accessible polling places. A polling place is accessible if the standards of the state building code council are met or exceeded. If the standards cannot be met, alternative accommodations may be permitted under RCW (~~29.57.090~~) 29A.16.020. The following survey form may be used to determine if a polling place is accessible and meets or exceeds the standards of the state building code council. A poll site is fully accessible if all responses in each category are either "YES" or "N/A." A poll site is considered accessible but inconvenient if all "NO" responses in each category are only in shaded boxes and all responses in the unshaded boxes are either "YES" or "N/A."

EXPEDITED

**CATEGORY I:
PARKING**

YES NO N/A

1. Are there off-street parking spaces either permanently or temporarily designated for the people with disabilities?			
2. With regard to off-street parking:			
a. Are such parking spaces at least 96 inches wide with a 60 inch aisle? (One van accessible space 96 inches width with 96 inch aisle.)			
b. Are such parking spaces on level ground (with a slope no greater than a rise of 1 inch in 48 inches)?			
c. Is the parking area firm, stable, smooth and slip resistant?			
d. Are the parking spaces within the shortest possible accessible route of travel?			
e. Is there a curb-cut to connect these parking spaces to an accessible walk or to the building entrance?			
f. Are these parking spaces designated by post-mounted signs bearing the symbol of accessibility?			
3. Is there a relatively level passenger drop-off zone at least 8 feet wide with a curb-cut connecting it to an accessible walk or to the building entrance?			

**CATEGORY II:
WALKWAYS OR PATHWAYS TO THE BUILDING**

YES NO N/A

1. Is the walkway or pathway to the building paved (concrete, asphalt, macadam, etc.)?			
2. Is the walkway or pathway to the building at least 44 inches wide?			
3. Are all curbs along the pathway to the building cut or ramped with at least 44 inch clear width and with slopes of no more than a 1 inch rise in 20 inches?			
4. Are all stairs or steps along the walkway or pathway to the building either ramped (with a slope of no more than a 1 inch rise in 12 feet) or else provided with a suitable alternative means of access?			
5. Do stair steps along the walkway or pathway to the building have nonslip surfaces and handrails?			
6. Is the walkway or pathway to the building entrance:			
a. Free of protrusions (such as fire hydrants, tree trunks, or other obstacles) which narrow the passage to less than 44 inches?			
b. Free of any abrupt edges or breaks in the surface where the difference is over ½ inch in height (such as where it crosses a driveway, parking lot, or another walkway, etc.)?			

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**CATEGORY II:
WALKWAYS OR PATHWAYS TO THE BUILDING (cont'd)**

	YES	NO	N/A
c. Free of any overhanging objects (such as tree branches, signs, etc.) which hang lower than 79 inches?			
d. Free of any slopes or inclines greater than a 1 inch rise to 20 inches?			
e. Free of any grating with openings of over ½ inch wide?			
7. Are walkways always well lighted?			
8. Are provisions made to ensure that walkways are free of such hazards as ice, snow, leaves, or other debris on the day of election?			
9. Are there signs which identify the accessible route of travel if that route is different from the primary route of travel to the building?			

**CATEGORY III:
RAMPS AND ELEVATORS ENTERING OR INSIDE THE BUILDING**

	YES	NO	N/A
1. Are building stairs or steps which are over 30 inches high (either at the entrance or between the entrance and the voting area) provided either with a ramp, with an elevator, or with an alternative means of unassisted passage (such as a chair lift or an alternative route of travel)?			
2. With regard to ramps:			
a. Do all ramps have a slope no greater than a rise of 1 inch high for 20 inches of ramp?			
b. Are ramps provided with non-slip surfaces?			
c. For any ramp rising more than 6 inches or longer than 72 inches, is a hand rail provided? (Note: Any ramp with a slope of 1:20 does not need rails.)			
d. Are handrails 34 inches to 38 inches above the ramp surface?			
e. Can handrails be gripped (should be approx. 1 ½ inch from wall, but are not more than 2 inches)?			
f. Are ramps and landing areas with drop-offs provided with a least a 2 inch curb at the side to prevent slipping off the ramps?			
g. If there is a door at the top of the ramp, is there a level space of at least 5 feet by 5 feet where a wheelchair can rest while the door is opened?			

EXPEDITED

**CATEGORY III:
RAMPS AND ELEVATORS ENTERING OR INSIDE THE BUILDING (Con't)**

YES NO N/A

3. With regard to elevators (if elevators are the only accessible route):			
a. Is the elevator cab at least 54 inches by 68 inches wide?			
b. Do elevator doors provide at least 32 inches clear width?			
c. Are elevator controls less than 54 inches high (i.e. can a person in a chair operate the controls)?			
d. Are control panels marked with raised lettering?			
e. Is the elevator in close proximity to the entrance of the building?			

EXPEDITED

**CATEGORY IV:
OTHER ARCHITECTURAL FEATURES**

YES NO N/A

1. With regard to doors along the route of travel:			
a. Do all doors have an opening which clears at least 32 inches wide?			
b. Are all door thresholds less than 1/2 inch high?			
c. Are all doors equipped with arch or lever-type handles, push plates, or automatic openers (so that twisting a doorknob is not required)?			
d. Where automatic doors are used, does the door remain open at least 3 seconds?			
f. Are glass doors marked with safety seals?			
2. With regard to stairs along the route:			
a. Do stairs have a non-slip surface?			
b. Do stairs have handrails 34 to 38 inches above step level?			
e. Can handrails be gripped?			
c. Do all steps have risers (the little vertical walls at the back of each step)?			
e. Do all steps have tread areas at least 11 inches deep?			
g. Are all steps less than 7 inches in height?			

**CATEGORY IV:
OTHER ARCHITECTURAL FEATURES (cont'd)**

YES NO N/A

g. Are stairs well lit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Are stairs free of obstacles?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. With regard to corridors along the route:			
a. Is the corridor at least 44 inches wide?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Is the corridor free of obstacles or protrusions (such as boxes, water fountains, etc.) which extend more than 4 inches from the wall and higher than 17 inches? If so put a box or planter under obstacle so a person with a visual impairment can identify it with a cane.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Is there sufficient lighting at all points along the route?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Does the corridor have a non-slip surface?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Are all rugs and mats securely fastened? If not try to remove them.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**CATEGORY V:
FEATURES WITHIN THE VOTING AREA**

YES NO N/A

1. Are instructions for voting printed in 12 point or larger type in simple language, and plainly displayed? Is Braille or larger print available upon request?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Is there sufficient unobstructed space for the reasonable movement of voters in wheelchairs that still provides privacy?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Can all necessary parts of the voting equipment be reached by a person seated in a chair or, at least, is an alternative means of casting a ballot provided?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Are magnifying devices available for those who request them?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Is there adequate lighting in the voting area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is seating available for elderly or handicapped voters awaiting their turn to vote?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

EXPEDITED

SUMMARY OF ACCESSIBILITY BY CATEGORIES

Please review the responses within each category on the previous pages and indicate below whether each category is:

- **INACCESSIBLE** (If there is a "NO" response in *any* unshaded box in the category.)
- **ACCESSIBLE BUT INCONVENIENT** (If all "NO" responses in the category are only in *shaded* boxes and all the responses in the *unshaded* boxes are either "YES" or "N/A".)
- **FULLY ACCESSIBLE** (If *all* responses in the category are either "YES" or "N/A".)

Category	Inaccessible	Accessible But Inconvenient	Fully Accessible
I. Parking			
II. Walkways or pathways to building			
III. Ramps and elevators entering or inside of the building			
IV. Other architectural features			
V. Voting area			
VI. Other			

EXPEDITED

OVERALL DETERMINATION OF POLLING PLACE ACCESSIBILITY

(mark one box only)

- If one or more of the categories above is marked "INACCESSIBLE", then the polling place isINACCESSIBLE
- If no category is marked "INACCESSIBLE", but one or more is marked "ACCESSIBLE BUT INCONVENIENT", then the polling place isACCESSIBLE BUT INCONVENIENT
- If *all* categories above are marked "FULLY ACCESSIBLE", then the polling place isFULLY ACCESSIBLE

DISPOSITION OF INACCESSIBLE POLLING PLACE

- If the polling place is INACCESSIBLE:
- | | | |
|---|--------------------------|--------------------------|
| | Yes | No |
| a. Has an alternative accessible facility been sought? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Are permanent or temporary alterations planned to render the polling place accessible in the coming elections? | <input type="checkbox"/> | <input type="checkbox"/> |

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-257-040 Use of public buildings as polling places. A county auditor may request the legislative authority of a county, municipality or special district for the use of their facility as a polling place when, in the judgment of the county auditor, that facility would provide a location that would best satisfy the requirements of chapter ~~((29-57))~~ 29A.16 RCW. The county auditor shall notify the secretary of state if authorization to use such a facility is not granted and no other accessible location is available.

AMENDATORY SECTION (Amending WSR 02-02-066, filed 12/28/01, effective 1/28/02)

WAC 434-257-150 Notice of accessibility. Each county auditor shall include a list of polling places, indicating those polling places which are accessible according to the standards for voters, in the notice of election published under RCW ~~((29-27-030 and 29-27-080))~~ 29A.52.310 and 29A.52.350.

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-010 Intent. It is the intent of this chapter to provide procedures to be followed in the conduct of election reviews and procedures to be followed for the certification and training of election administrators and assistant election administrators, and the training of county canvassing board members, and election observers as required by chapter ~~((29-60))~~ 29A.04 RCW.

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-020 Definitions. As used in this chapter:

(1) "Election review" means the process of examining all or a part of a county's election policies and procedures and includes the review of any documentation of those procedures;

(2) "Election review staff" means the person or persons employed by the secretary of state for the purpose of conducting election reviews;

(3) "Special election review" means an election review conducted in a county or counties whenever the unofficial returns of a primary or election indicate that a mandatory recount is likely in a race for the state legislature, congress, or statewide office;

(4) "Preliminary review report of findings and recommendations" means that draft report made by the election review staff to the county auditor and which contains any recommendations made by the review staff and a preliminary conclusion regarding the county's election procedures;

(5) "Draft election review report" means that report made by the election review staff to the county auditor and the designated members of the county canvassing board. The auditor and/or county canvassing board may respond to the draft election review report in writing and/or may appeal the

report to the election administration and certification board~~((:));~~;

(6) "Final election review report" means that report made by the election review staff which contains a copy of the recommendations made by the review staff, any response to those recommendations made by the county auditor or the county canvassing board, and a conclusion written by the staff;

(7) "Special review recommendations" means recommendations made by the review staff to the county auditor and the county canvassing board following the conduct of any special review;

(8) "County auditor designee" is that person designated by the county auditor to participate in the review process, pursuant to the provisions of RCW ~~((29-60-080))~~ 29A.04.580. Such a designee must be certified as required by chapter ~~((29-60))~~ 29A.04 RCW.

(9) "Election administrator" means the person or persons appointed by the county auditor to election management positions as required by RCW 36.22.220 and the state director of elections, assistant directors of elections, certification and training program staff members, and any other secretary of state election division employees designated by the director of elections;

(10) "Assistant election administrator" means any person involved in the administration of elections at the state or county level who has been designated as an assistant election administrator by the state director of elections or the county auditor as applicable;

(11) "County canvassing board members" means those officers designated as such pursuant to the provision of chapter 29A.60 RCW ~~((29-62-015))~~;

(12) "Election observers" means those persons designated by the county political party central committee chair person to observe the counting of ballots and related elections procedures;

(13) "Election administration and certification board" means that board created pursuant to the provisions of RCW ~~((29-60-010))~~ 29A.04.510;

(14) "Creditable training hours" means each creditable training hour contemplated in WAC 434-260-230 and shall consist of a minimum of fifty minutes of instructional activity programmed for the purpose of mastering information beneficial to the performance of the duties of administering elections.

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-040 Election reviews—Secretary of state to designate. Not later than August 1 the secretary of state shall notify, in writing, the counties selected for an election review. The notification may include tentative dates for the conduct of the reviews. Whenever possible, election reviews shall be conducted on dates that are mutually agreeable to the secretary and to the county auditor, except that those parts of the review process dealing with the actual conduct and canvassing of the election itself must be conducted between election day and the certification of the election returns. In designating counties to be reviewed, the secretary

shall take into consideration any complaints filed with his or her office pursuant to the provisions of RCW ((29-60-070)) 29A.04.570 (1)(b).

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-080 Special review—Legislative district race. A special review shall be conducted in any legislative district contained entirely within one county whenever the unofficial returns from a legislative race indicate that a mandatory recount is likely. Such a review may be as extensive as an election review or may, at the secretary of state's discretion, concentrate only on those aspects of the election process dealing with ballot accountability, audit trail procedures, and ballot security. In any legislative district encompassing more than one county where the unofficial returns indicate that a mandatory recount is likely for a legislative district race, the secretary of state may direct a partial review in each county or may prioritize the review process. In prioritizing the review process, the secretary shall take into consideration the following factors:

- (1) The date and results of the last election review held in each county;
- (2) Any request from a county auditor for a special review;
- (3) Any written complaints filed with the secretary pursuant to the provisions of RCW ((29-60-070)) 29A.04.570 (1)(b);
- (4) Any written complaints, from any resident of the county regarding the specific election in question;
- (5) Any media stories or reports alleging election irregularities with respect to the election in question;
- (6) The date on which the determination is made that a special review is required.

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-140 Draft election review report. As soon as practicable, but in any event not later than thirty days after the issuance of the preliminary report of findings and recommendations, the review staff shall issue a draft of the election review report to the county auditor and the designated members of the county canvassing board as provided in chapter 29A.60 RCW ((29-62-015)), and shall include, but not be limited to, the following:

- (1) A narrative description of recommendations made by the review staff;
- (2) Any other information the review staff deems pertinent;
- (3) A preliminary conclusion/evaluation of the county's election procedures.

The draft election review report is exempt from public inspection and copying, as provided by RCW 42.17.310.

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-200 Standards for evaluating appeals. In determining whether or not an appeal filed pursuant to

RCW ((29-60-070)) 29A.04.570 and WAC 434-260-160 should be upheld and the final scheduled review report either modified or set aside, the election administration and certification board shall consider the following factors:

- (1) Whether or not the course of action or activity recommended by the review staff is required by federal or state law or by administrative rule;
- (2) Whether or not the findings or the course of action or activity recommended by the review staff enhances the standardization and uniformity of election practices and procedures throughout the state;
- (3) Whether or not the findings or the course of action or activity recommended by the review staff enhances the security or integrity of the ballots or the ballot counting process;
- (4) Whether or not the course of action or activity recommended by the review staff would cause unnecessary hardship or expense to the county making the appeal.

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-260 Open book written test. The certification and training program will prepare an open book written test on Title ((29)) 29A RCW, Title 434 WAC, the Washington state Constitution, and other applicable state and federal election laws to be given annually to candidates for certification as election administrators or assistant election administrators.

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-330 Training program for election observers. The secretary of state elections division shall prepare a training program for officially designated political party election observers. The training shall be made available upon receipt of a request, in writing, from the chair of the state central committee of any major political party. The training offered by this section does not replace the mandatory training for political party observers required by RCW ((29-33-340)) 29A.12.120.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-261-020 Counting center—Political party observers. Counting center operations shall be observed by at least one representative from each political party, if representatives have been appointed by the respective political parties and those representatives are present while the counting center is in operation.

Prior to the primary or election, the county auditor shall determine the number of observers required in order to observe all aspects of the counting center proceedings, and shall request, in writing, that each major political party appoint representatives to fill the requirements. Where more than one observer is to be appointed, the political party shall designate one of their observers as supervisor. Counting center observers shall be provided training with respect to ballot processing procedures and the vote tallying system as required by RCW ((29-33-340)) 29A.12.120.

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Before final assignment as observers, major political party representatives so appointed shall be reviewed by the county auditor, who may refuse to approve any person so appointed. In the event the auditor rejects a person designated, he or she shall promptly notify the political party concerned and request that a substitute observer be appointed, and shall ensure that the substitute observer is trained as provided in subsection (2) of this section.

Representatives of the major political parties appointed as observers shall be identified by roster, including assigned observer stations if more than one in the counting center, and by identification tags which will indicate the observer's name and the party represented.

AMENDATORY SECTION (Amending WSR 02-07-029, filed 3/12/02, effective 4/12/02)

WAC 434-261-070 Manual inspection of ballots. (1) Upon breaking the seals and opening the ballot containers from the precincts, all voting positions on voted ballots shall be manually inspected on both sides of the ballot and every voting position for unreadable ballots. The same manual inspection process shall apply to absentee ballots, mail ballot precinct ballots, and vote-by-mail ballots. This manual inspection shall include examining each voter response position, and is a required part of processing ballots used with all electronic vote tabulating systems.

(2) The inspection of ballots tabulated at the poll site is not required provided that the poll site ballot programming provisions of RCW ((29.51.115)) 29A.44.340 are being complied with.

(3) If the manual inspection process detects any physically damaged ballots, unreadable ballots which might not be correctly counted by the tabulating equipment, or that contain marks or punches that differ from those specified in the voting instructions contained on or with the ballot but clearly form a discernible and consistent pattern on the ballot to the extent that the voter's intent can be clearly determined, the county may either:

(a) Refer the ballots to the county canvassing board;

(b) Duplicate the ballots if authorized by the county canvassing board as per WAC 434-261-090; or

(c) Enhance the ballots if authorized by the county canvassing board and enhancement can be accomplished without permanently obscuring the original marks or punches of the voters as per WAC 434-261-080 and 434-261-085.

(4) In the case of punch card ballots, if two or more corners or attachment points are detached in a punch position, the vote is valid and the chad must be removed without duplication, enhancement, or reference to the county canvassing board. If less than two corners are detached, then subsection (3) of this section shall apply.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-005 Authority and purpose. These rules are adopted pursuant to RCW ((29.04.080)) 29A.04.610 and chapter ((34.04)) 34.05 RCW in order to establish uniform procedures governing the canvass of primaries and elec-

tions, general and special, and to ensure the accurate and timely certification of those election returns.

AMENDATORY SECTION (Amending WSR 03-15-054, filed 7/11/03, effective 8/11/03)

WAC 434-262-010 Definitions. As used in these regulations:

(1) "Canvassing" is that process of examining in detail a ballot, groups of ballots, election subtotals, or grand totals, in order to determine the final official returns of a primary, special, or general election, and to safeguard the integrity of the election process.

(2) "County canvassing board" is that body charged by law with the duty of canvassing absentee ballots, of ruling on the validity of questioned or challenged ballots, of the verifying all unofficial returns as listed in the auditor's abstract of votes, and the producing of the official county canvass report; it shall be composed of the county auditor, prosecuting attorney, and chairman of the board of the county legislative authority, or their designated representatives.

(3) "Auditor's abstract of votes" is that report prepared by the county auditor which lists the number of registered voters, votes cast, all of the vote totals by precinct, or by combination of precincts if applicable, and which includes absentee ballot totals, legislative district subtotals, if any, and county-wide totals. Vote totals in the auditor's abstract of votes shall be unofficial until verified and certified by the county canvassing board.

(4) "County canvass report" is the auditor's abstract of votes after verification by the county canvassing board and shall contain a certificate which shall include the oath as specified in RCW ((29.62.040)) 29A.60.200, the original signatures of each member of the county canvassing board, the county seal, and all other material pertinent to the election.

(5) "Certified copy of the county canvass report" is that report transmitted by the county auditor to the secretary of state which contains registered voters and votes cast by precinct, or combination of precincts if applicable, votes cast for and against state measures, and votes cast for candidates for federal and statewide offices and for any office whose jurisdiction encompasses more than one county, absentee ballot totals for those measures and candidates, subtotals if applicable, and county-wide totals. It shall also include a certificate, bearing original signatures and an original county seal, identical to that included in the official county canvass report, and any other material which may be pertinent to the canvass of the election.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-015 Canvassing board—Delegation of authority. The county auditor, prosecuting attorney, and chair of the county legislative authority, or designees as per chapter 29A.60 RCW ((29.62.015)), shall be responsible for the performance of all duties of the county canvassing board, as set forth in chapters ((29.36 and 29.62)) 29A.40 and 29A.60 RCW, and the rules on canvassing adopted by the secretary of state. These duties shall be performed by the members of the board, or they may delegate in writing repre-

sentatives to perform these duties. This written delegation of authority shall be filed with the county auditor prior to any person undertaking any action on behalf of the board. In no instance may the members of the county canvassing board delegate the responsibility of certifying the returns of any primary or election, of determining the validity of any challenged ballots, or of determining the validity of any special ballots referred to them by the county auditor, to anyone other than a person authorized by law to act on their behalf.

AMENDATORY SECTION (Amending WSR 03-15-054, filed 7/11/03, effective 8/11/03)

WAC 434-262-020 Preliminary abstract of votes.

Following the election and prior to the official canvass, the county auditor shall prepare a preliminary abstract of votes, listing the number of registered voters and votes cast. The preliminary abstract of votes must also list separately for votes cast by absentee ballot and those cast at the polls, votes cast for and against measures, votes cast for candidates, overvotes and undervotes, by precinct or groups of precincts in the event that precincts have been combined in accordance with RCW ((29-04-055)) 29A.16.060, for canvassing purposes. The county auditor shall inspect the preliminary abstract of votes for errors or anomalies that may affect the results of the election. Correction of any errors or anomalies discovered must be made prior to the official canvass.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-025 Canvassing board—Notice of open public meeting. All activities of the canvassing board shall be open to the public, although they may limit the number of persons observing any aspect of the process whenever, in their judgment, it is necessary to do so to preserve order and to safeguard the integrity of the process. The canvassing board may adopt and promulgate rules and regulations, not inconsistent with the provisions of this section, to ensure that the process is open to the public and that the procedures themselves are performed by the board free of any outside interference. The auditor shall publish notice of the meetings of the canvassing board. Such notice or notices shall be in substantially the following form:

OPEN PUBLIC MEETING NOTICE

The canvassing board of (Name of County) County, pursuant to chapter ((29-62)) 29A.60 RCW, will hold public meetings at (Time of Meetings), (Dates), at (Locations), to (Purpose of Meetings). These meetings of the canvassing board are open, public meetings, and shall be continued until the activity for which the meetings are held has been completed.

A record of the proceedings of the county canvassing board shall be made and maintained in the county auditor's office, and shall be available for public inspection and copying. The record shall be retained for the same time period required by law for the retention of absentee ballots.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-030 Auditor's abstract of votes. No later than the tenth day following any primary or special election and the fifteenth day following any general election the county canvassing board shall meet and canvass all absentee ballots not previously processed under the provisions of chapter ((29-36)) 29A.40 RCW, together with all special and challenged ballots. Upon completion of this canvass the board shall direct the county auditor to include all absentee ballot totals and all challenged and special ballot totals, or legislative district subtotals if applicable, in the preliminary abstract of votes prepared pursuant to WAC 434-262-020. The county auditor shall then add these totals to the existing precinct totals. The ensuing report, containing a count of all ballots cast in the election, subtotal reports by legislative district, and county-wide totals shall constitute the auditor's abstract of votes.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-070 Official county canvass report.

Upon completion of the verification of the auditor's abstract of votes and the documentation of any corrective action taken, the county canvassing board shall sign a certification that the abstract is a full, true, and correct representation of the votes cast for the issues and offices listed thereon. The certification shall also state the total number of registered voters and votes cast in the county. The certification shall contain the oath required by RCW ((29-62-040)) 29A.60.200, signed by the county auditor and attested to by the chairman of the board of the county legislative authority, and shall have a space where the official seal of the county shall be attached. This certification, the auditor's abstract of votes, any adding machine tapes produced during the verification process, and the written narrative of errors and discrepancies discovered and corrected, if applicable, shall constitute the official county canvass report. This report may not be subsequently amended or altered, except in the event a recount conducted pursuant to chapter ((29-64)) 29A.64 RCW, or upon order of the superior court, or by the county canvassing board reconvened specifically for that purpose. The vote totals contained therein shall constitute the official returns of that election.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-291-070 Actions to contest contents of the ballot title or summary of the final cost-effectiveness study. Any registered voter may appeal to the superior court of Thurston County to review the contents of the ballot title or the summary of the final cost-effectiveness study on a major public energy project bond measure up to ten days following the filing of such document with the secretary of state. Such appeals shall be conducted in the same manner as appeals of ballot titles on initiatives as provided in RCW ((29-79-060)) 29A.72.080.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-291-130 Permissible costs in allocation of election expenses. County auditors may include in the election costs to be allocated pursuant to RCW ((~~29-04-047~~ ~~{29-13-047}~~)) 29A.04.420 any of the following types of charges:

(1) Salaries, wages, and benefits for precinct officers and part-time or temporary employees whose responsibilities are directly attributable to the election, and for that portion of the time of regular employees (other than the county auditor) which is directly attributable the election;

(2) Supplies specifically required for the election, including stationery, forms, other office supplies, and items for the repair and maintenance of equipment;

(3) Telephone and postage costs which are directly attributable to the election;

(4) Cartage or freight charges for moving or delivering voting machines, voting devices, voting booths, or delivery of precinct supplies and travel expenses for delivery of precinct returns;

(5) Legal notices and published instructions in connection with the election, closing of registration, or canvassing;

(6) Printing of ballots, poll books, tally books, instructions, signs, and other precinct supplies;

(7) Repairs and maintenance of voting and vote tallying equipment;

(8) Rentals for polling places and storage facilities for voting machines or devices;

(10) Depreciation for voting equipment so long as such charges over the useful life of such equipment do not exceed the original value of the equipment;

(11) That portion of the overhead cost of buildings or office space which is equal to the total of such costs multiplied by the ratio of the number of employee hours directly attributable to the major public energy project bond measure and the total number of employee hours for that office;

(12) Data processing costs for programming related to the election and for machine time for program testing, and vote tallying.

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

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-291-170 Reimbursement to counties for proportional share of election costs. Upon receipt of payment by the applicant, the secretary of state shall disburse the appropriate amounts to each county in the same manner as election costs are reimbursed pursuant to RCW ((~~29-13-047~~)) 29A.04.420.

AMENDATORY SECTION (Amending WSR 98-03-033, filed 1/13/98, effective 2/13/98)

WAC 434-324-060 Transmittal of signature cards to the secretary of state. Each group of initiative and referendum signature cards transmitted to the office of the secretary of state under the provisions of chapter 29A.08 RCW

((~~29-07-120~~)) shall be accompanied by a properly executed certificate containing the following information: County, date, the number of cards, and the signature of the register of voters attesting to the authenticity of the cards.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-324-065 Exemption of transmittal of signature cards to the secretary of state. Pursuant to the requirements of chapter 29A.08 RCW ((~~29-07-120~~)), a county auditor shall be exempted from transmitting voter registration cards required by RCW ((~~29-07-090~~ and ~~29-10-100~~)) 29A.08.240 and 29A.08.530, by providing the secretary of state access to electronic voter registration and electronic voter signature information, provided that access to the electronic data shall meet the specifications defined by the secretary of state and agreed to by the county auditor through interlocal agreement. If access to the electronic data is suspended by the county auditor, the county auditor shall provide a complete alphabetical copy of all voter registration records in that county. The records shall contain the voter's name, date of registration, voter registration number, and a facsimile of the voter's signature. The office of the county auditor shall pay for all costs incurred by the secretary of state in reestablishing a voter registration card file system.

AMENDATORY SECTION (Amending WSR 98-03-033, filed 1/13/98, effective 2/13/98)

WAC 434-324-085 Notice of new registration or transfer. Whenever an individual registers to vote or transfers his/her registration record pursuant to RCW ((~~29-10-100~~)) 29A.08.530 or whenever a change in precinct boundaries requires that the existing record of a voter be moved from one precinct to another or be placed in a new precinct, the county auditor shall notify by nonforwardable, address correction requested mail, the individual or voter of such new registration, transfer, or change of precinct boundary acknowledging that the request of the individual or voter with respect to his record has been processed. Such notices and acknowledgment shall be provided on a form containing the following information: The voter's full name, address, county name, precinct name and/or number, voter ID number, the date the voter registered and a signature line for the voter.

AMENDATORY SECTION (Amending WSR 98-03-033, filed 1/13/98, effective 2/13/98)

WAC 434-324-095 Cancellation due to death. Pursuant to RCW ((~~29-10-090~~)) 29A.08.510, the county auditor shall maintain a supply of, furnish to the public upon request, and include in the supplies sent to each precinct for use by the precinct election officials, forms for the purpose of permitting registered voters to request that the voter registration record of any person, whom they personally know to be deceased, be cancelled.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-324-110 Transmittal of cancellations to the secretary of state. Pursuant to the requirements of RCW ((29-10-100)) 29A.08.530, the county auditor shall prepare an alphabetical list of all voter registrations cancelled from the registration records of that county since the last previous report. The list shall contain the following information for each voter: Voter ID number, voter name, date of registration.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-324-115 Challenge of voter's registration. All county auditors shall maintain a supply of, and furnish to the public on request, forms substantially similar to the sample included below for the purpose of allowing a registered voter to challenge the registration of another voter pursuant to RCW ((29-10-130)) 29A.08.830. A copy of the form shall be sent to the voter, whose voter registration has been challenged and to the challenger pursuant to RCW ((29-10-140)) 29A.08.840. The form shall be substantially similar to the following:

VOTER'S REGISTRATION CHALLENGE FORM

TO PROPERLY EXECUTE THIS FORM IT IS NECESSARY TO CHECK THE APPROPRIATE SQUARE BELOW. A SUMMARY OF THE ADMINISTRATIVE PROCEDURES WHICH WILL BE FOLLOWED WITH RESPECT TO THIS VOTER REGISTRATION CHALLENGE MAY BE FOUND ON THE REVERSE SIDE OF THIS FORM.

REASON FOR CHALLENGE

- The individual challenged is not a U.S. Citizen
- The individual challenged is not at least 18 years old
- The individual challenged is currently being denied his or her civil rights
- The individual challenged does not reside at the address at which he or she is registered and his or her actual residence is as follows:

Note: State law (RCW ((29-10-130)) 29A.08.830) requires that challenging party must provide the address at which the challenged party resides in order for a challenge based on residence to be considered.

PROVISIONS RELATING TO VOTING RESIDENCE

The State Constitution and state law provide that a voting residence shall not be lost if the voter is absent because of:

- A. State or Federal employment, including military service
- B. School attendance
- C. Business outside the state
- D. Confinement in prison

Note: Persons in the above categories have the legal right to continue to use their former residence for voting purposes and may continue to vote unless additional conditions or circumstances indicate they have forfeited that right in Washington. Any person instituting a voter registration challenge should be sure of the facts BEFORE signing the challenge affidavit.

AFFIDAVIT OF CHALLENGER

I,, declare, under penalty of perjury, that I am a registered voter, that I hereby challenge the voter's registration of for the reason indicated above. I also state that I have read the above stated PROVISIONS RELATING TO VOTING RESIDENCE and that, to the best of my knowledge and belief, the above named individual does not fall into any of the protected categories.

.....
DATE SIGNATURE OF CHALLENGER

**VOTER'S REGISTRATION CHALLENGES
A SUMMARY OF ADMINISTRATIVE PROCEDURES
CHALLENGES FILED THIRTY OR MORE DAYS PRIOR TO A PRIMARY, SPECIAL OR GENERAL ELECTION**

State law (RCW ((29-10-140)) 29A.08.840) requires the county auditor to notify, by certified mail, any voter whose registration has been challenged.

The notification must be mailed to the address at which the challenged voter is registered, to any address provided by the challenger as required by RCW ((29-10-130)) 29A.08.830, and to any other address that the auditor could reasonably expect the challenged voter might receive such notification.

Included with the notification must be a request that the voter appear at a hearing to be held within ten days of the mailing of the request, at the place and time specified, in order to assist the auditor in determining the validity of the challenge.

THE PERSON MAKING THE CHALLENGE MUST BE PROVIDED WITH A COPY OF THE NOTIFICATION AND REQUEST MAILED TO THE CHALLENGED VOTER.

If either the challenger or the challenged voter, or both, are unable to appear in person they may file affidavits, stating UNDER OATH the reasons they believe the challenge to be valid or invalid.

The county auditor shall determine the validity of the challenge based on his or her evaluation of the evidence presented by both parties to the challenge. The decision of the auditor is final, subject only to a petition for judicial review under chapter ((34-04)) 34.05 RCW.

CHALLENGES FILED WITHIN THIRTY DAYS OF A PRIMARY, SPECIAL OR GENERAL ELECTION

State law (RCW ((29-10-130)) 29A.08.830) provides that in the event the challenge is made within thirty days of an elec-

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tion, the voter and the precinct election officers within the voter's precinct are to be notified.

Both the challenged voter and the precinct election officers are also to be informed that in the event the voter attempts to vote at the ensuing election, he or she will be provided with a CHALLENGED BALLOT.

The validity of the challenge and the disposition of the challenged ballot will be determined by the county canvassing board and both the challenger and the challenged voter may either appear in person or submit affidavits in support of their respective positions.

In the event the challenged voter does NOT vote at the ensuing election, the challenge shall be processed in the same manner as challenges made more than thirty days prior to the election.

In the event the challenge is filed more than thirty days prior to a primary or election, the challenge shall be processed in the manner provided by RCW ((29-10-140)) 29A.08.840. If the voter votes and returns his or her absentee ballot prior to the county auditor making his or her determination as to the validity of the challenge, the returned ballot shall be segregated from other absentee ballots and not processed until such a determination is made. In the event the challenge is made within thirty days of a primary or election and prior to the absentee ballots being separated from the return envelopes, the challenge and the returned ballot shall be forwarded to the canvassing board and processed in the manner provided by RCW ((29-10-127)) 29A.08.820. If the challenge is made within thirty days of a primary or election but after the ballots have been separated from the return envelopes, the challenge shall be processed by the county auditor in the manner provided by law for challenges made more than thirty days prior to the primary or election.

AMENDATORY SECTION (Amending WSR 98-03-033, filed 1/13/98, effective 2/13/98)

WAC 434-324-120 Contents of precinct list of registered voters. The precinct list of registered voters as required by RCW ((29-48-030)) 29A.44.110 shall contain the name, residence address, sex, month and day of birth, and voter registration number of each voter in the precinct, a listing of the districts in which that voter resides, and a designation of the applicable county, legislative district, and precinct, or a ballot code identifying this information. The names shall be listed alphabetically by surname. The list shall contain a space for each voter to sign his/her name and to verify his/her current address and a space for the inspector or judge to credit the voter with having participated in a particular election as provided in RCW ((29-51-070)) 29A.44.230. The county auditor may eliminate from precinct lists ongoing absentee voters and voters requesting absentee ballots for that election. If the names of such voters do not appear, the precinct list shall clearly indicate that the voters are not included on the list.

AMENDATORY SECTION (Amending WSR 98-03-033, filed 1/13/98, effective 2/13/98)

WAC 434-324-130 Contents of list of registered voters for the public. Pursuant to the provisions of RCW ((29-04-100 and 29-04-120)) 29A.08.720 and 29A.08.740, the county auditor shall furnish to any person, upon request, current lists of registered voters at actual reproduction cost. The county auditor shall, upon request, select names and addresses from the voter registration records on the basis of the precinct code, the district code, date of registration, or voting history of each individual voter in that portion of the voter registration file. Such lists may contain any information maintained on the computer file except the date of birth of each registered voter and may be in the form of computer printouts, computer-prepared labels, microfilm duplicates, or magnetic tape copies of such information. Such voter registration lists shall be used only for political purposes; commercial use of this information shall be punishable as provided in RCW ((29-04-120)) 29A.08.740 as now or hereafter amended.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-324-140 Requests for list of registered voters. The county auditor shall require each person who requests a list of registered voters under the authority of RCW ((29-04-100)) 29A.08.720 and WAC 434-324-130 to sign a request on a form substantially similar to the sample included below.

REQUEST FOR LIST OF REGISTERED VOTERS

_____ County Auditor _____ Date

I request a listing of registered voters for the following precinct and/or taxing districts:

- computer printed list
- mailing labels
- magnetic tape

I understand that the County Auditor is required by law to furnish copies of current registration lists of registered voters in his possession to any person, upon request, PROVIDED: That such lists be used only for political purposes and shall not be used for commercial purposes. (RCW ((29-04-100)) 29A.08.720)

I further understand that any violation of RCW ((29-04-100)) 29A.08.720 relating to the use of lists of registered voters is a felony and shall be punished by imprisonment in the state ((penitentiary)) penitentiary for a period of not more than five years or a fine of not more than five thousand dollars, or both such fine and imprisonment, in addition to possible civil penalties.

(Name of Requester (please print) _____ (Witness)

(Address) _____ (Approved by)

(Signature)

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AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-326-015 Voter registration at driver license facilities. Pursuant to RCW ((29.07.260)) 29A.08.340 a person may register to vote or transfer a voter registration when he or she applies for or renews a driver license or state identification card. Nothing in these rules should be interpreted as allowing voter registration by mail.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-333-063 Definition of official logic and accuracy test. As used in this chapter, "official logic and accuracy test" means the test performed in accordance with RCW ((29.33.350)) 29A.12.130.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-333-090 Logic and accuracy test certification—State primary and general election. The county auditor or deputy, and, if present, the office of the secretary of state representative and any political party observers shall certify that the test has been conducted in accordance with RCW ((29.33.350)) 29A.12.130. Copies of this certification shall be retained by the secretary of state and the county auditor. All programming materials, test results, and test ballots shall be securely sealed until the day of the primary or election. These items may be sealed and stored separately.

If, for any reason, any changes are made to the ballot counting programming after the official logic and accuracy test, an emergency logic and accuracy test must be conducted pursuant to WAC ((434-334-082 [434-333-082])) 434-333-082.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-333-110 Logic and accuracy test certification—Special election. The county auditor or deputy and any political party observers, if present, shall certify that the test has been conducted in accordance with RCW ((29.33.350)) 29A.12.130. Copies of this certification shall be retained by the county auditor. All programming materials, official test results, and test ballots shall be securely sealed until the day of the primary or election. These items may be sealed and stored separately.

If, for any reason, any changes are made to the ballot counting programming after the official logic and accuracy test, an emergency logic and accuracy test must be conducted pursuant to WAC ((434-334-082 [434-333-082])) 434-333-082.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-369-005 Authority and purpose. These rules are adopted under authority of RCW ((29.04.140)) 29A.76.040 pursuant to chapter ((34.04)) 34.05 RCW to

establish and govern the procedures in the census mapping project by the secretary of state.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-369-010 Definitions. As used in these regulations:

(1) "Census mapping project" includes all functions performed by the secretary of state and each county auditor in the preparation, maintenance, distribution, and filing of precinct maps, detail maps, and census correspondence listings pursuant to RCW ((29.04.130)) 29A.76.040.

(2) "Secretary of state" includes the secretary of state, assistant secretary of state, deputy secretary of state, or any other person authorized by the secretary of state to act in his or her behalf in the census mapping project.

(3) "County auditor" includes each county auditor, county elections official, or any other person authorized by the county auditor to act in his or her behalf in the census mapping project.

(4) "Census maps" refers to the maps provided by the U.S. Census Bureau which indicate census unit boundaries and numeric identification of such census units.

(5) "Census units" refers to the census geographic area designations for which the population count will be reported including census tracts, block groups, blocks, enumeration districts, and county census divisions.

(6) "Precinct maps" refers to the maps prepared by each county auditor pursuant to RCW ((29.04.130)) 29A.76.040 which indicate the boundaries and numeric identification of each precinct in that county.

(7) "Precinct lists" refers to the lists prepared by each county auditor pursuant to RCW ((29.04.050)) 29A.16.050 (3) which indicate the names and consecutively assigned numbers of each precinct in that county.

(8) "Base maps" refers to the sets of mylar maps of each county which are provided by the secretary of state on which final detail maps will be prepared.

(9) "Census overlay maps" refers to the mylar overlay maps prepared by the secretary of state which indicate census unit boundaries and numeric identification for the area covered by each base map.

(10) "Precinct overlay maps" refers to the mylar overlay maps prepared by each county auditor which indicate precinct boundaries and numeric identification for the area covered by each base map.

(11) "Detail map" refers to the sets of maps produced by the combination of the base maps with the corresponding census and precinct overlay maps for each county.

(12) "Census correspondence listings" refers to the lists prepared by each county auditor pursuant to RCW ((29.04.130)) 29A.76.040 which indicate the census units or portions of census units contained in each precinct in that county.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-369-020 Precinct maps—Availability and distribution. (1) Pursuant to the provisions of RCW

((29.04.130)) 29A.76.040, on or before July 1, 1980, each county auditor shall prepare for public inspection and use precinct maps of that county.

(2) On or before July 18, 1980, each county auditor shall transmit to the secretary of state one complete set of precinct maps of that county.

(3) Each county auditor shall also send one copy of the precinct maps of each city or town in that county to the clerk of that city or town.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-369-050 Precinct overlay maps—Preparation. Pursuant to the provisions of RCW ((29.04.130)) 29A.76.040, each county auditor shall prepare precinct overlay maps for each base map of the county and each city and town within that county according to the following procedures:

(1) Precinct overlay maps shall be prepared on the reproducible mylar overlays provided by the secretary of state; (2) each county auditor shall transfer all precinct boundaries and numeric identification in red ink onto the mylar overlay for each base map of that county; and (3) each overlay map shall include the following identification in the lower left hand corner: (a) The name of the area covered by the map; (b) an arrow indicating north; and (c) the preparation date of the precinct overlay map.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-369-060 Census correspondence listings—Preparation. Pursuant to the provisions of RCW ((29.04.130)) 29A.76.040, each county auditor shall prepare a census correspondence listing according to the following procedures: (1) Record the census tracts or county census divisions (CCD) and the smallest census units in each area for which population counts are to be reported from the sequential census unit listing supplied by the U.S. Census Bureau. (The order of census information on the census correspondence listing shall be identical to the sequential census unit listing.) (2) Record the number or numbers, as assigned pursuant to RCW ((29.04.050)) 29A.16.050(3), of each precinct which is wholly or partially coextensive with the census unit; (3) wherever census unit or precinct boundaries are not coincident, estimate for each portion of a split census unit, the proportion of the total number of registered voters residing in each precinct containing a portion of the split census unit. (Each county auditor shall refer to current voter registration lists and other available information to determine such estimated proportion of registered voters. Such estimates shall be expressed to at least the nearest 10 percent of the total number of registered voters within the precinct.)

The census correspondence listings shall be prepared in substantially the following form:

County _____ Map sheets _____

Census Tract CCD	Block ED	Precinct Number	% of Registered Voters

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-379-010 Random sampling procedure. In the verification of signatures on initiative and referendum petitions, under RCW ((29.79.200)) 29A.72.230, the following statistical test may be employed:

(1) Take an unrestricted random sample of the signatures submitted;

(2) Check each signature sampled to determine the number of valid signatures in the sample, the number of signatures in the sample which are invalid because the individual

signing is not registered or the signature is improper in form, and the number of signatures which are duplicated in the sample;

(3) Calculate an allowance for the chance error of sampling by multiplying the square root of the number of invalid signatures in the sample by 1.5;

(4) Estimate the upper limit of the number of signatures in the population which are invalid by dividing the sum of the invalid signatures in the sample and the allowance for the chance error of sampling by the sampling ratio, i.e. the num-

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ber of signatures sampled divided by the number of signatures submitted;

(5) Determine the maximum allowable number of pairs of signatures in the population by subtracting the sum of the number of signatures required by Article II, Section 1A of the Washington state constitution and the estimate of the upper limit of the number of invalid signatures in the population from the number of signatures submitted;

(6) Determine the expected number of pairs of signatures in the sample by multiplying the square of the sampling ratio by the maximum allowable number of pairs of signatures in the population;

(7) Determine the acceptable number of pairs of signatures in the sample by subtracting 1.65 times the square root of the expected number of pairs of signatures in the sample from the expected number of pairs of signatures in the sample;

(8) If the number of pairs of signatures in the sample is greater than the acceptable number of pairs of signatures in the sample, each signature shall be canvassed to determine the exact number of valid signatures;

(9) If the number of pairs of signatures in the sample is less than the acceptable number of pairs of signatures in the sample, the petition shall be deemed to contain sufficient signatures and the serial number and ballot title shall be certified to the state legislature as provided in RCW ((29.79.200)) 29A.72.230 or to the county auditors as provided in RCW ((29.79.230)) 29A.72.250.

AMENDATORY SECTION (Amending WSR 02-02-067, filed 12/28/01, effective 1/28/02)

WAC 434-381-120 Deadlines. (1) Candidate statements and photographs shall be submitted to the secretary of state:

(a) For candidates who filed during the regular filing period, within three business days after filing their declaration of candidacy;

(b) For candidates who filed during a special filing period, or were selected by a political party pursuant to either RCW ((29.15.150 or 29.15.160)) 29A.52.010 or 29A.24.140, within three business days after the close of the special filing period or selection by the party.

(2) For ballot measures, including initiatives, referendums, alternatives to initiatives to the legislature, and constitutional amendments, the following documents shall be filed with the secretary of state on or before the following deadlines:

(a) Appointments of the initial two members of committees to prepare arguments for and against measures:

(i) For an initiative to the people or referendum measure: Within ten business days after the submission of signed petitions to the secretary of state;

(ii) For an initiative to the legislature, with or without an alternative, constitutional amendment or referendum bill, within ten business days after the adjournment of the regular or special session at which the legislature approved or referred the measure to the ballot:

(b) Appointment of additional members of committees to prepare arguments for and against ballot measures, not

later than the date the committee submits its initial argument to the secretary of state;

(c) Arguments for or against a ballot measure, no later than twenty calendar days following appointment of the initial committee members;

(d) Rebuttals of arguments for or against a ballot measure, by no later than fourteen calendar days following the transmittal of the final statement to the committees by the secretary. The secretary shall not transmit arguments to opposing committees for the purpose of rebuttals until both arguments are complete.

(3) If a ballot measure is the product of a special session of the legislature and the secretary of state determines that the deadlines set forth in subsection (2) of this section are impractical due to the timing of that special session, then the secretary of state may establish a schedule of deadlines unique to that measure.

(4) The deadlines stated in this rule are intended to promote the timely publication of the voters pamphlet. Nothing in this rule shall preclude the secretary of state from accepting a late filing when, in the secretary's judgment, it is reasonable to do so.

AMENDATORY SECTION (Amending WSR 98-19-063, filed 9/16/98, effective 10/17/98)

WAC 434-840-005 Definitions. For the purposes of this chapter:

(1) "Address confidentiality program" means the agency employee designated by the secretary of state with responsibility for developing and administering the program that implements the provisions of chapter 40.24 RCW.

(2) "Agency" means an office, department, division, bureau, board, commission, or other statutory unit of state or local government or any functional subdivision of that agency.

(3) "Application assistant" means an employee of a state or local agency, or of a nonprofit program that provides counseling, referral, or shelter services to victims of sexual assault or domestic violence, who has been designated by the respective agency, and has been accepted and registered by the secretary of state to assist individuals in the completion of program participation applications.

(4) "Authorization card form" means the incomplete form for an authorization card on which no identifying program participant information has been entered.

(5) "Authorized personnel" means an employee of a county auditor's office, a county recording office, the Washington state department of health, or the office of the secretary of state who has been designated by the chief executive officer of the respective agency, to process and have access to voter application, voting records, marriage applications and records pertaining to program participants.

(6) "Bona fide statutory or administrative requirement" means that without possession of an individual's actual address the agency is unable to fulfill its statutory duties and obligations.

(7) "Protected records voter" means a program participant who has applied and qualified as a service voter, as provided under RCW ((29.01.155)) 29A.04.163, with ongoing

absentee ballot voter status, as provided under RCW ((29-36.013)) 29A.40.040.

(8) "Record" means any information relating to the conduct or performance of a governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(9) "Substitute mailing address" means the mailing address designated by the secretary of state which shall not be the program participant's residential address as documented on her or his application for program participation.

EXPEDITED

WSR 04-08-021
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed March 29, 2004, 9:36 a.m.]

Date of Adoption: March 26, 2004.

Purpose: The intent of this filing is to clarify existing rules and create new rules concerning eligibility for Working Connections Child Care (WCCC). We intend for WCCC consumers to better understand the eligibility process. See below for amended and new rules adopted.

The permanent rule will replace two emergency rule filings. Emergency filings WSR 03-06-045, 03-14-061, 03-22-005 and 04-05-079 repealing WAC 388-290-0210 and amending WAC 388-290-0075, 388-290-0085, and 388-290-0190 have been in effect since March 1, 2003. Emergency filings WSR 03-12-026, 03-20-050 and 04-04-030, amending WAC 388-290-0130 have been in effect since June 2, 2003.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-290-0080 and 388-290-0210; amending WAC 388-290-0001 What is the purpose of the working connections child care program?, 388-290-0005 Who is considered a consumer for the WCCC program?, 388-290-0010 What makes me eligible for WCCC benefits?, WAC 388-290-0015 How does the WCCC program determine my family size for eligibility?, 388-290-0020 Are there special circumstances that might affect my WCCC eligibility?, 388-290-0025 What rights do I have when I apply for or receive WCCC benefits?, 388-290-0030 What responsibilities do I have when I apply for or receive WCCC benefits?, 388-290-0035 What responsibilities does the WCCC program staff have?, 388-290-0040 If I receive a temporary assistance for needy families (TANF) grant, what activities must I be involved in to be eligible for WCCC benefits?, 388-290-0045 If I don't get a temporary assistance for needy families (TANF) grant, what activities must I be involved in to be eligible for WCCC benefits?, 388-290-0050 If I am self-employed, can I get WCCC benefits?, 388-290-0055 If I am not working or in an approved activity right now, can I get WCCC benefits?, 388-290-0060 What income (~~is counted~~) does the WCCC program count when determining (~~WCCC~~) eligibility and copayments?, 388-290-0065 How does the WCCC program define and use my income?, 388-290-0070 What income types and deductions (~~are not counted~~) does the WCCC program disregard when figuring my income eligibility and for WCCC benefits?, 388-290-0075 What (~~are the~~) steps does the WCCC program (~~takes~~) take to determine my family's WCCC eligibility and copayment amount?, 388-290-0085 When might my WCCC copayment change?, 388-290-0090 When do I pay the minimum copayment?, 388-290-0095 If I receive temporary assistance for needy families (TANF) and I am determined eligible for WCCC, when do my benefits begin?, 388-290-0100 If I do not receive temporary assistance for needy families (TANF) and I am determined eligible for WCCC, when do my benefits begin?, 388-290-0105 (~~What is the process for my~~) How do I reapply for WCCC (~~review for reauthorization of my WCCC benefits~~) when my eligibility period is ending?, 388-290-0110 What circumstances might affect my (~~on-going~~)

eligibility for (~~the~~) WCCC benefits and when might I be eligible again?, 388-290-0120 When doesn't advance and adequate notice of payment changes apply to me?, 388-290-0125 What child care providers can I choose under the WCCC program?, 388-290-0130 What in-home/relative providers can I choose under the WCCC program?, 388-290-0135 When I choose an in-home/relative provider, what information must I submit to receive WCCC benefits?, 388-290-0140 When does the WCCC program not pay for the cost of in-home/relative child care?, 388-290-0143 Who must have a background check for the WCCC program and how often is the check done?, 388-290-0145 Why is a background check required and will I be notified of the results?, 388-290-0150 What information (~~is included in~~) does the background check contain and where does it come from?, 388-290-0155 What happens after (~~we receive~~) the WCCC program receives the background information?, 388-290-0160 What convictions would cause the WCCC program to permanently disqualify my in-home/relative provider (~~from being authorized by us~~)?, 388-290-0165 Is there other background information or convictions that will disqualify my in-home/relative provider?, 388-290-0167 What happens if my in-home/relative provider, who provides care in their home, is disqualified based solely on the disqualifying background of an individual living with that provider?, 388-290-0180 When are the WCCC program subsidy rates in this chapter effective?, 388-290-0190 What does the WCCC program pay for and when can the program pay more?, 388-290-0200 What daily rates does DSHS pay for child care in a licensed or certified child care center or DSHS contracted seasonal day camps?, 388-290-0205 What daily rates does DSHS pay for child care in a licensed or certified family home child care (~~home~~)?, 388-290-0220 How does DSHS determine that my child qualifies for a special needs daily rate?, 388-290-0225 What is the (~~DSHS child care~~) additional subsidy daily rate for children with special needs in a licensed or certified child care center or DSHS contracted seasonal day camp?, 388-290-0230 What is the (~~DSHS child care~~) additional subsidy daily rate for children with special needs in a licensed or certified family home child care (~~home~~)?, 388-290-0235 What is the DSHS in-home/relative child care daily rate for children with special needs?, 388-290-0245 When can the WCCC program authorize payment of fees for registration?, 388-290-0250 When can WCCC pay a bonus for enrolling an infant?, 388-290-0255 When can the WCCC program establish a protective payee to pay my in-home/relative provider?, 388-290-0260 Do I have the right to ask for a hearing about my WCCC benefits and how do I ask for one?, 388-290-0265 When can I get WCCC benefits pending the outcome of a hearing? and 388-290-0270 What is a WCCC overpayment and (~~when might I have one~~) what can be included?; and new sections WAC 388-290-0012 When do I need to verify information?, 388-290-0031 What changes do I need to report when I apply for or receive WCCC?, 388-290-0032 What are the consequences if I do not report changes within the specified timelines?, 388-290-0082 When I am approved, how long is my eligibility period?, 388-290-0107 When do I receive a denial letter?, 388-290-0108 What happens if I meet eligibility requirements after I receive a denial letter?, 388-290-0247 When can the WCCC program authorize payment for field

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trips fees?, 388-290-0271 When might I be assessed an overpayment?, and 388-290-0273 When would my provider be assessed an overpayment?.

Statutory Authority for Adoption: RCW 74.04.050 and 74.12.340.

Other Authority: RCW 74.13.085, chapter 25, Laws of 2003 1st sp.s.

Adopted under notice filed as WSR 04-02-047 on January 5, 2004.

Changes Other than Editing from Proposed to Adopted Version: The following changes were made as a result of comments received and to provide clarity:

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Rules as proposed (added language underlined; deleted language struck through)	Changes in the adopted version of the rules:
<p>WAC 388-290-0012</p> <p>(4) You must give us the verification within the time limits described in WAC 388-406-0030(1).</p>	<p>Removed subsection (4) and renumbered the remaining sections accordingly.</p>
<p>WAC 388-290-0015</p> <p><u>For children to be included in the household, they must meet the age requirements in subsection (2) of this section and in WAC 388-290-0020(2). Once we verify the children's eligibility,</u></p>	<p>Removed.</p>
<p>WAC 388-290-0020</p> <p>(i) "Able" means physically and mentally capable of caring for a child in a responsible manner. <u>If you claim one parent is unable to care for the children, you must provide written documentation from a licensed professional (see WAC 388-448-0020(1) and (2)) that states the:</u></p>	<p>Changed WAC reference to include all of WAC 388-448-0020.</p>
<p>WAC 388-290-0030</p> <p>(4) Leave your children with your provider only for approved activities or arrange to pay the provider yourself, as the provider requires, for care while you are engaged in unapproved activities.</p>	<p>Removed the word "only."</p>

Rules as proposed (added language underlined; deleted language struck through)	Changes in the adopted version of the rules:
<p>(5) Keep ((and provide when requested;)) attendance records. Records must be:</p> <p>(a) Accurate ((attendance records when you choose in-home/relative-child care;</p> <p>(5)); (b) Provided when requested; and</p> <p>(c) Kept for one year after care has been provided.</p>	<p>(5) Keep ((and provide when requested;)) attendance records when you choose in-home/relative child care. Records must be:</p> <p>(a) Accurate ((attendance records when you choose in-home/relative-child care;</p> <p>(5)); (b) Provided when requested; and</p> <p>(c) Kept for one year after care has been provided.</p>
<p>WAC 388-290-0032</p> <p>(4) Receiving an overpayment for absent days the licensed/certified or DSHS seasonal contracted day care provider is allowed to bill (see publication <i>Child Care Subsidies, A Booklet for Licensed and Certified Child Care Providers</i>, DSHS 22-877).</p>	<p>(4) Receiving an overpayment for <u>the number of days your child was absent ((days)) above the absences</u> the licensed/certified or DSHS seasonal contracted day care provider is allowed to bill (see publication <i>Child Care Subsidies, A Booklet for Licensed and Certified Child Care Providers</i>, DSHS 22-877).</p>
<p>WAC 388-290-0065</p> <p><u>(2) Parts or all of your income (earned or unearned) may be determined by averaging. If your income decreases during your eligibility, we recalculate your average income only if the average drops one hundred dollars below the lowest income amount used for two months. The change is effective the first day of the third month.</u></p>	<p>Removed this subsection and renumbered the rest accordingly.</p>
<p>WAC 388-290-0070</p> <p>(e) Diversion cash assistance and the early exit bonus;</p>	<p>Removed, there is no longer any exit bonus for TANF.</p>

Rules as proposed (added language underlined; deleted language struck through)	Changes in the adopted version of the rules:
<p>WAC 388-290-0100</p> <p>(2) Your application date is whichever is earlier:</p> <p>(a) The date your application is date stamped as received; or</p> <p>(b) The date your application is entered into our automated system as received.</p>	<p>(2) Your application date is whichever is earlier:</p> <p>(a) ((The date your application is date stamped as received; or <u>(b))</u>) The date your application is entered into our automated system ((as received)); <u>or</u></p> <p><u>(b) The date your application is date stamped as received.</u></p>
<p>WAC 388-290-0105</p> <p>(b) Do not receive TANF, your benefit begin date is the date your:</p> <p>(i) Application is date stamped as received or entered into our automated system as received;</p>	<p>(b) Do not receive TANF, your benefit begin date is the date your:</p> <p>(i) Application is date stamped as received or entered into our automated system ((as received));</p>
<p>WAC 388-290-0125</p> <p>(1) Licensed as required by chapter 74.15 RCW;</p> <p><u>(6) You may choose to have up to one back up provider for any one-time period.</u></p>	<p>(1) Licensed as required by chapter 74.15 RCW <u>and chapters 388-155, 388-295, or 388-151 WAC;</u></p> <p>Removed subsection (6) as repeated elsewhere</p>
<p>WAC 388-290-0130</p> <p>(3) <u>If you use an in-home/relative provider you can:</u></p> <p>(a) <u>Have no more than one in-home/relative provider authorized for payment during your eligibility period;</u></p> <p>(c) <u>Change to a different in-home/relative provider during your eligibility period. Payment for the current in-home/relative provider would end before payment for the new provider could begin.</u></p>	<p>(3) <u>If you use an in-home/relative provider you can:</u></p> <p>(a) <u>Have no more than two in-home/relative providers authorized for payment during your eligibility period (not including back-up providers);</u></p> <p>(c) <u>Change to a different in-home/relative provider during your eligibility period.</u></p>

Rules as proposed (added language underlined; deleted language struck through)	Changes in the adopted version of the rules:
<p><u>(4) An in-home/relative provider can care for:</u></p> <p><u>(a) One consumer's children during any one-time period. If the provider is an approved provider for another consumer, the hours they provide care for all WCCC consumers must not overlap; and</u></p> <p><u>(b) Up to a maximum of six children during any one-time period.</u></p> <p><u>(5) An in-home/relative provider is not an eligible provider (under WAC 388-290-0095 and 388-290-0100) anytime prior to the date we receive the results of all applicable criminal background checks under WAC 388-290-0143(1).</u></p>	<p><u>(4) An in-home/relative provider can care for up to a maximum of six children during any one time period.</u></p> <p>Added reference to WAC 388-290-0150 for further clarification.</p>
<p>WAC 388-290-0160</p> <p>(1) ((b)) has a background containing ((the following felony convictions, the provider is)) <u>any conviction posted on the DSHS secretary's list of disqualifying convictions for ESA, we permanently ((disqualified)) disqualify the person as an in-home/relative child care provider for WCCC((:</u></p>	<p>(1) ((b)) has a background containing ((the following felony convictions, the provider is)) <u>a permanently disqualifying conviction posted on the DSHS secretary's list of disqualifying convictions for ESA, we permanently ((disqualified)) disqualify the person as an in-home/relative child care provider for WCCC((:</u></p>
<p>WAC 388-290-0165</p> <p>(2) If an individual being checked ((as)) <u>has</u> a background containing ((the following crimes within the last five years)) <u>any conviction posted on the DSHS secretary's list of disqualifying convictions for ESA, your provider is disqualified as an in-home/relative child care provider for WCCC((:</u></p>	<p>(2) If an individual being checked ((as)) <u>has</u> a background containing ((the following crimes within the last five years)) <u>a five-year disqualifying conviction posted on the DSHS secretary's list of disqualifying convictions for ESA, your provider is disqualified as an in-home/relative child care provider for WCCC((:</u></p>

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Rules as proposed (added language underlined; deleted language struck through)	Changes in the adopted version of the rules:
(3)(b) A conviction other than those listed in WAC 388-290-0160 or subsection (2) ((a) through (e)) of this section, we ((will)) allow you to determine the provider's character, suitability, and competence by reviewing <u>important information such as the:</u>	(b) ((A)) <u>Any</u> conviction other than those ((listed in WAC 388-290-0160 or subsection (2)(a) through (e) of this section, we will)) <u>posted on the DSHS secretary's list of disqualifying convictions for ESA we will</u> allow you to determine the provider's character, suitability, and competence by reviewing <u>important information such as the:</u>
WAC 388-290-0200	Added <u>(3) If the center provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited waiver and the child must meet the special needs requirement according to WAC 388-290-0220.</u>
WAC 388-290-0273 (b) The provider does not have attendance records that support the billing (refer to WAC 388-295-7030, 388-155-460, and 388-151-460	(b) The provider does not have attendance records that comply with licensing requirements (refer to WAC 388-295-7030, 388-155-460, and 388-151-460

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 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 9, Amended 45, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 9, Amended 48, Repealed 2.

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

March 26, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0001 What is the purpose of the working connections child care program? The purpose of working connections child care (WCCC) is to:

(1) Help families with children pay ~~((for))~~ child care costs for approvable activities to find jobs, keep their jobs, and get better jobs; and

(2) Consider the health and safety of children while they are in care and receiving child care subsidies.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0005 Who is considered a consumer for the WCCC program? ~~((1))~~ For the purposes of this chapter, "you" and "your" refer to the consumer. If you apply for or receive WCCC, ~~((you are considered))~~ we consider you to be the consumer.

~~((2))~~ (1) In WCCC, an eligible consumer is one of the following individuals who has parental control of one or more children, lives in the state of Washington, and is the child's:

- (a) Parent, either biological or adopted;
- (b) Stepparent;
- (c) Legal guardian verified by a legal or court document;
- (d) Adult sibling or step-sibling;
- (e) Nephew or niece;
- (f) Aunt;
- (g) Uncle;
- (h) Grandparent; or
- (i) Any of the ~~((above))~~ relatives in (f) through (h) of this subsection with the prefix great, such as great-aunt.

~~((3))~~ (2) You are not an eligible consumer when you:

- (a) Are the only parent in the household; and
- (b) Will be away from the home for more than thirty ~~((consecutive))~~ days in a row.

AMENDATORY SECTION (Amending WSR 02-14-067, filed 6/27/02, effective 8/1/02)

WAC 388-290-0010 What makes me eligible for WCCC benefits? For the purposes of this chapter "we" and "us" refer to the department of social and health services. You may be eligible for WCCC benefits if:

(1) Your family is described under WAC 388-290-0015;

(2) You are participating in an approved activity under WAC 388-290-0040, 388-290-0045, ~~((or))~~ 388-290-0050, or have been approved per WAC 388-290-0055;

(3) You and your children are eligible under WAC 388-290-0020;

(4) Your countable income, is at or below two hundred percent of the Federal Poverty Level (FPL) (under WAC 388-290-0065); and

(5) Your share of the child care cost, called a copayment (under WAC 388-290-0075), is lower than the total DSHS maximum monthly payment for all children in the family who are eligible for subsidized care. We do not pro-rate your copayment when care is provided for part of a month.

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WAC 388-290-0012 When do I need to verify information? (1) When you apply for benefits, we require you to provide information that helps us decide your eligibility. We call this "verification."

(2) After you apply, we ask you to give us new verification when:

- (a) You report a change;
- (b) We find out that your circumstances have changed;

or

(c) The information we have is questionable, confusing or outdated.

(3) Whenever we ask for verification, we give you a notice as described in WAC 388-458-0020.

(4) We accept any verification that you can easily get when it reasonably supports your statement or circumstances. The verification you give to us must:

- (a) Clearly relate to what you are trying to verify;
- (b) Be from a reliable source; and
- (c) Be accurate, complete, and consistent.

(5) We cannot make you give us a specific type or form of verification.

(6) If the only type of verification that you can get costs money, we pay for it.

(7) If the verification that you give to us is questionable or confusing, we may:

(a) Ask you to give us more verification or provide a collateral contact (a "collateral contact" is a statement from someone outside of your residence that knows your situation); or

(b) Send an investigator from the division of fraud investigations (DFI) to make an unannounced visit to your home to verify your circumstances. See WAC 388-290-0025(10).

(8) If you do not give us all of the verification that we have asked for, we determine if you are eligible based on the information that we already have. If we cannot determine that you are eligible based on this information, we deny or stop your benefits per WAC 388-290-0107 or 388-290-0115.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0015 How does the WCCC program determine my family size for eligibility? We determine your family size by reviewing those individuals who live together in the same household as follows:

(1) If you are:	We count the following individuals as part of the family for WCCC eligibility:
(a) A single parent, including a minor parent living independently;	You and your children.

(b) Unmarried parents who have at least one mutual child;	Both parents and all their children living in the household.
(c) Unmarried parents with no mutual children;	Unmarried parents and their respective children ((are counted)) <u>living in the household as separate WCCC families.</u>
(d) Married parents;	Both parents and all their children living in the household.
(e) Undocumented parents;	Parents and children, documented and undocumented, as long as the child needing care is a U.S. citizen or legally residing in the United States. All other family rules in this section apply.
(f) A consumer as defined in WAC 388-290-0005 ((2)) (1)(c) through (i) ((and you are not financially responsible for the children));	((Only)) <u>The children ((are counted as the WCCC family)) only. (The children and their income are counted.)</u>
(g) A minor parent with children and live with a parent/guardian;	Only the minor parent and their children.
(h) A family member who is out of the household because of ((employment)) <u>employer requirements, such as the military or training, and is expected to return to the household.</u>	<u>You, the absent individual; and the children (, and the other parent if it is a two-parent family. All other family rules in is)). Subsection (1)(b) and (d) of this section apply.</u>
(i) A family member who is voluntarily out of the household for reasons <u>other than requirements of the employer, such as unapproved schooling and visiting family members, and is expected to return to the household.</u>	<u>You, the absent individual and the children. Subsection (1)(b) and (d) of this section apply as well as WAC 388-290-0020.</u>
(j) An incarcerated family member.	<u>The absent individual is removed from the household. We count all remaining household members. All other family rules in this section apply.</u>

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(2) If your household includes:	We count the following individuals as part of the family for WCCC eligibility:
(a) Eighteen year old siblings of the children ((requiring)) <u>who require care</u> ((who)) <u>and are enrolled in</u> ((secondary-education)) <u>high school or general equivalency diploma (GED) program.</u>	The eighteen year olds (unless they are a parent themselves), until they turn nineteen or complete high school/GED, whichever comes first. All other family rules in this section apply.
(b) Siblings of the children requiring care who are up to twenty-one years of age and who are participating in <u>an approved program through the school district's special education department under RCW ((28A.155.020)) 28A.155.020.</u>	The individual participating in an approved program through RCW ((28A.155.020)) <u>28A.155.020</u> up to twenty-one years of age (unless they are a parent themselves). All other family rules in this section apply.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0020 Are there special circumstances that might affect my WCCC eligibility? (1) You might be eligible for WCCC if you are:

(a) An employee of the same child care ~~((facility))~~ center where your children ~~((are receiving))~~ receive care and you do not provide direct care to your own children during the time WCCC is requested;

(b) In sanction or Child SafetyNet status for temporary assistance for needy families (TANF), while you are in an activity needed to remove the sanction, Child SafetyNet status, or for employment;

(c) A parent in a two-parent family and one parent is not able ~~((or))~~ and available to provide care for your children while the other is working, looking for work, or preparing for work;

(i) "Able" means physically and mentally capable of caring for a child in a responsible manner. If you claim one parent is unable to care for the children, you must provide written documentation from a licensed professional (see WAC 388-448-0020) that states the:

(A) Reason the parent is unable to care for the children;

(B) Expected duration and severity of the condition that keeps them from caring for the children; and

(C) Treatment plan if the parent is expected to improve enough to be able to care for the children. The parent must provide evidence from a medical professional showing they are cooperating with treatment and are still unable to care for the children.

(ii) "Available" means ~~((able))~~ free to provide care when not participating in an approved work activity under WAC 388-290-0040, 388-290-0045, ~~((or))~~ 388-290-0050, or 388-290-0055 during the time child care is needed.

(d) A married consumer described under WAC 388-290-0005 (1)(d) through (i). Only you or ~~((the other parent))~~ your spouse must be participating in activities under WAC 388-290-0040, 388-290-0045, ~~((or))~~ 388-290-0050, or 388-290-0055.

(2) You might be eligible for WCCC if your children are legally residing in the country, are Washington state residents, and are:

(a) Less than age thirteen ~~((years of age))~~; or

(b) Less than age nineteen, and:

(i) Have a verified special need, according to WAC 388-290-0220; or

(ii) Are under court supervision.

(3) Any of your children who receive care at the same place where you work (other than (1)(a) of this subsection) are not eligible for WCCC payments but can be included in your household if they meet WAC 388-290-0015. This includes if you work:

(a) In a family home child care in any capacity and your children are receiving care at the same home during your hours of employment; or

(b) In your home or another location and your children receive care at the same location during your hours of employment.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0025 What rights do I have when I apply for or receive WCCC benefits? When you apply for or receive WCCC benefits you have the right to:

(1) Be treated politely and fairly without regard to race, color, creed, religion, sex, presence of any sensory, mental or physical disability, sexual orientation, political affiliation, national origin, religion, age, gender, disability, or birthplace;

(2) Have ~~((an application accepted and acted upon))~~ WCCC eligibility determined within thirty days from your application date per WAC 388-290-0100(2);

(3) Be informed, in writing, of your legal rights and responsibilities related to WCCC benefits;

(4) Only have your information shared with other agencies when required by federal or state regulations;

(5) Get a written notice~~((s))~~ at least ten days before ~~((the department makes))~~ we make changes to lower or stop benefits except as stated in WAC 388-290-0120;

(6) Ask for a fair hearing if you do not agree with ~~((the department))~~ us about a decision per WAC 388-290-0260.

(7) Ask a supervisor or administrator to review a decision or action affecting your benefits without affecting the right to a fair hearing;

(8) Have interpreter or translator service within a reasonable amount of time and at no cost to you;

(9) ~~((Be allowed to))~~ Choose your provider as long as the provider meets the requirements in WAC 388-290-0125; and

(10) ~~((Refuse to speak to a))~~ Ask the fraud early detection (FRED) investigator from the division of fraud investigations (DFI) to come back at another time. You do not have to let an investigator into your home. You may ask the investigator to come back at another time. This request will not affect your eligibility for benefits. If you refuse to cooperate

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(provide the information requested) with the investigator, it could affect your benefits.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0030 What responsibilities do I have when I apply for or receive WCCC benefits? When you apply for or receive WCCC benefits you ((have a responsibility to)) must:

(1) ~~((Supply the department with))~~ Give us information so we can determine your eligibility and authorize child care payments correctly;

(2) Choose a provider who meets requirements of WAC 388-290-0125 and make your own child care arrangements;

(3) Pay, or make arrangements to have someone pay, your WCCC copayment directly to your child care provider;

(4) Leave your children with your provider for approved activities or arrange to pay the provider yourself, as the provider requires, for care while you are engaged in unapproved activities.

(5) ~~((and provide when requested;))~~ attendance records when you choose in-home/relative child care. Records must be:

(a) ~~Accurate ((attendance records when you choose in-home/relative child care;~~

~~(5));~~

~~(b) Provided when requested; and~~

~~(c) Kept for one year after care has been provided.~~

(6) ~~Pay your in-home/relative provider the entire amount ((the department sends))~~ we send you for in-home/relative care listed on the remittance advice you receive with the warrant;

~~((6))~~ (7) Require the in-home/relative provider to sign a receipt when you pay the provider the amount we send you and your copayment. You must keep the receipts for one year for ~~((DSHS))~~ us to review on request;

~~((7) Notify WCCC staff, within five days, of any change in providers;))~~

(8) ~~((Notify your provider within ten days when we change your child care authorization;~~

(9) ~~Provide notice to WCCC staff within ten days of any change in:~~

~~(a) The number of child care hours needed (more or less hours);~~

~~(b) Your household income to include TANF grant stops or starts;~~

~~(c) Your household size such as any family member moves in or out of your home;~~

~~(d) Employment, school or approved TANF activity (starting, stopping or changing);~~

~~(e) The address or phone number of your in-home/relative provider;~~

~~(f) Your home address or telephone number; or~~

~~(g) Your legal obligation to pay child support.~~

(10) Report to your child care authorizing worker, within twenty-four hours, any pending charges or conviction information you learn about your in-home/relative provider) Cooperate with the quality assurance review process to remain eligible for WCCC. You become ineligible for

WCCC benefits upon a determination of noncooperation by quality assurance and remain ineligible until you meet quality assurance requirements or thirty days from the determination of noncooperation.

(9) Cooperate with the fraud early detection (FRED) investigator. If you refuse to cooperate (provide the information requested) with the investigator, it could affect your benefits.

NEW SECTION

WAC 388-290-0031 What changes do I need to report when I apply for or receive WCCC? (1) Notify WCCC staff, within five days, of any change in providers;

(2) Notify your provider within ten days when we change your child care authorization;

(3) Provide notice to WCCC staff within ten days of any change in:

(a) The number of child care hours you need (more or less hours);

(b) Your household income, including any TANF grant or child support increases or decreases;

(c) Your household size such as any family member moving in or out of your home;

(d) Employment, school or approved TANF activity (starting, stopping or changing);

(e) The address and telephone number of your in-home/relative provider;

(f) Your home address and telephone number; and

(g) Your legal obligation to pay child support.

(4) Report to your child care authorizing worker, within twenty-four hours, any pending charges or conviction information you learn about your in-home/relative provider.

(5) Report to the child care authorizing worker, within twenty-four hours, any pending charges or conviction information you learn about anyone sixteen years of age and older who lives with the provider when care occurs outside of the child's home.

NEW SECTION

WAC 388-290-0032 What are the consequences if I do not report changes within the specified time-lines? If you fail to report any changes as required in WAC 388-290-0031 within the stated timeframes, we may establish an overpayment or you might have to pay more than your normal share of child care costs, such as:

(1) Paying a higher copayment;

(2) Paying for extra hours of care when your activity requires more than ten hours a day of care;

(3) Receiving an overpayment for care billed as a result of using care when you were not eligible for WCCC;

(4) Receiving an overpayment for the number of days your child was absent above the absences the licensed/certified or DSHS seasonal contracted day care provider is allowed to bill (see publication *Child Care Subsidies, A Booklet for Licensed and Certified Child Care Providers*, DSHS 22-877). An overpayment for absent days can occur when care is used when you are not eligible for WCCC and can be up to five days a month;

(5) Billing in-home/relative care when you are not eligible for WCCC.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0035 What responsibilities does the WCCC program staff have? The WCCC program staff are responsible to:

(1) Determine your eligibility within thirty days from the date you applied (application date as described in WAC 388-290-0100(2)).

(2) Allow you to choose your provider as long as they meet the requirements in WAC 388-290-0125;

~~((2))~~ (3) Review your chosen in-home/relative provider's background information.

~~((3))~~ (4) Authorize payments only to child care providers who allow you to see your children whenever they are in care;

~~((4))~~ (5) Only authorize payment when no adult in your WCCC family is "able ~~((€))~~ and available" to care for your children (under WAC 388-290-0020).

~~((5))~~ (6) Inform you of:

(a) Your rights and responsibilities under the WCCC program at the time of application and ~~((eligibility review))~~ reapplication;

(b) The types of child care providers we can pay;

(c) The community resources that can help you select child care when needed; and

(d) Any change in your copayment during the authorization period except under WAC 388-290-0120~~((4))~~(5).

~~((6))~~ (7) Respond to you within ten days if you report a change of circumstance that affects your:

(a) WCCC eligibility ~~((€))~~;

(b) Copayment; ~~((and~~

~~(7))~~ or

(c) Providers.

(8) Provide prompt child care payments to your child care provider.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0040 If I receive a temporary assistance for needy families (TANF) grant, what activities must I be involved in to be eligible for WCCC benefits? If you receive a temporary assistance for needy families (TANF) grant, you may be eligible for WCCC benefits, for activities in your individual responsibility plan (IRP), for up to sixteen hours maximum per day for your hours of participation in the following:

(1) An approved WorkFirst activity under WAC 388-310-0200;

(2) Employment or self-employment. We consider "employment" or "work" to mean:

(a) Engaging in any legal, income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States; or

(b) Working in a federal or state paid work study program. You may receive WCCC for paid work study and

transportation hours (not for the time you are in an unapproved activity).

(3) Transportation time between the location of child care and your place of employment or approved activity;

(4) Up to ten hours per week of study time before or after regularly scheduled classes or up to three hours of study time per day when needed to cover time between approved classes; and

(5) Up to eight hours per day of sleep time when it is needed, such as if you work nights and sleep days.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0045 If I don't get a temporary assistance for needy families (TANF) grant, what activities must I be involved in to be eligible for WCCC benefits? If you do not receive TANF, you may be eligible for WCCC benefits for up to sixteen hours maximum per day for the hours of your participation or enrollment in the following:

(1) Employment or self-employment under WAC 388-290-0050. We consider "employment" or "work" to mean:

(a) Engaging in any legal, income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States; or

(b) Working in a federal or state paid work study program. You may receive WCCC for paid work study and transportation hours (not for the time you are in an unapproved activity), unless you meet requirements in subsection (2) of this WAC;

(c) VISTA volunteers, Americorps, and Washington Service Corps (WSC) if the income is taxed.

(2) ~~((Secondary education))~~ High school or general equivalency diploma (GED) program ((if you are age twenty-one or younger)) until you reach your twenty-second birthday.

(3) Same-day job search if you are a TANF applicant;

(4) The food stamp employment and training program under chapter 388-444 WAC;

(5) Adult basic education (ABE), English as a second language (ESL), high school/GED, vocational education, or job skills training or other program under WAC 388-310-1000, 388-310-1050, 388-310-1200, or 388-310-1800, and you are:

(a) Working:

(i) Twenty or more hours per week; or

(ii) Sixteen or more hours per week in a paid federal or state work study ((job)) program.

(b) Participating in ~~((the educational program))~~ post secondary education for no longer than thirty-six months. Child care for post secondary education in this section is limited up to thirty-six months maximum regardless of the length of the school program. The thirty-six months includes months you attended post secondary education, supported by WCCC, while receiving TANF.

(6) WCCC may be approved for activities listed in WAC 388-290-0040 (3) through (5), when needed.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0050 If I am self-employed, can I get WCCC benefits? You may be eligible for WCCC benefits for up to sixteen hours maximum per day when ((you're)) you are self-employed.

(1) We consider "employment" or "work" to mean engaging in any legal, income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States;

(2) You are eligible for the calculation discussed in subsection (4)(a) of this section one time only, for one self-employment venture. If you change self-employment, any months left up to the first six months are covered by child care according to subsection (4)(a)(i) of this section.

(3) If you get TANF and are self employed:

(a) You must have an approved self-employment plan under WAC 388-310-1700; ((and))

(b) The amount of WCCC you get for self-employment is equal to the number of hours in your approved plan; and

(c) Income from self employment while you are receiving TANF is determined by WAC 388-450-0085.

~~((2))~~ (4) If you don't get TANF((:

~~(a) During the first six months of your WCCC eligibility, the number of hours of WCCC you can get will be calculated based on your self-employment earnings. The number of hours of WCCC you get is))~~ at the time of application for WCCC and it is a:

(a) New self-employment business (established less than six months):

(i) The hours of care you are eligible to receive for the first six months is based on your report of how many hours are needed, up to sixteen hours per day; and

(ii) Your self employment income is based on WAC 388-290-0060.

(b) For a self-employment business (established for six months or more) the number of hours of care you are eligible to receive is based on whichever is more:

(i) Your work hours reported in your business records; or

(ii) The average number of monthly hours equal to dividing your monthly self-employment income by the federal or state minimum wage (whichever minimum wage is lower).

~~((b))~~ (c) After the first six months, the number of hours of WCCC you can get each month is based on the lesser of subsections ~~((2)(a))~~ (4)(b)(i) or (ii) of this section.

AMENDATORY SECTION (Amending 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0055 If I am not working or in an approved activity right now, can I get WCCC benefits? When care is approved in the situations described in subsections (1) and (2) of this section, the child needs to attend for the provider to bill.

(1) We can authorize WCCC payments for a child's attendance in child care for up to ~~((two-weeks))~~ fourteen consecutive days when you're waiting to enter an approved activity under WAC 388-290-0040 or 388-290-0045.

(2) We can authorize WCCC payments for a child's attendance in child care for up to ~~((four-weeks))~~ twenty-eight consecutive days if you or the other parent in the household experience a gap ~~((for reasons out of your control such as a layoff in employment, or approved activity, and:~~

~~(a))~~ in your approved activity.

(3) Your household may be eligible for payment described in subsection (2) of this section:

(a) Twice in a calendar year;

(b) For the same number of units open while you were in the approved activity, not to exceed two hundred thirty hours a month;

(c) If you report the loss of activity or employment timely following WAC 388-290-0031; and

(d) If you receive WCCC immediately before the loss of employment or approved activity, and:

(i) Your employment, or the approved activity, will resume within that period; or

~~((b-You're))~~ (ii) You are looking for another job ~~((and you received WCCC immediately before the gap in employment, or approved activity))~~.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0060 What income ~~((is counted))~~ does the WCCC program count when determining ~~((WCCC))~~ eligibility and copayments? The WCCC program counts income as money you get from:

(1) A TANF grant, except when exempt under WAC ~~((388-290-0070(9)))~~ 388-290-0070 (1)(h);

(2) Child support payments;

(3) Supplemental Security Income (SSI);

(4) Other Social Security payments, such as SSA and SSDI;

(5) Refugee assistance payments;

(6) Payments from the Veterans' Administration, disability payments, or payments from labor and industries (L&I);

(7) Unemployment compensation;

(8) Other types of income not listed in WAC 388-290-0070;

(9) VISTA volunteers, Americorps, and Washington Service Corps (WSC) if the income is taxed;

(10) Gross wages from employment or self-employment. Gross wages includes any wages that are taxable. "Self-employment income" means your gross income from self-employment minus allowable business expenses in WAC 388-450-0085; ~~((and~~

~~((10))~~ (11) Lump sums as money you get from a one-time payment such as back child support, an inheritance, or gambling winnings; and

(12) Income for the sale of property as follows:

(a) If you sold the property before application, we consider the proceeds an asset and do not count as income;

(b) If you sold the property in the month you apply or during your eligibility period, we count it as a lump sum payment as described in WAC 388-290-0065(3).

(c) Property does not include small personal items such as furniture, clothes, and jewelry.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0065 How does the WCCC program define and use my income?

<u>((We consider ...</u>	<u>...To equal ...</u>
<u>(1) The sum of all income listed in WAC 388-290-0060. We:</u>	<u>Your expected average monthly income.</u>
<u>(a) Determine the number of months it took your family to earn the income and divide the amount by those months to get an average monthly amount;</u>	
<u>(b) Use the best available estimate of your family's current income when you don't have income history to make an accurate estimate of your future income; or</u>	
<u>(c) Ask for evidence of your future income such as a letter from your employer.</u>	
<u>(2) Lump sum payments received in the month of application or during your WCCC eligibility. We:</u>	
<u>(a) Verify that any lump sum payment income presented to us is accurate;</u>	
<u>(b) Divide the lump sum payment by twelve to come up with a monthly amount (we apply that amount to the month it was received and the remaining months of the current authorization period);</u>	
<u>(c) Add any monthly lump sum amount to your expected average monthly income.</u>	<u>Total monthly income.</u>
<u>(3) Your total monthly income minus any child support paid out (through a court order, division of child support administrative order, or tribal government order).</u>	<u>Countable income. Your countable income is used to figure your initial and on-going eligibility and your copayment for WCCC.)</u>

We use your countable income when determining your eligibility and copayment. Your countable income is the sum of all income listed in WAC 388-290-0060 minus any child support paid out (through a court order, division of child support administrative order, or tribal government order).

(1) To determine your income we:

(a) Determine the number of months, weeks or pay periods it took your family to earn the income and divide the income by the number of months, weeks or pay periods to get an average monthly amount; or

(b) Use the best available estimate of your family's current income when you begin new employment or if you don't have an income history to make an accurate estimate of your future income, we may ask your employer to verify your income.

(2) If you receive a lump sum payment (such as money from the sale of property or back child support payment) in the month of application or during your WCCC eligibility we:

(a) Divide the lump sum payment by twelve to come up with a monthly amount; and

(b) Add the monthly amount to your expected average monthly income for the month it was received and the remaining months of the current authorization period;

(c) You must meet income guidelines for WCCC after the lump sum payment is applied to remain eligible for WCCC.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0070 What income types and deductions ((are not counted)) does the WCCC program disregard when figuring my income eligibility and for WCCC benefits? (1) The WCCC program does not count the following income types when figuring your income eligibility and copayment:

(a) Income types as defined in WAC 388-450-0035, 388-450-0040, and 388-450-0055;

(b) Compensatory awards, such as an insurance settlement or court-ordered payment for personal injury, damage, or loss of property;

(c) Adoption support assistance and foster care payments;

(d) Reimbursements, such as an income tax refund;

(e) Diversion cash assistance ((and the early exit bonus));

(f) Income in-kind that is untaxed, such as working for rent;

(g) Military housing and food allowance;

(h) The TANF grant for the first three consecutive calendar months after you start a new job. The first calendar month is the month in which you start working;

(i) Payments to you ((by)) from your employer for benefits such as medical plans;

(j) Earned income of a WCCC family member defined under WAC 388-290-0015(2);

(k) Income of consumers described in WAC 388-290-0005 (1)(c) through (i);

(l) Earned income from a minor child who we count as part of your WCCC household; and

(m) Benefits received by children of Vietnam War veterans who are diagnosed with all forms or manifestations of spina bifida (except spina bifida occulta).

(2) WCCC deducts the amount you pay for child support under court order, division of child support administrative order, or tribal government order, from your other countable income ((types)) when figuring your eligibility and co-pay for the WCCC program.

AMENDATORY SECTION (Amending WSR 02-14-067, filed 6/27/02, effective 8/1/02)

WAC 388-290-0075 What ((are the)) steps does the WCCC program ((takes)) take to determine my family's WCCC eligibility and copayment amount? (1) The WCCC program takes the following steps to determine your WCCC income eligibility and copayment:

((+)) (a) Determine your family size (under WAC 388-290-0015); and

((+)) (b) Determine your countable income (under WAC 388-290-0065).

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~~((3))~~ (2) If your family's countable monthly income falls within the range below, then your copayment is:

YOUR INCOME	YOUR COPAYMENT IS:
At or below 82% of the FPL	\$15
Above 82% of the FPL up to 137.5% of the FPL	\$ ((25)) 50
Above 137.5% of the FPL -200% of the FPL	The dollar amount equal to subtracting 137.5% of FPL from countable income, multiplying by 44%, then adding \$ ((25)) 50
Income above 200% of the FPL, you are not eligible for WCCC benefits.	

(3) We do not pro-rate the copayment when you use care for part of a month.

NEW SECTION

WAC 388-290-0082 When I am approved, how long is my eligibility period? We can approve you for a period up to six months. Your eligibility can end prior to your end date as stated in WAC 388-290-0110.

AMENDATORY SECTION (Amending WSR 02-14-067, filed 6/27/02, effective 8/1/02)

WAC 388-290-0085 When might my WCCC copayment change? (1) Once we ~~((have determined))~~ determine that you are eligible for WCCC benefits, your copayment could change when:

(a) ~~((Your activity changes under WAC 388-290-0040, 388-290-0045, or 388-290-0050;~~

~~((b))~~ Your monthly income decreases;

~~((c))~~ (b) Your family size increases;

~~((d))~~ (c) We make an error in your copayment computation;

(d) You did not report all income, activity and household information;

(e) You are no longer eligible for the ~~((three-month TANF grant exemption under WAC 388-290-0070(h) or the))~~ minimum copayment under WAC 388-290-0090;

(f) We make a mass change in benefits due to a change in law or program funding; or

(g) You are approved for a new eligibility period.

(2) If your copayment changes during your eligibility period, the change is effective the first of the month following our becoming aware of the change.

(3) We do not increase your copayment during your current eligibility period when your countable income remains at or below two hundred percent of the FPL, and:

(a) Your monthly countable income increases; or

(b) Your family size decreases.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0090 When do I pay the minimum copayment? You ~~((will))~~ pay the minimum copayment ~~((when))~~:

(1) If your countable monthly income is at or below eighty-two percent of the FPL;

(2) If you are a minor parent, and are:

(a) Receiving TANF; or

(b) Part of your parent's or relative's TANF ~~((grant))~~ assistance unit.

(3) ~~((If))~~ For the first full month following the month you get a job~~((, if you get TANF at the time of application))~~ or apply for WCCC and we pay benefits; ~~((or))~~

(4) ~~((The first month you receive WCCC, if you don't get TANF at the time of application for WCCC))~~ If there is a break of at least thirty days in your WCCC benefits due to your activity ending; or

(5) If you received child care benefits within the last thirty days immediately prior to the eligibility period and you do not meet the qualifications in subsections (1) through (4) of this section, your copayment will be computed according to WAC 388-290-0075.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0095 If I receive temporary assistance for needy families (TANF) and I am determined eligible for WCCC, when do my benefits begin? When you receive TANF, and are eligible for WCCC, your benefits begin when your eligible provider (under WAC 388-290-0125) is caring for your ~~((child))~~ children and you are participating in an approved activity under WAC 388-290-0040 or 388-290-0055.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0100 If I do not receive temporary assistance for needy families (TANF) and I am determined eligible for WCCC, when do my benefits begin? (1) ~~((When))~~ If you do not receive TANF and are eligible for WCCC your benefits begin as described in WAC 388-290-0055(1) or the date you apply for WCCC and the following requirements are met:

(a) You have turned in all your information ~~((in))~~ within thirty days of your application date;

(b) You meet all eligibility requirements; and

(c) Your eligible provider (under WAC 388-290-0125) is caring for your ~~((child(ren)))~~ children.

(2) Your application date is whichever is earlier:

(a) ~~((The date your application is date stamped as received; or~~

~~((b))~~ The date your application is entered into our automated system ~~((as received)); or~~

(b) The date your application is date stamped as received.

(3) If you fail to turn in all your information within thirty days from your application date you must restart your application process. Your begin date for benefits ~~((begin date will start as))~~ is described in subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0105 ~~((What is the process for my))~~ How do I reapply for WCCC ~~((review for reauthorization~~

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of my WCCC benefits) when my eligibility period is ending? (1) ~~((You are required to complete a review of your))~~ **If you want to receive child care benefits for another eligibility period you must reapply for WCCC benefits before your current eligibility period ends.** We determine if you are ~~((still))~~ eligible by:

(a) ~~((on-going eligibility review))~~ **application** information prior to the end date of your current WCCC eligibility period; and

(b) ~~((Reviewing))~~ **Verifying** the requested information **for completeness and accuracy.**

(2) ~~((Your))~~ **You may be eligible for WCCC benefits** ~~((may continue))~~ **for a new eligibility period if:**

(a) Your ~~((review eligibility))~~ **application** information is received no later than ~~((ten days after your previous))~~ **the last day of your current eligibility period** ~~((ends));~~

(b) Your provider is eligible for payment under WAC 388-290-0125; and

(c) You ~~((are eligible for))~~ **meet all WCCC eligibility requirements.**

(3) If you are determined eligible for WCCC benefits based on your ~~((review))~~ **application** information, ~~((the program will))~~ **we** notify you of ~~((continued benefits))~~ **your new eligibility period and copayment.**

(4) If you provide the requested ~~((review))~~ **application** information to us ~~((more than ten days beyond your last))~~ **anytime after your eligibility period ends,** you are determined eligible for WCCC and you:

(a) Receive TANF, your benefit begins when:

(i) You are participating in your approved activity, and

(ii) Your eligible provider (under WAC 388-290-0125) is caring for your child.

(b) Do not receive TANF, your benefit begin date is the date your:

(i) Application is date stamped as received or entered into our automated system ~~((as received));~~

(ii) Eligible provider (under WAC 388-290-0125) is caring for your child; ~~((;))~~ and

(iii) Participation in an approved activity has started.

NEW SECTION

WAC 388-290-0107 When do I receive a denial letter? We send you a denial letter when you have applied for child care and you:

(1) Withdraw your request;

(2) Are not eligible due to your;

(a) Family composition;

(b) Income; or

(c) Activity.

(3) Did not provide information necessary to determine your eligibility according to WAC 388-290-0012.

NEW SECTION

WAC 388-290-0108 What happens if I meet eligibility requirements after I receive a denial letter? If you turn in information or otherwise meet eligibility requirements after we send you a denial letter, we determine your benefit begin date by:

(1) WAC 388-290-0095 if you are TANF; or

(2) WAC 388-290-0100 if you are Non-TANF.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0110 What circumstances might affect my ~~((on-going))~~ eligibility for ~~((the))~~ WCCC benefits and when might I be eligible again? (1) **We stop your eligibility for WCCC ~~((stops))~~ benefits when you do not:**

(a) ~~((Do not))~~ **Pay** copayment fees assessed by ~~((the department))~~ **us** and **you do not make** mutually acceptable arrangements **with your child care provider** to pay the copayment ~~((are not made with your child care provider));~~

(b) ~~((Do not))~~ **Complete** the requested ~~((review information))~~ **reapplication** before the deadline noted in WAC 388-290-0105 (2)(a); ~~((or))~~

(c) ~~((Do not))~~ **Meet** other WCCC eligibility requirements related to family size, income and approved activities; **or**

(d) Cooperate with the quality assurance review process or with the division of fraud investigations.

(2) You might be eligible for WCCC again when you meet all WCCC eligibility requirements, and:

(a) Back copayment fees are paid; ~~((or))~~

(b) **You make mutually acceptable payment arrangements ~~((are made))~~ with your child care ~~((provider(s)))~~ provider; or**

(c) You cooperate with the quality assurance review process or with the division of fraud investigations.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0120 When doesn't advance and adequate notice of payment changes apply to me? We do not give you advance and adequate notice in the following circumstances:

(1) You tell us you no longer want WCCC;

(2) Your whereabouts are unknown to us;

(3) You are receiving duplicate child care benefits;

(4) **Your current eligibility period is scheduled to end;**

(5) Your new ~~((authorization))~~ **eligibility** period results in a change in child care benefits;

~~((5))~~ (6) The location where child care occurs does not meet requirements under WAC 388-290-0130(2) ~~((or (3)));~~ or

~~((6))~~ (7) We determine your in-home/relative provider:

(a) Is not of suitable character and competence;

(b) May cause a risk of harm to your children based on the provider's physical or mental health; or

(c) Has been convicted of, or has charges pending for crimes ~~((listed in WAC 388-290-0160 or 388-290-0165))~~ **posted on the DSHS secretary's list of permanently disqualifying convictions for ESA. You can find the complete list at <http://www1.dshs.wa.gov/esa/dccel/>.**

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0125 What child care providers can I choose under the WCCC program? To receive payment under the WCCC program, your child care provider must be:

(1) Licensed as required by chapter 74.15 RCW and chapters 388-155, 388-295, or 388-151 WAC;

(2) Meeting their states licensing regulations, for providers who care for children in states bordering Washington. We pay the lesser of the following to qualified child care facilities in bordering states:

(a) The provider's usual daily rate for that child; or
(b) The DSHS maximum child care subsidy daily rate for the DSHS region where the child resides.

(3) Exempt from licensing but certified by us, such as:
(a) Tribal child care facilities that meet the requirements of tribal law;
(b) Child care facilities on a military installation; and
(c) Child care facilities operated on public school property by a school district.

(4) Seasonal day camps that have a contract with us to provide subsidized child care and are:

(a) Of a duration of three months or less;
(b) Engaged primarily in recreational or educational activities; and
(c) Accredited by the American Camping Association (ACA).

(5) An in-home/relative provider meeting the requirements in WAC 388-290-0130.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0130 What in-home/relative providers can I choose under the WCCC program? (1) To be authorized as an in-home/relative provider under the WCCC program, your in-home/relative provider must:

(a) Be a U.S. citizen or legally residing in the ~~((country))~~ United States;

(b) Meet the requirements in WAC 388-290-0135; and
(c) ~~((Complete and submit a criminal background inquiry form prescribed by us; and~~

~~((d)))~~ Be one of the following adult relatives providing care in the home of either the child or the relative:

(i) An adult sibling living outside the child's home;
(ii) An extended tribal family member under chapter 74.15 RCW; or

(iii) A grandparent, aunt, uncle, or great-grandparent, great-aunt or great-uncle.

(2) ~~((A))~~ An in-home, nonrelative provider ~~((may))~~ must:

(a) Meet the requirements in subsection (1)(a) and (b) of this section; and

(b) Be an adult friend or neighbor and ~~((must))~~ provide care in the child's ~~((own))~~ home.

(3) If you use an in-home/relative provider you can:

(a) Have no more than two in-home/relative providers authorized for payment during your eligibility period (not including back-up providers);

(b) Have one back up provider (licensed or an in-home/relative provider);

(c) Change to a different in-home/relative provider during your eligibility period.

(4) An in-home/relative provider can care for up to a maximum of six children during any one time period.

(5) An in-home/relative provider is not an eligible provider (under WAC 388-290-0095 and 388-290-0100) any-time prior to the date we receive the results of all applicable criminal background checks under WAC 388-290-0143(1) and 388-290-0150. Providers other than in-home/relative that you can use are described in WAC 388-290-0125.

(6) The in-home/relative provider ~~((may not be))~~ is not eligible for payment if they are:

(a) The child's biological, adoptive or step-parent;
(b) The child's nonneedy or needy relative or relative's spouse or partner;

(c) The child's legal guardian or the guardian's spouse or partner; ~~((or))~~

~~((or))~~ (d) Another adult acting in loco parentis or that adult's spouse or partner; or

(e) Anyone living in the same residence with the child.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0135 When I choose an in-home/relative provider, what information must I submit to receive WCCC benefits? When you choose in-home/relative child care, you must submit to us the following and complete certain forms:

(1) The in-home/relative child care provider's name ~~((and))~~, address and telephone number;

(2) A copy of the provider's valid Social Security card ~~((and))~~;

(3) A copy of the provider's photo identification ~~((to us))~~; ~~((3))~~ (4) A completed background ~~((inquiry application))~~ check authorization; and

~~((4))~~ (5) A form supplied by us that is completed ~~((form that makes))~~ and signed by the consumer and provider in which both attest to the following ~~((assurances))~~:

(a) The provider is:

(i) Of suitable character and competence;
(ii) Of sufficient physical and mental health to meet the needs of the children in care. If ~~((requested by us))~~ we request it, you must provide written evidence that the in-home child care provider of your choice is of sufficient physical and mental health to be a safe child care provider;

(iii) Able to work with the children without using corporal punishment or psychological abuse;

(iv) Able to accept and follow instructions;

(v) Able to maintain personal cleanliness; and

(vi) Prompt and regular in job attendance.

(b) The children are current on the immunization schedule as described in the National Immunization Guidelines, developed by the American Academy of Pediatrics and the Advisory Committee on Immunization Practices;

(c) The home where care is provided is safe for the care of the children;

(d) The in-home/relative child care provider is informed about basic health practices, prevention and control of infectious disease, immunizations, and home and physical premises safety relevant to the care of the children; and

(e) You and the provider state you have instructed the in-home/relative ~~((child care))~~ provider that they ~~((will have the~~

following responsibilities)) are continuously responsible to provide:

(i) ~~((Provide))~~ Constant care and supervision of the children throughout the arranged time of care in accordance with the needs of the children (constant care and supervision includes remaining awake while the children sleep); and

(ii) ~~((Provide developmentally appropriate))~~ Activities for the children that are consistent with their developmental stages.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0140 When does the WCCC program not pay for the cost of in-home/relative child care? ((The WCCC program will)) We do not pay for the cost of in-home/relative care if:

(1) Your ~~((in-home/relative))~~ provider does not meet the requirements in WAC 388-290-0130 or 388-290-0135;

(2) You fail to submit a completed criminal background ~~((inquiry))~~ check form or copies of the provider's Social Security card ((and)), photo identification ((to the department)), and current address to us;

(3) Your in-home/relative provider has been convicted of, or has charges pending for crimes posted on the DSHS secretary's list of disqualifying convictions for ESA. You can find the complete list at <http://www.dshs.wa.gov/esa/dcccl/>;

(4) We do not have background check results according to WAC 388-290-0143; or

(5) We determine your ~~((in-home/relative))~~ provider is not of suitable character and competence or of sufficient physical~~((, emotional))~~ or mental health to meet the needs of the child in care, or the household may be at risk of harm by this provider, as indicated by information other than conviction information~~((, or~~

(4) ~~Your in-home/relative provider has been convicted of, or has charges pending for crimes listed in WAC 388-290-0160 or 388-290-0165)).~~ We will use criteria, such as the following, when reviewing information about incidents/issues/reports/findings:

- (a) Recency;
- (b) Seriousness;
- (c) Type;
- (d) Frequency; and
- (e) Relationship to the direct care of a child including health, mental health, learning, and safety.

AMENDATORY SECTION (Amending WSR 02-14-066, filed 6/27/02, effective 7/1/02)

WAC 388-290-0143 Who must have a background check for the WCCC program and how often is the check done? (1) A background check must be completed for:

(a) All in-home/relative providers who apply to care for a WCCC consumer's child; and

(b) Any individual sixteen years of age or older who is residing with a provider when care occurs outside of the ~~((WCCC))~~ child's home.

(2) A ~~((new))~~ background check must be completed~~((;~~

~~((a)))~~ for individuals listed in subsection (1)(a) and (b) of this section at least every two years((;

~~((b) Any time an)).~~

(3) Additional background checks must be completed for individuals listed in subsection (1)(a) and (b) of this section when:

(a) Any individual sixteen years of age or older is newly residing with a provider when care occurs outside of the child's home;

(b) We have a valid reason to do a check more frequently;

(c) An in-home/relative provider applies to provide care for a ~~((WCCC))~~ family((;

~~((e) For any individual sixteen years of age or older newly residing with a provider when care occurs outside of the WCCC child's home; or~~

~~((d) When we have a valid reason to do a check more frequently)), such as when:~~

~~((i) A break in service occurs to the current consumer;~~

~~((ii) There is a break in consumer eligibility; or~~

~~((iii) A provider is currently providing care and there are no prior background results for this provider.~~

(4) We do not need to request a new background check for an individual in subsection (1)(a) or (b) if:

(a) We have results that were received no more than ninety days prior to the current requested start date of care; and

(b) The results indicate that there is no record.

AMENDATORY SECTION (Amending WSR 02-14-066, filed 6/27/02, effective 7/1/02)

WAC 388-290-0145 Why is a background check required and will I be notified of the results? (1) We require the background check to:

(a) Help safeguard the health, safety, and well-being of children;

(b) Reduce the possible risk of harm from persons who have been convicted or have charges pending of certain crimes having access to WCCC children ((that have been convicted of certain crimes)); and

(c) Help you make informed~~((, safe and responsible))~~ decisions about individuals who have access to your children.

(2) ~~((As a))~~ We notify you, the WCCC consumer~~((, you will be notified)):~~

(a) Whether we can approve the provider for the WCCC program; and

(b) Of the following results from the background check:

(i) No background information is found given current sources of information;

(ii) Background information is found, but the information will not disqualify the individual being checked; or

(iii) Background information is found that disqualifies the individual being checked.

AMENDATORY SECTION (Amending WSR 02-14-066, filed 6/27/02, effective 7/1/02)

WAC 388-290-0150 What information ~~((is included in))~~ does the background check contain and where does it come from? (1) The background information ~~((will include))~~ includes, at a minimum, criminal convictions and pending charges.

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(2) Additional sources may include:

- (a) Child/adult protective service case information; and
- (b) Civil judgments, determinations, or disciplinary board final decisions of abuse or neglect.

(3) ~~((The))~~ We obtain background information ~~((may be obtained from sources such as:~~

~~((a))), at a minimum, from the Washington state patrol under chapter 10.97 RCW((;~~

~~((b)))~~ via the background check central unit (BCCU).

(4) Additional sources of the background information may be obtained from:

- (a) Child/adult protective service case files;
- ~~((e))~~ (b) Other states and federally recognized Indian tribes;
- ~~((d))~~ (c) The department of corrections and the courts;
- ~~((e))~~ (d) Law enforcement records of convictions and pending charges in other states or locations if:
 - (i) The individual being checked has lived in another state; and
 - (ii) Reports from credible community sources indicate a need to investigate another state's records.
- ~~((e))~~ (e) Self disclosure by)
- (e) The individual being checked self-discloses information.

AMENDATORY SECTION (Amending WSR 02-14-066, filed 6/27/02, effective 7/1/02)

WAC 388-290-0155 What happens after ((we receive)) the WCCC program receives the background information? After we receive the background information we:

(1) Compare the background information with convictions ~~((listed in WAC 388-06-0170 and 388-06-0180))~~ posted on the DSHS secretary's list of disqualifying convictions for economic services administration (ESA). You can find the complete list at <http://www.dshs.wa.gov/esa/dccel/>.

(2) Review the background information using the following rules:

(a) We give the same weight to a pending charge for a crime ~~((is given the same weight))~~ as a conviction;

(b) If the conviction has been renamed ~~((it is given)),~~ we give the same weight as the previous named conviction. For example, larceny is now called theft;

(c) We give convictions whose titles are preceded with the word "attempted" ~~((are given))~~ the same weight as those titles without the word "attempted"; and

(d) We do not consider the crime ~~((will not be considered))~~ a conviction for the purposes of WCCC when:

- (i) It has been pardoned; or
- (ii) A court of law acts to expunge, dismiss, or vacate the conviction record.

(3) Notify you whether or not we are able to approve the provider for WCCC.

(4) Allow you, the consumer, to decide character and suitability of the provider ~~((given an individual's))~~ when an individual is not automatically ((disqualifying)) disqualified due to the background information from the record of arrests and prosecutions (RAP) sheet.

(5) Deny or stop payment when the background information disqualifies the individual being checked.

(6) Assist you in finding other child care arrangements.

AMENDATORY SECTION (Amending WSR 02-14-066, filed 6/27/02, effective 7/1/02)

WAC 388-290-0160 What convictions would cause the WCCC program to permanently disqualify my in-home/relative provider ((from being authorized by us))?

(1) If your provider or an individual listed in WAC 388-290-0143(1)~~((b))~~ has a background containing ~~((the following felony convictions, the provider is))~~ a permanently disqualifying conviction posted on the DSHS secretary's list of disqualifying convictions for ESA, we permanently ((disqualified)) disqualify the person as an in-home/relative child care provider for WCCC((;

- ~~((a))~~ Child abuse and/or neglect;
- ~~((b))~~ Spousal abuse;
- ~~((c))~~ A crime against a child (including child pornography);

~~((d))~~ A crime involving violence (including rape sexual assault, or homicide but not including other physical assault); or

~~((e))~~ Any federal or out-of-state conviction for an offense that under the laws of this state would disqualify you from having unsupervised access to children or vulnerable adults in any home or facility)). You can find the complete list at <http://www1.dshs.wa.gov/esa/dccel/>.

(2) If the conditions in WAC 388-290-0167 (1)(a) and (b) are met, the disqualifying background of an individual sixteen years of age or over living with the provider may not permanently disqualify the provider ~~((if conditions in WAC 388-290-0167 (1)(a) and (b) are met))~~.

AMENDATORY SECTION (Amending WSR 02-14-066, filed 6/27/02, effective 7/1/02)

WAC 388-290-0165 Is there other background information or convictions that will disqualify my in-home/relative provider? (1) We can disqualify your in-home/relative provider ~~((can be disqualified))~~ if the individual being checked has a background containing information other than conviction information that we determine:

(a) Makes the individual not of suitable character and competence or of sufficient physical or mental health to meet the needs of the child in care; or

(b) Puts the household at risk for harm.

(2) If an individual being checked ~~((as))~~ has a background containing ~~((the following crimes within the last five years))~~ a five-year disqualifying conviction posted on the DSHS secretary's list of disqualifying convictions for ESA, your provider is disqualified as an in-home/relative child care provider for WCCC((;

~~((a))~~ Any physical assault not included in WAC 388-290-0160;

~~((b))~~ Any sex offense not included in WAC 388-290-0160;

~~((c))~~ Any felony conviction not included in WAC 388-290-0160;

~~((d))~~ Felony violation of the following drug-related crimes:

~~(i) The Imitation Controlled Substances Act (for substances that are falsely represented as controlled substances, see chapter 69.52 RCW);~~

~~(ii) The Legend Drug Act (prescription drugs, see chapter 69.41 RCW);~~

~~(iii) The Precursor Drug Act (substance used in making controlled substances, see chapter 69.43 RCW);~~

~~(iv) The Uniform Controlled Substances Act (illegal drugs or substances, see chapter 69.50 RCW); or~~

~~(v) Unlawfully manufacturing, delivering or possessing a controlled substance with intent to deliver, or unlawfully using a building for drug purposes.~~

~~(e) Any federal or out-of-state conviction for an offense that under the laws of this state would disqualify you from having unsupervised access to children or vulnerable adults in your home or facility not less than five years from a conviction listed in this section)) for five years after the conviction date. You can find the complete list at <http://www1.dshs.wa.gov/esa/dccel/>.~~

(3) If an individual being checked has:

(a) A conviction listed in subsection (2)(~~(a) through (e)~~) of this section, and it has been more than five years; or

(b) ~~((A)) Any~~ conviction other than those ~~((listed in WAC 388-290-0160 or subsection (2)(a) through (e) of this section, we will))~~ posted on the DSHS secretary's list of disqualifying convictions for ESA we will allow you to determine the provider's character, suitability, and competence by reviewing important information such as the:

(i) ~~((The))~~ Amount of time that has passed since the conviction;

(ii) ~~((The))~~ Seriousness of the crime that led to the conviction;

(iii) ~~((The))~~ Individual's age at the time of conviction;

(iv) ~~((The))~~ Individual's behavior since the conviction;

(v) ~~((The))~~ Number and types of convictions in the individual's background; and

(vi) ~~((Documentation indicating the individual has successfully completed))~~ Individual's verification, if any, of successful completion of all court-ordered programs and restitution.

(4) If conditions in WAC 388-290-0167 (1)(a) and (b) are met, the disqualifying background of an individual sixteen years of age or over living with the provider may not disqualify the provider ((if conditions in WAC 388-290-0167 (1)(a) and (b) are met)).

AMENDATORY SECTION (Amending WSR 02-14-066, filed 6/27/02, effective 7/1/02)

WAC 388-290-0167 What happens if my in-home/relative provider, who provides care in their home, is disqualified based solely on the disqualifying background of an individual living with that provider? (1) If we disqualify your provider ((is disqualified)) based solely on the disqualifying background of an individual living with that provider, we ((will)) require that:

(a) Child care occurs in the child's home away from the disqualified individual, if you wish to continue using that provider; and

(b) The parent and provider sign an agreement with us indicating that:

(i) Care ~~((will occur))~~ occurs in the child's home; and

(ii) There ~~((will be))~~ is no contact between the child and disqualified individual during child care hours.

(2) The parent may choose a licensed provider or submit an application for a different in-home/relative provider.

(3) If we become aware that the parent and provider are not meeting the conditions in subsection (1)(a) and (b) of this section:

(a) We ~~((will))~~ terminate care without advance and adequate notice;

(b) You ~~((will))~~ need to find a different provider; and

(c) You may be subject to an overpayment under WAC 388-290-0270.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0180 When are the WCCC program subsidy rates in this chapter effective? DSHS child care subsidy rates in this chapter are effective on or after January 1, 2002 ~~((when a family:~~

~~(1) Has a household change that requires their authorization to be updated;~~

~~(2) Is newly authorized to receive child care subsidies; or~~

~~(3) Is reauthorized to continue receiving child care subsidies)).~~

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0190 What does the WCCC program pay for and when can the program pay more? (1) We may pay for:

(a) Basic child care hours, either full day, half day or hourly. We authorize:

(i) ~~((A))~~ Full day ~~((ef))~~ child care ~~((is authorized))~~ to licensed~~((f))~~ or certified facilities and DSHS contracted seasonal day camps ((that have contracted with us to provide subsidized child care)) when your children need care ((is needed)) for five or more hours per day;

(ii) ~~((A))~~ Half day ~~((ef))~~ child care ~~((is authorized))~~ to licensed~~((f))~~ or certified facilities and DSHS contracted seasonal day camps ((that have contracted with us to provide subsidized child care)) when your children need care ((is needed)) for less than five hours per day; and

(iii) Hourly child care ~~((is authorized when the provider is an))~~ for in-home/relative child care.

(b) A registration fee (under WAC 388-290-0245);

(c) ~~((An activity))~~ A field trip fee (under WAC 388-290-0245);

(d) ~~((Care for nonstandard hours (under WAC 388-290-0210 and 388-290-0215);~~

~~((f))~~ An infant bonus (under WAC 388-290-0250); and

~~((f))~~ (e) Special needs care when the child has a documented need for higher level of care (under WAC 388-290-0220, 388-290-0225, 388-290-0230, and 388-290-0235).

(2) ~~((We pay more than the basic child care subsidy daily rate if:~~

(e)) If care is not available within a reasonable distance at our daily rate (~~(within a reasonable distance)~~), then we authorize the provider's usual daily rate (~~(is authorized; or~~ (b))).

(3) If care is over ten hours per day, and the provider's policy is to charge for these extra hours, then we authorize an additional amount of care (~~(is authorized)~~).

(4) Refer to WAC 388-290-0270, 388-290-0271, and 388-290-0273 for when overpayments can be assessed to you or your provider.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0200 What daily rates does DSHS pay for child care in a licensed or certified child care center or DSHS contracted seasonal day camps? (1) We pay the lesser of the following to a licensed or certified child care center or ((a)) DSHS contracted seasonal day camp (~~(that has a contract with us to provide subsidized child care)~~):

((1)) (a) The provider's usual daily rate for that child; or ((2)) (b) The DSHS maximum child care subsidy daily rate for that child as listed in the following table((-):

		Infants ((Birth)) One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$24.32	\$20.45	\$19.32	\$18.18
	Half-Day	\$12.16	\$10.23	\$9.66	\$9.09
Region 2	Full-Day	\$24.55	\$20.50	\$19.00	\$16.82
	Half-Day	\$12.27	\$10.25	\$9.50	\$8.41
Region 3	Full-Day	\$32.50	\$27.09	\$23.41	\$22.73
	Half-Day	\$16.25	\$13.55	\$11.70	\$11.36
Region 4	Full-Day	\$37.82	\$31.59	\$26.50	\$23.86
	Half-Day	\$18.91	\$15.80	\$13.25	\$11.93
Region 5	Full-Day	\$27.73	\$23.86	\$21.00	\$18.64
	Half-Day	\$13.86	\$11.93	\$10.50	\$9.32
Region 6	Full-Day	\$27.27	\$23.41	\$20.45	\$20.00
	Half-Day	\$13.64	\$11.70	\$10.23	\$10.00

(2) The child care center WAC 388-295-0010 allows providers to care for children from one month up to and including the day before their thirteenth birthday. The provider must obtain a child-specific and time-limited waiver from their child care licensor in order for a child care center to provide care for a thirteen-year-old or older child.

(3) If the center provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited waiver and the child must meet the special needs requirement according to WAC 388-290-0220.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0205 What daily rates does DSHS pay for child care in a licensed or certified family home child care ((home))? (1) We pay the lesser of the following to a licensed or certified family home child care ((home)):

(a) The provider's usual daily rate for that child; or (b) The DSHS maximum child care subsidy daily rate for that child as listed in the following table.

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - ((12)) 11 yrs)
Region 1	Full-Day	\$20.00	\$18.00	\$18.00	\$16.00
	Half-Day	\$10.00	\$9.00	\$9.00	\$8.00
Region 2	Full-Day	\$20.00	\$19.00	\$17.00	\$17.00
	Half-Day	\$10.00	\$9.50	\$8.50	\$8.50
Region 3	Full-Day	\$29.00	\$25.00	\$22.00	\$20.00
	Half-Day	\$14.50	\$12.50	\$11.00	\$10.00
Region 4	Full-Day	\$30.00	\$29.67	\$25.00	\$24.00
	Half-Day	\$15.00	\$14.83	\$12.50	\$12.00
Region 5	Full-Day	\$22.00	\$20.00	\$19.00	\$17.00
	Half-Day	\$11.00	\$10.00	\$9.50	\$8.50
Region 6	Full-Day	\$22.00	\$20.00	\$20.00	\$19.00
	Half-Day	\$11.00	\$10.00	\$10.00	\$9.50

(2) The family home child care ((home)) WAC 388-155-010 allows providers to ((provide)) care ((to)) for children ((within a)) from birth ((through eleven years of age range exclusively)) up to and including the day before their twelfth birthday. In order for a family home provider to ((provide)) care for a twelve-year-old or older child, the provider must obtain a child-specific and time-limited waiver from their child care licensor. If the provider has a waiver to care for a child who has reached their twelfth birthday, the payment rate is the same as subsection (1) and the five to eleven year age range column is used for comparison.

(3) If the family home provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited waiver and the child must meet the special needs requirement according to WAC 388-290-0220.

(4) We pay family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection (5) of this section). Refer to subsection (1) and the five to eleven year age range column for comparisons.

(5) We cannot pay family home child care providers to provide care for children in their care if the provider is:

- (a) The child's biological, adoptive or step-parent;
- (b) The child's nonneedy or needy relative or that relative's spouse or partner;
- (c) The child's legal guardian or the guardian's spouse or partner; or
- (d) Another adult acting in loco parentis or that adult's spouse or partner.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0220 How does DSHS determine that my child qualifies for a special needs daily rate? To qualify for the DSHS child care programs special needs subsidy daily rate ((my)) your child must either:

- (1) Be thirteen to nineteen years old and be under court supervision; or
- (2) Be under nineteen years old, and;
- ((2)) (a) Have a verified physical, mental, emotional, or behavioral condition that requires a higher level of care while in the care of the licensed or certified facility, a DSHS contracted seasonal day camp or in-home/relative provider; and

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~~((3))~~ (b) Have their condition and need for higher level of care verified by an individual who is ~~((~~

~~((a))~~ not employed by the child care facility~~((;))~~ and ~~((b))~~ is either a:

(i) Health, mental health, education or social service professional with at least a master's degree; or

~~((e-A))~~ (ii) Registered nurse.

~~((4))~~ Be thirteen to nineteen years old and be a dependent of the courts~~((;))~~

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0225 What is the ~~((DSHS child care))~~ **additional** subsidy daily rate for children with special needs in a licensed or certified child care center or DSHS contracted seasonal day camp? (1) In addition to the rate listed in WAC 388-290-0200, we authorize special needs daily rates to licensed or certified child care centers or DSHS contracted seasonal day camps ~~((that have contracts with us to provide subsidized child care under WAC 388-290-0200 and))~~ according to whichever of the following is greater:

~~((1))~~ (a) The provider's reasonable documented additional cost associated with the care of the child; or

~~((2))~~ (b) The daily rate listed in the table below~~((;-))~~ after you have verified that your child has a special need and requires a higher level of care according to WAC 388-290-0220:

		Infants ((Birth)) One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$7.30	\$6.14	\$5.80	\$5.45
	Half-Day	\$3.65	\$3.07	\$2.90	\$2.73
Region 2	Full-Day	\$7.36	\$6.15	\$5.70	\$5.05
	Half-Day	\$3.68	\$3.08	\$2.85	\$2.52
Region 3	Full-Day	\$9.75	\$8.13	\$7.02	\$6.82
	Half-Day	\$4.88	\$4.06	\$3.51	\$3.41
Region 4	Full-Day	\$11.35	\$9.48	\$7.95	\$7.16
	Half-Day	\$5.67	\$4.74	\$3.98	\$3.58
Region 5	Full-Day	\$8.32	\$7.16	\$6.30	\$5.59
	Half-Day	\$4.16	\$3.58	\$3.15	\$2.80
Region 6	Full-Day	\$8.18	\$7.02	\$6.14	\$6.00
	Half-Day	\$4.09	\$3.51	\$3.07	\$3.00

(2) The child care provider must verify the child's additional care needs when they request a rate above that listed in subsection (1)(b) of this section. The verification should include details about all of the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.

(3) If a provider is requesting one-on-one supervision or direct care for the child with special needs the person providing the one-on-one care must be:

(a) At least eighteen years of age; and

(b) Meet the requirements for being an assistant under chapter 388-295 WAC.

(4) If the provider has a waiver to care for a child who:

(a) Is thirteen years or older; and

(b) Has special needs according to WAC 388-290-0220, we authorize the special needs payment rate as described in

subsection (1) of this section using the five to twelve year age range for comparison.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0230 What is the ~~((DSHS child care))~~ **additional** subsidy daily rate for children with special needs in a licensed or certified family home child care ~~((home))~~? (1) In addition to the rate listed in WAC 388-290-0205, we authorize special needs daily rates to licensed or certified family home child care ~~((homes under WAC 388-290-0205 and whichever of))~~ providers according to whichever of the following is greater:

(a) The provider's reasonable documented additional cost associated with the care of the child; or

(b) The daily rate listed in the table below~~((;-))~~ after you have verified that your child has a special need and requires a higher level of care according to WAC 388-290-0220:

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - ((12)) 11 yrs)
Region 1	Full-Day	\$6.00	\$5.40	\$5.40	\$4.80
	Half-Day	\$3.00	\$2.70	\$2.70	\$2.40
Region 2	Full-Day	\$6.00	\$5.70	\$5.10	\$5.10
	Half-Day	\$3.00	\$2.85	\$2.55	\$2.55
Region 3	Full-Day	\$8.70	\$7.50	\$6.60	\$6.00
	Half-Day	\$4.35	\$3.75	\$3.30	\$3.00
Region 4	Full-Day	\$9.00	\$8.90	\$7.50	\$7.20
	Half-Day	\$4.50	\$4.45	\$3.75	\$3.60
Region 5	Full-Day	\$6.60	\$6.00	\$5.70	\$5.10
	Half-Day	\$3.30	\$3.00	\$2.85	\$2.55
Region 6	Full-Day	\$6.60	\$6.00	\$6.00	\$5.70
	Half-Day	\$3.30	\$3.00	\$3.00	\$2.85

~~((The family child care home WAC 388-155-010 allows providers to provide care to children within a birth through eleven years of age range exclusively. In order for a family home provider to provide care for a twelve year old or older child, the provider must obtain a child specific and time limited waiver from their child care licensor.))~~ A family home child care provider must verify the child's additional care needs when they request a rate above that listed in subsection (1)(b) of this section. The verification should include details about all of the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.

(3) If the provider has a waiver to care for a child who:

(a) Is twelve years or older; and

(b) Has special needs according to WAC 388-290-0220, we authorize the special needs payment rate as described in subsection (1) of this section using the five to eleven year age range for comparison.

(4) If a provider is requesting one-on-one supervision/direct care for the child with special needs. The person providing the one-on-one care must be:

(a) At least eighteen years old; and

(b) Meet the requirements for being an assistant under chapter 388-155 WAC.

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AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0235 **What is the DSHS in-home/relative child care daily rate for children with special needs?** (1) ~~((DSHS authorizes))~~ We authorize a base rate of two dollars and six cents an hour for in-home/relative child care ~~((for care of a child with))~~ when a child has verified special needs and ~~((the lesser of:~~

~~(2) The provider's reasonable documented additional cost associated with the care for that child with special needs; or~~

~~(3) Sixty-two cents per hour))~~ requires a higher level of care according to WAC 388-290-0220.

(2) In addition to the base rate, we authorize whichever of the following is greater:

(a) Sixty-two cents per hour; or

(b) The provider's reasonable documented additional cost associated with the care for that child.

(3) The in-home/relative provider must verify the child's additional care needs when they request a rate above that listed in subsection (1)(a) of this section. The verification must include details about all the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.

(4) If other children in the home are also authorized for in-home/relative care with the same provider, we authorize:

(a) Two dollars and six cents an hour for the child needing the most care; and

(b) One dollar and three cents an hour for any additional children.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0245 **When can the WCCC program authorize payment of fees for registration?** (1) We pay licensed or certified child care providers and DSHS contracted seasonal day camps ~~((that have contracts with us to provide subsidized child care))~~ a registration fee once per calendar year of fifty dollars per child or the provider's usual fee, whichever is less only if the fees are:

(a) Required of all parents whose children are in care with that provider; and

(b) Needed to maintain the child care arrangement.

(2) The registration fee may be authorized more than once per calendar year when:

(a) There is a break in your child care services for more than sixty days and the provider's ~~((usual))~~ policy is to charge an additional registration fee when there is a break in care; or

(b) The children change child care providers and the new provider meets subsection (1)(a) and (b) of this section.

~~((3) The WCCC program pays licensed or certified child care providers a monthly activity fee of twenty dollars per child or the provider's actual cost for the activity, whichever is less only if the fees meet the conditions in subsection (1)(a) and (b) of this section.))~~

NEW SECTION

WAC 388-290-0247 **When can the WCCC program authorize payment for field trip fees?** (1) We pay licensed or certified child care providers and DSHS contracted seasonal day camps a monthly field trip fee up to twenty dollars per child or the provider's actual cost for the field trip, whichever is less, only if the fees meet the conditions in subsection (1)(a) and (b) of WAC 388-290-0245. The field trip fee is to cover the provider's actual expenses for:

(a) Admission;

(b) Transportation (not to include the provider's gas and insurance); and

(c) The cost of hiring a nonemployee to provide an in-house field trip activity.

(2) The field trip fee can only be reimbursed for children three years of age and older.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0250 **When can WCCC pay a bonus for enrolling an infant?** ~~((The WCCC program pays))~~ We pay licensed or certified child care providers a one-time bonus of two hundred fifty dollars for each infant they newly enroll in care if all the following conditions are met:

(1) The child being cared for is less than twelve months of age;

(2) The child care ~~((facility))~~ provider has not already received a bonus for that infant, from the WCCC program or any other subsidy program;

(3) We expect care to be provided for five days or more; and

(4) The provider ~~((must care))~~ cares for the infant a minimum of five days ~~((in order to claim the bonus)).~~

AMENDATORY SECTION (Amending WSR 02-14-083, filed 6/28/02, effective 7/1/02)

WAC 388-290-0255 **When can the WCCC program establish a protective payee to pay my in-home/relative provider?** ~~((The WCCC program establishes))~~ We establish a protective payee to pay your in/home-relative provider when we confirm:

(1) You ~~((do not pay))~~ have not paid your in-home/relative child care provider;

(a) Your copayment ~~((and/));~~ or

(b) The entire amount the department sends you for in-home/relative child care;

~~((2))~~ and

(i) You have not reported the WCCC warrant lost, stolen, or destroyed;

(ii) We issued ~~((a))~~ the child care warrant to the correct address; and

(iii) Twelve or more working days have passed since the issuance date ~~((, and you have not reported the WCCC warrant lost, stolen, or destroyed;~~

~~(3)))~~.

(2) You have a history of failing to pay your in-home/relative provider(s); or

~~((4))~~ (3) You have a protective payee for your TANF grant or for a Child ~~((SafetyNet))~~ Safety Net Payment.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0260 Do I have the right to ask for a hearing about my WCCC benefits and how do I ask for one? (1) WCCC consumers have a right to request a hearing under chapter 388-02 WAC on any action affecting WCCC benefits except for mass changes resulting from a change in policy or law.

(2) Licensed or certified child care providers can request hearings under chapter 388-02 WAC and RCW 43.20B.675 only for WCCC overpayments.

(3) To request a hearing you or the licensed or certified provider:

(a) Contacts the office which sent them the notice; or

(b) Writes to the Office of Administrative Hearings, ~~((919 Lakeridge Way SW, PO Box 42488))~~ PO Box 42489, Olympia WA 98504-((2488))2489; and

(c) Makes the request for a hearing within:

(i) Ninety days of the date a decision is received for consumers; or

(ii) Twenty-eight days of the date a decision is received for providers (per RCW 43.20B.675).

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0265 When can I get WCCC benefits pending the outcome of a hearing? (1) If you are a WCCC consumer, you can receive WCCC pending the outcome of a hearing if you request the hearing:

(a) On or before the effective date of an action; or

(b) No more than ten days after ~~((the department sends))~~ we send you a notice of adverse action.

"Adverse action" means an action to reduce or terminate your WCCC, or to set up a protective payee to receive your WCCC warrant for you.

(2) If you lose a hearing, any WCCC you use between the date of the adverse action and the date of the hearing or hearing decision is an overpayment to you, the consumer.

(3) If you are a WCCC consumer, you may not receive WCCC benefits pending the outcome of a hearing if you request payment to a provider who is not eligible under WAC 388-290-0125.

(4) If you are eligible for WCCC, you may receive child care benefits for another eligible provider, pending the outcome of the hearing.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0270 What is a WCCC overpayment and ~~((when might I have one))~~ what can be included? (1) A WCCC overpayment:

(a) Occurs when you or a provider ~~((has received))~~ receives benefits or payment from WCCC that you or they are not eligible to receive;

(b) Is ~~((written by us and))~~ expected to be paid back by you or the provider; and

(c) Is written for the month care is billed for, not the month it is paid or the month the overpayment is written.

(2) ~~((We establish WCCC overpayments, regardless of whether you are a current or past WCCC consumer, when we made payment for WCCC benefits and:~~

~~((a) You are no longer eligible or you are eligible for a smaller amount of care;~~

~~((b) You knowingly fail to report information to us that affects the amount of WCCC you are eligible for; or~~

~~((c) You do not have attendance records and payment receipts to support the amount you billed us for in-home/relative care.~~

~~((3))~~ When setting up an overpayment, we reduce the WCCC overpayment by the amount of the WCCC underpayment when applicable.

~~((4))~~ (3) In areas not covered by this section, you are subject to chapter 388-410 WAC (Benefit errors).

~~((5) We set up overpayments starting the date that we paid for WCCC when you were not eligible or eligible for a lesser amount of care.~~

~~((6) We establish WCCC overpayments for licensed/certified child care providers and contracted seasonal day camps, when:~~

~~((a) The provider receives payment for WCCC services not provided;~~

~~((b) The provider does not have attendance records that support the billing;~~

~~((c) We pay the provider more than they are eligible to bill; or~~

~~((d) The provider receives payment from us and the provider is not eligible based on WAC 388-290-0125))~~ (4) Payments made through departmental error fall under subsection (1) of this section.

(5) Absent days can be added to an overpayment, either yours or the provider's, when care is used or billed when you were not eligible for WCCC per WAC 388-290-0032 or care is billed incorrectly.

NEW SECTION

WAC 388-290-0271 When might I be assessed an overpayment? We establish WCCC overpayments, regardless of whether you are a current or past WCCC consumer, when we make payment for WCCC benefits and:

(1) You are no longer eligible or you are eligible for a smaller amount of care;

(2) You fail to report information to us that results in an error in our determination of:

(a) Your eligibility;

(b) The amount of care authorized; or

(c) The amount of your copayment.

(3) Your provider does not meet the requirements in WAC 388-290-0130;

(4) You use DSHS WCCC subsidized payment to pay a person who has not been determined an eligible provider by WCCC;

(5) You do not have attendance records and payment receipts to support the amount you billed us for in-home/relative care;

(6) You cannot provide verification that you have paid your provider the DSHS WCCC subsidized payment.

NEW SECTION

WAC 388-290-0273 When would my provider be assessed an overpayment? (1) We establish WCCC overpayments for licensed or certified child care providers and DSHS contracted seasonal day camps, when:

(a) The provider receives payment for WCCC services not provided;

(b) The provider does not have attendance records that comply with licensing requirements (refer to WAC 388-295-7030, 388-155-460, and 388-151-460 for attendance record requirements). Only attendance records meeting WAC requirements will be accepted for attendance verification;

(c) We pay the provider more than they are eligible to bill;

(d) The provider received payment from us and the provider is not eligible based on WAC 388-290-0125; or

(e) The provider is caring for a child outside their licensed allowable age range without a waiver.

(2) The worker may request documentation from the provider when preparing to establish an overpayment. The provider has fourteen consecutive calendar days to supply any requested documentation.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-290-0080 When does the WCCC program determine and review my eligibility and copayments?

WAC 388-290-0210 When can the WCCC program authorize the nonstand-hour child care bonus?

**WSR 04-08-073
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Children's Administration)
[Filed April 5, 2004, 3:28 p.m.]**

Date of Adoption: April 2, 2004.

Purpose: The amendments and additions to chapter 388-148 WAC clarify and add flexibility to the licensing requirements for homes, facilities, and child-placing agencies licensed by Children's Administration, including licensing requirements for a new type of facility, Group Receiving Centers. The changes improve Children's Administration's ability to claim federal funding under the Social Security Act and enhance health and safety for children and youth. See below for a list of new, amended and repealed rules affected by this notice.

Citation of Existing Rules Affected by this Order:

New Amended or Repealed	WAC #	Caption
Amended	388-148-0005	What is the purpose of this chapter?
Amended	388-148-0010	What definitions do I need to know to understand this chapter?
Amended	388-148-0015	Am I required to have a license to provide care to children?
Amended	388-148-0025	How do you decide how many children I may serve in my home or facility?
Amended	388-148-0035	What personal characteristics do I need to provide care to children?
Amended	388-148-0040	What first aid and cardiopulmonary resuscitation (CPA) training is required?
Amended	388-148-0045	What HIV/AIDS training is required?
Amended	388-148-0050	How do I apply for a license?
Amended	388-148-0055	How long do I have to complete the licensing application packet?
Amended	388-148-0058	May I receive more than one in-home family license?
Amended	388-148-0060	May my relative or I be certified by a child-placing agency to be a foster parent and be an employee of that same agency?
Amended	388-148-0065	When may I be certified to provide care to children?
Amended	388-148-0070	Is there a difference between licensing and certification?
Amended	388-148-0075	May I be licensed with the department and certified by a child-placing agency at the same time?

PERMANENT

New Amended or Repealed	WAC #	Caption
Amended	388-148-0085	Will the department license or continue to license a home or facility if the home or facility does not meet the licensing requirements?
Amended	388-148-0090	Does the department issue a probationary license?
Amended	388-148-0095	When are licenses denied, suspended or revoked?
New	388-148-0098	When is an employee or volunteer disqualified from having unsupervised access to a child at a licensed home, facility, or agency?
Amended	388-148-0100	Are there any other reasons that might cause me to lose my license?
Amended	388-148-0110	What may I do if I disagree with your decision to modify, deny, suspend or revoke my license?
Amended	388-148-0120	What incidents involving children must I report?
Amended	388-148-0125	What are your requirements for keeping client records?
New	388-148-0127	What are the requirements for information kept in facility logs for staffed residential homes and group care programs?
Amended	388-148-0130	What information may I share about a child or a child's family?
Amended	388-148-0135	What changes to my home or facility must I report to my licenser?
Amended	388-148-0140	What personnel policies must I have?
Amended	388-148-0150	Are local ordinances part of the licensing requirements?
Amended	388-148-0165	What are the requirements about the location of my home or facility?
Amended	388-148-0170	What steps must I take to ensure children's safety around outdoor bodies of water?
Amended	388-148-0180	Are alcoholic beverages or illegal drugs allowed at my home or facility?
Amended	388-148-0185	Is smoking permitted around children?
Amended	388-148-0200	Do I need first-aid supplies?
Amended	388-148-0220	What fire safety requirements must I follow to qualify for a license?
Amended	388-148-0225	What safety requirements are there for exits?
Amended	388-148-0230	Are there other fire safety requirements for inside a foster home or staffed residential home licensed for five or fewer children?
Amended	388-148-0235	What are the requirements for smoke detectors for foster homes and staffed residential homes licensed for five or fewer children?
Amended	388-148-0240	What are the requirements for fire extinguishers in homes and facilities?
Amended	388-148-0245	What fire escape measures must be taken for multi-level homes and facilities?
Amended	388-148-0250	What fire safety instructions must I give to children residing in a home or facility?
Amended	388-148-0255	What are the requirements for a fire evacuation plan?
Amended	388-148-0260	What are the general requirements for bedrooms?
Amended	388-148-0265	What are additional requirements for bedrooms for more than one person?
Amended	388-148-0270	What are the requirements for beds?
Amended	388-148-0275	Do I need a telephone at my home or facility?
Repealed	388-148-0285	Do I need a housekeeping sink?
Amended	388-148-0300	How must I ventilate my home or facility?
Amended	388-148-0305	What are the requirements for laundry facilities?
Amended	388-148-0315	What are the requirements for toilets, sinks, and bathing facilities?
Amended	388-148-0320	What are the requirements about drinking water?
Amended	388-148-0325	What are the requirements for sewage and liquid wastes?
Amended	388-148-0335	When must I get a physical exam for a child under my care?
Amended	388-148-0340	What are the requirements for immunizations for children?
Amended	388-148-0345	What must I do to prevent the spread of infections and communicable diseases?

New Amended or Repealed	WAC #	Caption
Amended	388-148-0350	What are the requirements for obtaining consent for medical care for children under my care?
New	388-148-0352	What are the requirements for the management of medication for children in my care?
Amended	388-148-0355	May I accept medicine from a child's parent or guardian?
Repealed	388-148-0360	Whom do I notify about medication changes and reactions?
Amended	388-148-0365	When may children take their own medicine?
Amended	388-148-0375	How often must I feed children?
Amended	388-148-0380	How do I handle a child's special diet?
Amended	388-148-0395	What requirements must I meet for feeding babies?
Amended	388-148-0400	What are the requirements for diapers and diaper-changes areas?
New	388-148-0422	What are the requirements for privacy for children in out-of-home placements?
Amended	388-148-0425	What are the requirements about nondiscrimination?
Repealed	388-148-0427	Are there specific requirements regarding Native American children?
Amended	388-148-0430	May I take a foster child to church services, temple, mosque, or synagogue?
Amended	388-148-0445	What toys and activities must I provide to children?
Repealed	388-148-0450	What types of toys must I provide to children?
Amended	388-148-0455	Do I need permission to travel on an overnight trip, or out-of-state with my foster child?
Amended	388-148-0460	What requirements do you have for supervising children?
Amended	388-148-0470	What types of disciplinary practices are forbidden?
Amended	388-148-0480	When may a child be physically restrained?
Amended	388-148-0485	What types of physical restraint are not acceptable for children?
New	388-148-0487	What are the requirements for time-out or quiet rooms?
New	388-148-0488	Are time-delay mechanisms allowed on windows and doors of a facility or staffed residential home licensed for six?
Amended	388-148-0490	What must I do following an incident that involved using physical restraint?
Repealed	388-148-0500	May I receive more than one in-home care license?
Amended	388-148-0520	What are the training requirements for foster parents and prospective foster parents?
Amended	388-148-0525	How many children may my foster home serve?
Amended	388-148-0535	Do I need to have income separate from foster care payments?
Amended	388-148-0540	When may I use respite care?
New	388-148-0551	Who may provide care to a foster child in the foster home when the foster parent is away from the home?
New	388-148-0542	May someone under eighteen supervise a foster child in the foster home?
Amended	388-148-0555	Do I need a social summary for children under my care?
Amended	388-148-0560	Do I need a treatment plan for children under my care?
Amended	388-148-0585	What social service staff do I need?
Amended	388-148-0600	Do I need professional consultants for my program?
Amended	388-148-0605	Is in-service training required?
Amended	388-148-0610	What are the required ratios of social service staff to children under care?
Amended	388-148-0615	Are there specific fire safety requirements for the care of nonambulatory children?
Amended	388-148-0620	What safety features do I need for hazardous areas?
Amended	388-148-0625	What other requirements must I follow for smoke detectors?
Repealed	388-148-0630	What fire prevention measures must I take?
Repealed	388-148-0635	What are the requirements for fire sprinkler systems?
Amended	388-148-0640	What fire safety procedures do staff of a group care facility and a staffed residential home licensed for six children need to know?

New Amended or Repealed	WAC #	Caption
Amended	388-148-0645	What are the requirements for fire drills and testing smoke detectors?
Repealed	388-148-0650	What requirements do you have regarding windows in staffed residential homes and group care facilities?
Amended	388-148-0655	Are there different construction and fire safety requirements for facilities that have multiple licenses in the same building?
Amended	388-148-0660	Do mealtimes need to be established?
Amended	388-148-0670	What types of group care programs are licensed to provide care to children?
Amended	388-148-0685	Who may I serve as a group care program provider?
Amended	388-148-0695	Must I give a child an allowance?
Amended	388-148-0700	What are the qualifications for an executive director for a group care program or child-placing agency?
Amended	388-148-0705	Do I need an on-site program manager or social service staff at each group care facility?
Amended	388-148-0710	What are the responsibilities of the on-site program manager or social services staff for a group care facility?
Amended	388-148-0715	What qualifications must the on-site program manager for a group care program or a CPA program manager have?
New	388-148-0718	What are the responsibilities for child care staff at a group care program?
Amended	388-148-0720	What are the qualifications for child care staff or case aides for a group care program and a child-placing agency?
New	388-148-0722	What are the qualifications for health care staff for a group care program or a child-placing agency caring for medically fragile children?
Amended	388-148-0725	What is the ratio of child care staff to children in group care facilities?
Amended	388-148-0730	Are there room requirements for group care facilities?
Repealed	388-148-0735	When do I need a special care room?
Amended	388-148-0750	What maternity services must I provide?
Amended	388-148-0765	What types of health education must I offer expectant and new mothers?
Amended	388-148-0775	Do expectant and new mothers need to be under a physician's care?
Amended	388-148-0785	What is the proper ratio of staff to children in home or group care facilities offering maternity services?
Amended	388-148-0795	How is capacity determined for a maternity services facility?
Amended	388-148-0800	What is the purpose of day treatment programs?
Amended	388-148-0805	What staff must my day treatment program have?
Amended	388-148-0810	What consultants must my day treatment program have?
Amended	388-148-0830	What services must I provide for medically fragile children and children with severe developmental disabilities?
Amended	388-148-0860	Are there room requirements for group care facilities for medically fragile children under age six?
Amended	388-148-0870	What additional record-keeping requirements exist for medically fragile children and children with severe developmental disabilities?
Amended	388-148-0875	What types of crisis residential centers may be licensed?
Amended	388-148-0880	What levels of secure CRCs exist?
Amended	388-148-0885	What are the requirements for a level-one secure CRC?
Amended	388-148-0890	What are the requirements for a level-two secure CRC?
New	388-148-0892	What are the requirements for a level-three secure CRC?
Amended	388-148-0895	May a juvenile detention center operate a separate secure CRC program?
Amended	388-148-0900	What youth may a CRC serve?
Amended	388-148-0905	Can law enforcement officers place youth in secure CRC?

New Amended or Repealed	WAC #	Caption
Amended	388-148-0915	What steps must be taken after a youth is admitted into a CRC?
Repealed	388-148-0935	How long may a youth stay at a CRC?
Amended	388-148-0995	What are the ratio requirements of youth care staff to youth in crisis residential centers?
Repealed	388-148-1020	Must a staffed residential home operate in conjunction with another program?
Amended	388-148-1025	What must be included in a written program description for a staffed residential home?
Amended	388-148-1030	What services must a staffed residential home provide?
Amended	388-148-1035	Who must be on the premises when children are under care at a staffed residential home?
Amended	388-148-1045	What is the ratio of child care staff to children in staffed residential homes?
Amended	388-148-1050	How many children may I serve in my staffed residential home?
Amended	388-148-1060	What services may a child-placing agency provide?
Repealed	388-148-1065	Do child-placing agency foster homes and group care facilities need to be licensed before placements?
New	388-148-1066	What written information is needed before a child is accepted for care by a child-placing agency?
Amended	388-148-1070	What health histories need to be provided to adoptive parents?
New	388-148-1076	What are the qualifications for an executive director, a program manager/social service staff, and a consultant for a child-placing agency?
New	388-148-1077	What are the qualifications for a case aide for a child-placing agency program?
New	388-148-1078	What are the qualifications for health care staff hired or contracted by a child-placing agency to provide services to children in care?
New	388-148-1097	What are the qualifications for a foster home licensor for a child-placing agency?
Amended	388-148-1085	How may my child-placing agency certify a foster home for licensing by the department?
Amended	388-148-1115	What are the requirements for providing adoptive services?
Amended	388-148-1120	What is the process for adoptions?
New	388-148-1205	What is a group receiving center?
New	388-148-1210	What age children may a center serve?
New	388-148-1215	What hours must a center be open?
New	388-148-1220	What services are provided or arranged for by a group receiving center?
New	388-148-1225	Is a center required to provide an orientation for a child placed?
New	388-148-1230	Does each child need space for personal items at the center?
New	388-148-1235	What staff training is required?
New	388-148-1240	What is the ratio of child care staff to children at a center?
New	388-148-1245	What are the requirements for supervision of children at a center?
New	388-148-1250	Who must be on the premises while children are in care at a center?
New	388-148-1255	What are the requirements for an activity program?
New	388-148-1260	What activities must I provide to children?
New	388-148-1265	What are the requirements for indoor recreation areas?
New	388-148-1270	What are the requirements for an outdoor recreation area?
New	388-148-1275	What are the size requirements for an outdoor recreation area?
New	388-148-1280	What are the requirements for playground equipment?

Statutory Authority for Adoption: RCW 74.15.030.

Other Authority: Chapter 74.15 RCW.

Adopted under notice filed as WSR 04-03-116 on January 21, 2004.

Changes Other than Editing from Proposed to Adopted Version: The text of the adopted rule varies from the text of the proposed rule (WSR 04-03-116 filed January 21, 2004). The changes (other than editing changes) were made in response to comments and to provide clarity. Language added is underlined; language deleted is struck-through.

WAC 388-148-0025 (1)(e). The certification of occupancy from the Washington state ~~patrol fire protection bureau~~ department of health if your facility is a group care program or a staffed residential home licensed for six children.

WAC 388-148-0125(2). For foster homes, if the child is in the department's custody, at the end of the child's placement, reports and information ~~written by ((others)) the department~~ about the child or the child's family must be returned to the child's social worker.

WAC 388-148-0130(3). You may check with your child's social worker for guidance about sharing information with the child's teacher, counselor, ~~or doctor~~, respite care provider, ~~or any other professional, or others involved in the case plan.~~

WAC 388-148-0165(4). A licensing safety and supervision plan must be written ~~for each child in care~~ if the department determines that hazardous conditions are present.

WAC 388-148-0170(8). Foster homes with pools must have a written licensing safety and supervision plan ~~for each child.~~

WAC 388-148-0180(1). If alcohol is on the premises of a foster home the issue must be addressed in the ~~child's~~ licensing safety and supervision plan.

WAC 388-148-0250. What fire safety instructions must I give to children residing in a home or facility a staffed residential home licensed for five or fewer children?

(1) You must instruct children, under your care, who are capable of understanding and following emergency evacuation procedures ~~((and))~~ how to exit the building in case of fire.

(2) For foster homes and staffed residential homes licensed for five or fewer children, ~~you~~ must conduct fire drills at quarterly intervals or as required by WAC 212-12-044 by the WSP/FPB to test and practice evacuation procedures.

WAC 388-148-0335. When must I get an EPSDT physical exam for a child under my care?

(1) An physical early and periodic screening, diagnosis and treatment exam (EPSDT) must be completed for any child in care more than thirty days, who within the past year has not had a physical exam by a physician, a physician's assistant, or an advanced registered nurse practitioner (ARNP).

(2) In consultation with the child's social worker and physician, you must schedule an ~~early and periodic screening, diagnosis and treatment (EPSDT)~~ exam by a physician, a physician's assistant, or an advanced registered nurse practitioner (ARNP) according to the published frequency schedule.

WAC 388-148-0380. You must have approval of the child's social worker and written instructions by a physician, parent or guardian before serving nutrient concentrates, nutrient supplements, vitamins, and modified diets (therapeutic and allergy diets).

WAC 388-148-0541(2). ~~Occasionally, and for less than twenty-four hours, a foster parent, at their own expense, may allow a friend, or a relative to provide care to a foster child in the foster home when the conditions that follow are met.~~ The foster parent must:

WAC 388-148-0720. What are the qualifications for child care staff ~~or and case aides for a group care program and a child placing agency?~~ The department requires that child care staff and case aides: ~~of each group care program and child placing agency program:~~

WAC 388-148-0795. The capacity of a group care facility providing maternity services is determined by the ~~WSP/FPB~~ department of health representative.

WAC 388-148-1030(2). You must provide a safety and supervision plan for each children you serve considering their his or her ages and physical conditions.

Number of Sections Adopted in Order to Comply with Federal Statute: New 32, Amended 123, Repealed 12; 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 32, Amended 123, Repealed 12.

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

April 2, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

Chapter 388-148 WAC

LICENSING REQUIREMENTS FOR CHILD FOSTER HOMES, STAFFED RESIDENTIAL HOMES, GROUP RESIDENTIAL FACILITIES, AND CHILD-PLACING AGENCIES

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0005 **What is the purpose of this chapter?** The department issues or denies a license or certification on the basis of compliance with licensing requirements. This chapter defines general and specific licensing requirements for foster homes, staffed residential homes, group facilities, and child-placing agencies. We include licensing requirements for people who operate foster homes, group care programs and facilities, staffed residential homes, and child-

placing agencies. In addition, we describe our requirements for specialized services offered in these homes and facilities, including: maternity services, day treatment services, crisis residential centers, group receiving centers services for children with severe developmental disabilities and programs for medically fragile children. Unless noted otherwise, these requirements apply to people who want to be licensed, certified, relicensed and re-certified.

The department is committed to ensuring that the children who receive care experience health, safety, and well-being. We want these children's experiences to be beneficial to them not only in the short run, but also in the long term. Our licensing requirements reflect our commitment to children.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0010 What definitions do I need to know to understand this chapter? The following definitions are for the purpose of this chapter and are important to understand these rules:

"Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment or mistreatment of a child where the child's health, welfare and safety are harmed.

"Agency" is defined in RCW 74.15.020(1).

"Assessment" means the appraisal or evaluation of a child's physical, mental, social and/or emotional condition.

"Capacity" means the maximum number of children that a home or facility is licensed to care for at a given time.

"Care provider" means any licensed or certified person or organization or staff member of a licensed organization that provides twenty-four-hour care for children.

"Case manager" means the private agency employee who coordinates the planning efforts of all the persons working on behalf of a child. ~~((They))~~ Case managers are responsible for implementing the child's case plan, assisting in achieving those goals, and assisting with day-to-day problem solving.

"Certification" means:

(1) Department approval of a person, home, or facility that does not legally need to be licensed, but wishes to have evidence that ~~((they met))~~ it meets the minimum licensing requirements; or

(2) Department licensing of a child-placing agency to certify that a foster home ~~((and/or a group care program))~~ meets licensing requirements.

"Children" or "youth," for this chapter, means individuals who are:

(1) Under eighteen years old, including expectant mothers under eighteen years old; or

(2) Up to twenty-one years of age and ~~((enrolled in))~~ pursuing a high school, equivalent course of study ~~((;))~~ (GED), or ~~((educational))~~ vocational program;

(3) Up to twenty-one years of age with developmental disabilities; or

(4) Up to twenty-one years of age if under the custody of the Washington state juvenile rehabilitation administration.

"Child-placing agency" means an agency licensed to place children for temporary care, continued care or adoption.

"Crisis residential center (CRC)" means an agency under contract with DSHS that provides temporary, protective care to children in a foster home, regular (semi-secure) or secure group setting.

"Compliance agreement" means a written licensing improvement plan to address deficiencies in specific skills, abilities or other issues of a fully licensed home or facility in order to maintain and/or increase the safety and well-being of children in their care.

"DCFS" means the division of children and family services.

"DDD" means division of developmental disabilities.

"Department" means the department of social and health services (DSHS).

"Developmental ~~((disabilities))~~ disability" ~~((means the language used by DSHS, division of developmental disabilities))~~ is a disability as defined in RCW 71A.10.020.

"DLR" means the division of licensed resources.

"Firearms" means guns or weapons, including but not limited to the following: BB guns, pellet guns, air rifles, stun guns, antique guns, bows and arrows, handguns, rifles, and shotguns.

"Foster-adopt" means placement of a child with a foster parent(s) who intends to adopt the child, if possible.

"Foster home or foster family home" means person(s) licensed to regularly ~~((providing))~~ provide care on a twenty-four-hour basis to one or more children in the person's home.

"Full licensure" means an entity meets the requirements established by the state for licensing or approved as meeting state minimum licensing requirements.

"Group care facility for children" means a location maintained and operated for a group of children on a twenty-four-hour basis.

"Group receiving center" or "GRC" means a facility providing the basic needs of food, shelter, and supervision for more than six children placed by the department, generally for thirty or fewer days. A group receiving center is considered a group care program and must comply with the group care facility licensing requirements.

"Hearing" means the ~~((department's))~~ administrative review process.

"I" refers to anyone who operates or owns a foster home, staffed residential home, and group facilities, including group homes, child-placing agencies, maternity homes, day treatment centers, and crisis residential centers.

~~(("Infants"))~~ **"Infant"** means ~~((children))~~ a child under one year of age.

"License" means a permit issued by the department affirming that a home or facility meets the minimum licensing requirements.

"Licensor" means:

(1) A division of licensed resources (DLR) employee at DSHS who:

(a) Approves licenses or certifications for foster homes ~~((and)),~~ group facilities, and child-placing agencies; and

(b) Monitors homes and facilities to ensure that they continue to meet minimum health and safety requirements.

(2) An employee of a child-placing agency who:

(a) Attests that ((a)) foster ((home and/or group home facility)) homes supervised by the child-placing agency meets licensing requirements; and

(b) Monitors ((the)) those foster homes ((and facilities)) to ensure they continue to meet the minimum licensing standards ((for the health and safety of the children in care)).

"Maternity service" ((means an individual, program or facility providing or arranging for care for:

(1) Expectant mothers before and during pregnancy; and

(2) Mothers and their infants after pregnancy.

These services are provided to mothers who are under eighteen years of age)) as defined in RCW 74.15.020.

"Medically fragile" means the condition of a child who has a chronic illness or severe medical disabilities requiring regular nursing visits, ((regular)) extraordinary medical ((check-ups, or under a)) monitoring, or on-going (other than routine) physician's care.

"Multidisciplinary teams (MDT)" means groups formed to assist children who are considered at-risk youth or children in need of services, and their parents.

"Nonambulatory" means not able to walk or traverse a normal path to safety without the physical assistance of another individual.

(("Nonmobile" refers to children who are not yet walking, are unable to walk, or unable to use a wheelchair or other device to move about freely.))

"Out-of-home placement" means a child's placement in a home or facility other than the child's parent, guardian, or legal custodian.

"Premises" means a facility's buildings and adjoining grounds that are managed by a person or agency in charge.

"Probationary license" means a license issued as part of a disciplinary ((measure)) action to an individual or agency that has previously been issued a full license but is out of compliance with minimum licensing ((standards)) requirements and has entered into an agreement aimed at correcting deficiencies to minimum licensing requirements.

"Psychotropic medication" means a type of medicine that is prescribed to affect or alter thought processes, mood, sleep, or behavior. These include anti-psychotic, antidepressants and anti-anxiety medications.

"Relative" means a person who is related to the child as defined in RCW 74.15.020 (4)(a)(i), (ii), (iii), and (iv) only.

"Respite" means brief, temporary relief care provided to a child and his or her parents, legal guardians, or foster parents with the respite provider fulfilling some or all of the functions of the care-taking responsibilities of the parent, legal guardian, or foster parent.

"Secure facilities" means a crisis residential center that has locking doors and windows, or secured perimeters intended to prevent children from leaving without permission.

"Service plan" means a description of the services to be provided or performed and who has responsibility to provide or perform the activities for a child or child's family.

"Severe developmental disabilities" means significant disabling, physical and/or mental condition(s) that cause a child to need external support for self-direction, self-support and social participation.

"Social service staff" means ((child-placing agency or group care program staff)) a clinician, program manager, case manager, consultant, or other staff person who is an employee of the agency or hired to ((provide consultation on developing and implementing)) develop and implement the child's individual service and treatment plans.

"Staffed residential home" means a licensed home providing twenty-four-hour care for six or fewer children or expectant mothers. The home may employ staff to care for children or expectant mothers. It may or may not be a family residence.

"Standard precautions" is a term relating to procedures designed to prevent transmission of blood borne pathogens in health care and other settings. Under standard precautions, blood or other potentially infectious materials of all people should always be considered potentially infectious for HIV and other pathogens. Individuals should take appropriate precautions using personal protective equipment like gloves to prevent contact with blood or other bodily fluids.

"Washington state patrol fire protection bureau" or "WSP/FPB" means the state fire marshal.

"We" or "our" refers to the department of social and health services, including DLR licensors and DCFS social workers.

"You" refers to anyone who operates a foster home, staffed residential home, and group facilities, including group homes, maternity programs, day treatment programs, crisis residential centers, group receiving centers, and child-placing agencies.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0015 Am I required to have a license to provide care to children? (1) If you regularly provide care on a twenty-four hour basis to a child who is not related to you, you must be licensed.

(2) The types of homes or facilities that need a license include:

- (a) Foster homes;
- (b) Group care programs;
- (c) Programs for medically fragile children and children with severe developmental disabilities;
- (d) Maternity services;
- (e) Day treatment programs;
- (f) Crisis residential centers;
- (g) Staffed residential homes; ((and))
- (h) Child-placing agencies; and
- (i) Group receiving centers.

Note: Homes and facilities offering maternity services, day treatment, crisis residential centers, group receiving centers, services to medically fragile children and/or children with severe developmental disabilities will need to follow the specific program requirements outlined in this chapter as well.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0020 When is a license not required if I provide care to children? The department does not require

licenses for people providing care in any of the situations as defined in RCW 74.15.020(2).

Reviser's note: The above section was filed as an amendatory section; however, there were no amendments made. Pursuant to the requirements of RCW 34.08.040 it is published in the same form as filed by the agency.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0025 How do you decide how many children I may serve in my home or facility? (1) The department approves the number of children that a home or facility may serve, based on an evaluation of these factors:

- (a) Physical accommodations in your home or facility;
- (b) The number of staff, family members and volunteers available for providing care;
- (c) Your skills and the skills of your staff; ~~((and))~~
- (d) The ages and characteristics of the children you are serving; and

(e) The certification of occupancy from the Washington state department of health if your facility is a group care program, or a staffed residential home licensed for six children.

(2) Based on the evaluation, the department may license you for the care of fewer children than you normally would serve in your category of care.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0035 What personal characteristics do I need to provide care to children? If you are requesting a license, certification, or a position as an employee, volunteer, intern, or contractor in a foster home, group care facility, staffed residential home, or child-placing agency you must have the following specific personal characteristics:

(1) You must demonstrate that you have the understanding, ability, physical health, emotional stability and personal-ity suited to meet the physical, mental, emotional, and social needs of the children under your care.

(2) You must not have been disqualified by our background check (chapter 388-06 WAC) prior to having unsupervised access to children.

(3) You have not had a license denied or revoked from an agency that regulates the care of children or vulnerable adults, unless the department determines that you do not pose a risk to a child's safety, well being, and long-term stability.

(4) You must not have been found to have committed abuse or neglect of a child or vulnerable adult, unless the department determines that you do not pose a risk to a child's safety, well being, and long-term stability.

(5) You must have the ability to furnish the child with a nurturing, respectful, supportive, and responsive environment.

~~((4))~~ (6) The department may require you to give additional information. We may request this information at any time and it may include, but is not limited to:

- (a) Substance and alcohol abuse evaluations and/or documentation of treatment;
- (b) Psychiatric or psychological evaluations;
- (c) Psycho-sexual evaluations; and
- (d) Medical evaluations and/or medical records.

~~((5))~~ (7) Any evaluation requested under WAC 388-148-0035 ~~((4))~~(6)(a)-(d) will be at the applicant/licensees expense.

~~((6))~~ (8) The licenser must be given permission to speak with the evaluator/provider prior to and after the evaluation.

(9) Misrepresentation by a prospective employee, intern, or volunteer may be grounds for termination or denial of employment or volunteer service by that individual.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0040 What first-aid and cardiopulmonary resuscitation (CPR) training is required? ~~((You and your staff must have the following first-aid training:))~~

(1) If you have a home or facility that provides licensed care, ((the care-givers)) you, your staff, interns, volunteers, and any individual who may at any time be the sole caregiver, must have ~~((current training in:~~

~~((a)))~~ basic standard first aid((;)) and

~~((b)))~~ age-appropriate cardiopulmonary resuscitation (CPR) training.

(2) The approved first((-) aid and CPR training must be in accordance with a nationally recognized standard((such as the American Red Cross or American Heart Association)).

(3) For ~~((any))~~ licensed facilities ((other than foster)) and homes, ((the)) a person with first((-) aid and CPR training must be on the premises ((at all times)) when children are present.

(4) The ~~((requirement for))~~ CPR training ~~((may be waived for persons))~~ is not required for licensees with a statement from their physician that the training is not advised for medical reasons. However, another person with current CPR training must be on the premises when children are present.

(5) You must keep records in your home or facility showing who has completed current first-aid and CPR training.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0045 What HIV/AIDS and blood borne pathogens training is required? (1) You must provide or arrange for training for yourself ~~((and any of)),~~ your staff, and any individual who may at anytime be the sole caregiver, on the prevention((;)) and transmission((-and treatment)) of HIV ((and)) AIDS, and blood borne pathogens. Such training must include infection control ~~((requirements))~~ standards.

(2) You must use infection control requirements and educational material consistent with the current approved curriculum *Know - HIV/AIDS Prevention Education for Health Care Facility Employees*, published by the department of health, office on HIV/AIDS.

~~((3))~~ The staff of group care programs are required to complete blood borne pathogen training(-)

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0050 How do I apply for a license?

License applications are available from the division of licensed resources and licensed child placing agencies.

(1) To apply for a license, the person or legal entity responsible for your home or facility must ~~((follow these procedures:~~

(1) ~~You must send the application form to your licensor at DLR or a child placing agency.~~

(2) ~~)) include with the application ((form, you must send)) the following~~((information)):~~~~

(a) Written verification for ((applicant of)) each applicant(s), staff, interns, volunteers and individuals who may have unsupervised access to children in care of the following information:

(i) A negative tuberculosis test or an X ray, unless you can demonstrate a religious ((reasons)) or a medical reason prohibiting the test;

Note: Written documentation from your physician that indicates you are free of the signs and symptoms of tuberculosis may be accepted for individuals with a religious or a medical prohibition to the TB test.

(ii) First aid and cardio-pulmonary resuscitation (CPR) training appropriate to the age of the children in care; and

(iii) HIV/AIDS and blood borne pathogens training including infection control standards.

~~((b)) (2) You must send a completed background check form ((for each applicant, family member, staff person, board member, intern or volunteer)) to your licensor on anyone on the premises having unsupervised access to children who:~~

~~((i)) (a) Is at least sixteen years old or older;~~

~~((ii)) (b) Is not a foster child; ((and~~

~~((iii)) Has unsupervised access to children)) or~~

(c) An individual eighteen through twenty years old authorized to remain in foster care (see chapter 388-06 WAC).

~~((e) If you have lived in Washington state less than three years;))~~

(3) You must ((provide us with)) send a completed FBI fingerprint form on any individual in your home or facility who has lived outside Washington state within the last three years and meets WAC 388-148-0050 (2)(a)(b).

~~((d) We may require additional information from you including, but not limited to:~~

~~(i) Substance and alcohol abuse evaluations and/or documentation of completed treatment;~~

~~(ii) Psychiatric evaluations;~~

~~(iii) Psycho-sexual evaluations; and~~

~~(iv) Medical evaluations and/or medical records.~~

(3) Except foster homes, if you are applying for a license renewal, you must send the application form to your licensor at least ninety days prior to the expiration of your current license))

(4) A group care facility or staffed residential home licensed for six is required to meet the health and fire safety requirements to receive a certificate of compliance from the department of health and the Washington state patrol fire protection bureau.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0055 How long do I have to complete the licensing application packet? (1) You must complete your licensing application with supporting documents, such as training certificates, within ninety days of first applying for your license. If you fail to meet this deadline and have not contacted your licensor, your licensor may consider your application withdrawn.

(2) If you are applying for a license renewal, other than as a foster home, you must send the application form to your licensor at least ninety days prior to the expiration of your current license.

NEW SECTION

WAC 388-148-0058 May I receive more than one in-home family license? (1) The department does not issue licenses for both a foster home and another kind of in-home family care, except in rare situations.

(2) In rare situations, a family that has demonstrated exceptional abilities in relation to meeting the special needs of children to be cared for may be granted approval to be licensed for foster care and another type of in-home family care. Approval may be granted if it appears to be in the best interest of the child and would not jeopardize the health and safety of children in the home.

(3) The following conditions apply to a home with more than one in-home family license:

(a) It must be clear that one type of care does not interfere with the health and safety of any child while providing the other type of care; and

(b) The total number of children in all categories of care must not exceed the number permitted by the most stringent capacity standards for the licensed care of children.

(4) The approval for more than one in-home family license must be in writing and signed by the director of the division of licensed resources or designee and the appropriate authority of the other division.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0060 ((When am I not allowed to receive a license from)) May my relative or I be certified by a child-placing agency to be a foster parent and be an employee of that same agency? (1) You or your relative(s), are not allowed to be certified by a child-placing agency as a foster home, if you or your relative is in an administrative or supervisory role, or directly involved in:

(a) Foster home certification((;));

(b) Placement((;));

(c) Case management; or

(d) Authorization of payment to yourself or your relative for that same child-placing agency.

(2) ~~((You or your relative may apply to a different)) A foster parent certified by a child-placing agency ((for a license:~~

~~(3) Licensed foster parents who become)) who becomes employed by ((the department or a child-placing agency must~~

be relicensed)) that agency, in one of the roles listed in WAC 388-148-0060(1) must be recertified through an agency other than their employer or licensed directly by DLR within six months of employment.

Note: Relative as defined under RCW 74.15.020 (4)(i) through (iv).

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0065 When may I be certified to provide care to children? When you meet the licensing requirements, you may apply for certification of your home or facility by the department rather than a license, if ((you)) the following conditions apply:

- (1) You are exempt from needing a license (per chapter 74.15 RCW); and
- (2) ((Meet the licensing requirements; and
(3))) You wish to serve department-funded children; or
- (3) You are licensed by authority of an Indian tribe within the state under RCW 74.15.190.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0070 Is there a difference between licensing and certification? (1) The department has the sole legal authority to license or approve homes and facilities for the care of children in out-of-home placement.

(2) The department may license a child-placing agency, including a Tribal CPA, to operate foster home, staffed residential home, and/or group care facilities.

(3) The child-placing agency is only authorized to "certify" or attest to the department that the foster home ((or facility)) meets the licensing requirements.

(4) The certification requirements are the same as the licensing ((and certification)) requirements ((are the same)) and are contained in this chapter.

(5) The department has the final approval for licensing the home or facility that the CPA will be supervising.

(6) The department's representative signs the license of the home or facility.

(7) A home "certified" by a child-placing agency (CPA) and licensed by the department must be supervised by that CPA to have a valid license ((to care for children)).

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0075 May I be licensed with the department and certified by a child-placing agency at the same time? You may not be licensed directly by the department to provide foster care to children ((at the same time by both the department)) and be certified and supervised by a child-placing agency, at the same time.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0085 Will the department license or continue to license a home or facility if the home or facil-

ity does not meet the licensing requirements? (1) At its discretion, the department may make exceptions and license or continue to license a home or facility that does not meet the minimum licensing requirements.

(2) Exceptions are approved for nonsafety requirements only.

(3) The safety and well-being of the children receiving care must not be compromised.

(4) The request for an exception to the licensing requirements must be in writing.

(5) You must keep a copy of the approved exception to the licensing requirements for your files.

(6) Along with an exception to the licensing requirements, the department may limit or restrict a license issued to you and/or require you to enter into a compliance agreement to ensure the safety and well-being of the children in your care.

(7) You do not have appeal rights if the department in its discretion denies your request for an exception to ((or)) the minimum licensing requirements.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0090 Does the department issue probationary license? (1) The department may issue a probationary license as part of a corrective action plan with a licensed provider.

(2) The department ((must)) will base its decision as to whether a probationary license will be issued on a consideration of the following:

(a) Intentional or negligent noncompliance with the licensing rules;

(b) A history of noncompliance with the rules;

(c) Current noncompliance with the rules;

(d) Evidence of a good faith effort to comply; and

(e) Any other factors relevant to the specific situation.

(3) A probationary license may be issued for up to six months. At its discretion, the department may extend the probationary license for an additional six months. A decision not to issue a probationary license is not subject to appeal.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0095 When are licenses denied, suspended or revoked? (1) A license must be denied, suspended or revoked if the department decides that you cannot provide care for children in a way that ensures their safety, health and well-being.

(2) The department must, also, disqualify you for any of the following reasons ((that follow)):

(a) You have been disqualified by your background check (see chapter 388-06 WAC).

(b) You have been found to have committed child abuse or neglect or you treat, permit or assist in treating children in your care with cruelty, indifference, abuse, neglect, or exploitation, unless the department determines that you do not pose a risk to a child's safety, well-being, and long-term stability.

(c) You or anyone living on the premises had a license denied or revoked from an agency that ((provided)) regulates

care ((~~to~~)) of children or vulnerable adults, unless the department determines that you do not pose a risk to children or vulnerable adults.

(d) You try to get a license by deceitful means, such as making false statements or (~~leaving out important~~) omitting critical information on the application.

(e) You commit, permit or assist in an illegal act on the premises of a home or facility providing care to children.

(f) You are using illegal drugs, or excessively using alcohol and/or prescription drugs.

(g) You knowingly allowed employees or volunteers who made false statements or omit critical information on their applications to work at your agency.

(h) You knowingly allowed employees or volunteers who use illegal drugs, alcohol, or prescription drugs that affect their ability to perform their job duties to work at your agency or be on the premises when children are present.

(i) You repeatedly lack qualified or an adequate number of staff to care for the number and types of children under your care. Repeatedly means more than twice during a six-month period.

((~~+~~)) (j) You have refused to allow our authorized staff and inspectors to have requested information or access to your facility, child and program files, and/or your staff and clients.

((~~+~~)) (k) You are unable to properly manage the property, fiscal responsibilities, or staff in your agency.

((~~+~~)) (l) You have failed to comply with the federal and state laws for any Native American children that you have under care.

NEW SECTION

WAC 388-148-0098 When is an employee or volunteer disqualified from having unsupervised access to a child in a licensed home, facility, or agency? The department must disqualify an employee or volunteer of a licensed home, facility, or agency from having unsupervised access to a child(ren) when he or she:

(1) Has a disqualifying background check (see chapter 388-06 WAC);

(2) Has been found to have committed child abuse or neglect or have treated, permitted, or assisted in treating children with cruelty, indifference, abuse, neglect, or exploitation;

(3) Had a license denied or revoked from an agency that regulates the care of children or vulnerable adults;

(4) Attempted to become employed, volunteer, or otherwise have unsupervised access to children by deceitful means, such as making false statements or omitting critical information on an application to work or volunteer at a licensed home, facility, or agency;

(5) Used illegal drugs, alcohol, or prescription drugs that affected their ability to perform their job duties while on the premises when children are present; or

(6) Has committed, permitted, or assisted in an illegal act on the premises of a home or facility providing care to children.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0100 Are there any other reasons that might cause me to lose my license? ((~~+~~)) The department may suspend or revoke your home or facility license if you:

(1) Exceed the conditions of your home or facility license by:

(a) Having more children than the license allows;

(b) Having children with ages or genders different than the license allows;

(c) Failing to provide a safe, healthy and nurturing environment for children under your care; or

(d) Failing to comply with any of ((~~or~~)) the other licensing requirements((~~;~~ or)).

~~(e) Failing).~~

(2) Fail to meet the health and safety requirements to receive a certificate of compliance as required by the department of health and/or ((office of the state Fire Marshal.

~~(2) The department must suspend your license to provide care to children, if we receive a notice from the division of child support that you are not in compliance with a support order.~~

Note: The governing authority is RCW 43.20A.205 and 74.20A.320.

~~(3) The suspension of your license for noncompliance of a support order would be effective the date you receive a notice that we received the certificate of noncompliance from the division of child support.~~

~~(4) Your license would remain suspended until you provide proof that you are in compliance with the child support order.~~

~~(5) You would not have a right to an administrative hearing based on a suspension of your license due to noncompliance of a child support order)) the Washington state patrol fire protection bureau.~~

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0110 What may I do if I disagree with your decision to modify, deny, suspend or revoke my license? You have the right to appeal any decision the department makes to deny, modify, suspend, or revoke your license.

(1) You may request ((~~a department~~)) an administrative hearing to disagree with the department's decision to modify, suspend, revoke or deny your license.

(2) You must request ((~~a department~~)) an administrative hearing within twenty-eight days of receiving a certified letter with the department's decision (see chapter 34.05 RCW).

(3) You must send a letter to the office of administrative hearings, P.O. Box ((~~42489~~)) 42488, Olympia, Washington ((~~98504-2489~~)) 98504-2488, 1-800-583-8271 requesting an administrative hearing. The letter must have the following attachments:

(a) A specific statement of your reasons for disagreeing with the department decision and any laws that relate to your reasons; and

(b) A copy of the certified letter from the department that you are disputing.

PERMANENT

(4) The administrative hearing will take place before an ~~((employee-of))~~ administrative law judge employed by the office of administrative hearings.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0120 What incidents involving children must I report? (1) You or your staff must report ~~((any of the following incidents immediately))~~ the incidents contained in WAC 388-148-0120(2), as soon as possible and in no instance later than forty-eight hours to your local:

- (a) Children's administration intake staff, and
 - (b) The child's social worker or case manager.
- (2) The incidents to be reported include:

(a) Any reasonable cause to believe that a child has suffered child abuse or neglect;

(b) Any violations of the licensing or certification requirements where the health and safety of a foster child is at risk and the violations are not corrected immediately;

(c) Death of a child;

(d) Any child's suicide attempt that results in injury requiring medical treatment or hospitalization;

(e) Any use of physical restraint that is alleged ~~((improper))~~ improperly applied or excessive;

(f) Sexual contact between two or more children that is not considered typical play between preschool age children;

(g) Any disclosures of sexual or physical abuse by a child in care;

(h) Physical assaults between two or more children that result in injury requiring off-site medical ~~((treatment))~~ attention or hospitalization;

(i) ~~((Unexpected health problems that require))~~ Physical assaults of foster parent or staff by children that result in injury requiring off-site medical ~~((treatment))~~ attention or hospitalization;

(j) Any medication that is given incorrectly and requires off-site medical ~~((treatment;))~~ attention; or

(k) Serious property damage or other significant licensing requirement that is a safety hazard and is not immediately corrected~~(; or~~

(l) Any emergent medical care)) or may compromise the continuing health and safety of children.

~~((2))~~ (3) You or your staff must report ~~((immediately))~~ the following incidents as soon as possible or in no instance later than forty-eight hours, ~~((any of the following incidents))~~ to the child's social worker, if the child is in the department's custody or to the case manager if placed with a child-placing agency program:

(a) Suicidal/homicidal ideations, gestures, or attempts that do not require professional medical treatment;

(b) Unexpected health problems outside the anticipated range of reactions caused by medications, that do not require professional medical ~~((treatment))~~ attention;

(c) Any incident of medication incorrectly administered;

(d) Physical assaults between two or more children that result in injury but did not require professional medical ~~((treatment))~~ attention;

(e) Runaways; ~~((and))~~

(f) Any emergent medical or psychiatric care that requires off-site attention; and

(g) Use of prohibited physical restraints for ~~((routine))~~ behavior management as described in WAC 388-148-0485.

(4) Programs providing care to medically fragile children who have nursing care staff on duty may document the incidents described in WAC 388-148-0120 (3)(b)(c) in the facility daily logs, rather than contacting the social worker or case manager, if agreed to in the child's ISSP.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0125 What are your requirements for keeping client records? (1) Any identifying and personal information about a child and the child's family must be kept confidential.

(2) You must keep records about children and their families in a secure place. For foster homes, if the child is in the department's custody, at the end of the child's placement, reports ~~((written by others))~~ and information about the child or the child's family must be returned to the child's social worker.

(3) During a placement in your foster home, your records must be kept at your home and contain, if available, at a minimum, the following information:

(a) The child's name, birth date, and legal status;

(b) Name and telephone number of the social worker for each child in care;

(c) Names, address and telephone numbers of parents or persons to be contacted in case of emergency;

(d) Information on specific cultural needs of the child;

(e) Medical history including any medical problems, name of doctor, type of medical coverage and provider;

(f) Mental health history and any current mental health, chemical dependency, and behavioral issues, including medical and psychological reports when available;

(g) Other pertinent information related to the child's health, including dental records;

(h) ~~((Record of))~~ Immunizations(-) are not required to be current for children placed in:

(i) Receiving and interim care homes and facilities ~~((do not need to keep records of immunizations for children in their care less than thirty days;))~~;

(ii) Crisis residential centers~~((do not need to keep records of immunizations for children in their care;))~~; and

(iii) A foster home licensed by a child-placing agency to provide emergency respite services to parents on a voluntary placement agreement.

Note: If a child's placement extends beyond thirty days, you must obtain the child's immunization records. If the child is not current with immunization, they must be updated as soon as medically possible.

(i) Child's school records, report cards, school pictures, and individual education plans (IEP);

(j) Special instructions including supervision requirements and suggestions for managing problem behavior;

(k) Inventory of the child's personal belongings at the time of placement; and

(l) The child's visitation plan.

(4) During a child's placement in a (~~staffed residential home or a group care program, your records~~) home or facility, the child's record must be kept secure at (~~your~~) the site and contain, at a minimum, the following information in addition to the information in subsection (3)(a) through (l) of this section:

(a) Written consent from the child placing agency, if any, for providing medical care and emergency surgery (unless that care is authorized by a court order);

(b) Names, addresses, and telephone numbers of persons authorized to take the child under care out of the facility;

(c) A copy of the court order or voluntary placement agreement that gives approval to place the child;

(d) Case plans, such as children's administration's "individual service and safety plan (ISSP);" and

(e) (~~Daily logs~~) Documentation of therapy treatment received by children with the signature of the person making the entry (~~in the log~~) to the therapy or progress notes.

(5) If you operate a group care program, staffed residential home, or child-placing agency and have client files with information not returned to the department, you must keep them for six years following the termination or expiration of any contract you have with the department.

NEW SECTION

WAC 388-148-0127 What are the requirements for information kept in facility logs for staffed residential homes and group care programs? (1) Staffed residential homes and group care programs must document the following information for each shift:

(a) Serious child health or safety issues;

(b) Dates and illnesses or accidents while in care;

(c) Medications and treatments given with the child's name;

(d) After-hours telephone number of the supervisor;

(e) On-call and relief staff on premises during emergencies; and

(f) The signature of the staff person reviewing the log.

(2) Staffed residential homes and group care programs must keep current:

(a) Medication logs;

(b) Incident logs, including a copy of any suspected child abuse and/or neglect referrals made to children's administration; and

(c) Daily or shift logs.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0130 What information may I share about a child or a child's family? (1) Information about a child or the child's family is confidential and must only be shared with people directly involved in the case plan for a child. (~~Confidential information must not be shared with:~~

~~(a) Friends,~~

~~(b) Relatives,~~

~~(c) Neighbors.))~~

(2) You may discuss information about the child, the child's family and the case plan only with:

(a) A representative of the department, including staff from DCFPS and DLR; department of health and the office of the state fire marshal;

(b) A child-placing agency case manager assigned to the child;

(c) The child's assigned guardian ad litem or court-appointed special advocate; or

(d) Others designated by the child's social worker.

(3) You may check with your child's social worker for guidance about sharing information with the child's teacher, counselor (~~or~~), doctor, respite care provider (~~or~~), any other professional, or others involved in the case plan.

(4) Child-placing agencies and the department must share with the child's care provider any information about the child and child's family related to the case plan.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0135 What changes to my home or facility must I report to my licensor? (1) You must report to your licensor immediately any changes in the original licensing application. Changes include any of the following:

(a) Changes in your location or designated space, including address;

(b) Changes in your phone number;

(c) Changes in the maximum number, age ranges, and sex of children you wish to serve;

(d) Changes in the structure of your facility or premises from events causing damage, such as a fire, or from remodeling;

(e) Addition of any new staff person, employee, intern, contractor, or volunteer, who might have unsupervised contact with the children in care; or

(f) Changes in household composition, such as:

(i) A marriage, separation or divorce;

(ii) Incapacity or serious physical or mental illness of a foster parent or member of the household;

(iii) The death of anyone in the household;

(iv) A change in employment status or significant change in income; or

(v) A change in who resides in the household or is on the premises for more than fourteen days.

(g) Any arrests or convictions that occur between the date of your license and the expiration date of your license for you or anyone sixteen years or older residing at your home.

(2) A license is valid only for the person or organization named on the license (~~at a~~) and only for the specific address listed on the license. If you operate a group facility or child-placing agency, you must also report any of the following changes to your licensor:

(a) A change of your agency's executive director or any staff changes;

(b) The death, retirement, or incapacity of the person who holds the license;

(c) A change in the name of a licensed corporation, or the name by which your facility is commonly known; or

(d) Changes in an agency's articles of incorporation and bylaws.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0140 What personnel policies must I have? (1) You must ~~((follow the))~~ comply with federal and state anti-discrimination laws related to personnel ((requirements listed below, at any home or facility we license)) policies and procedures.

~~((1) Each employee, intern, contractor, or volunteer who has unsupervised access to children must have completed an application for employment and signed a form enabling us to do a))~~ You must keep a background check ~~((chapter 388-06 WAC))~~ log that contains information on dates of request and completion of the checks.

~~(2) ((Misrepresentation by the prospective employee, interns, or volunteer will be grounds for termination or denial of employment or volunteer service.~~

~~(3))~~ If you have five or more staff, volunteers, or interns you must have written policies covering qualifications, training, and duties for employees, interns, and volunteers.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0150 Are local ordinances part of ((your)) the licensing requirements? (1) You are responsible for complying with local ordinances (laws), such as zoning regulations and local building codes ~~((, fall outside the scope of our licensing requirements)).~~

(2) ~~((We))~~ The department may require you to provide proof that you ~~((have met))~~ are complying with local ordinances.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0165 ((Do I need to be concerned about)) What are the requirements regarding the location of my home or facility? (1) Your address must be clearly visible on the home, facility, or mailbox so that firefighters or medics can easily find your location.

(2) Your home or facility must be accessible to emergency vehicles.

(3) Your home or facility must be located on a well-drained site, free from hazardous conditions. The safety of the children in care is paramount. You must discuss with the licensor any potential hazardous conditions, considering the children's ages, behaviors, and abilities.

(4) A licensing safety and supervision plan must be written ~~((for the children in care if it is decided--))~~ if the department determines that hazardous conditions are present. Some examples of hazards are natural or man-made water hazards such as lakes or streams, steep banks, ravines, and busy streets.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0170 What steps must I take to ensure children's safety around outdoor bodies of water? (1) You

must ensure children in your care or placed in your home or facility are safe around bodies of water.

(2) You must daily empty and clean any portable wading pool that children use.

(3) Children under twelve must be in continuous visual or auditory range at all times, when ~~((they))~~ the children are swimming, wading, or boating, by an adult with current age appropriate first aid and CPR.

(4) You must ensure age and developmentally appropriate supervision of any child that uses hot tubs, swimming pools, spas, and around man-made and natural bodies of water.

(5) All safety devices and rescue equipment, such as personal flotation devices must meet state and federal water safety regulation.

(6) You must lock or secure hot tub and spa areas when they are not in use.

~~((6))~~ (7) You must place a fence designed to discourage climbing and have a locking gate around a pool or have another DLR approved safety device. The pool must be inaccessible to children when not in use.

(8) Foster homes with pools must have a written licensing safety and supervision plan.

(9) Individuals supervising children in foster homes and staffed residential homes licensed for five or fewer children must know how and be able to use rescue equipment or have a current life-saving certification, when children are using a pool on the premises.

(10) All group care facilities and staffed residential homes licensed for six children must have a person with current life-saving certification on-duty when children are using a pool at the facility.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0180 Are alcoholic beverages or illegal drugs allowed at my home or facility? (1) In a foster home, you may have alcoholic beverages on the premises as long as they are inaccessible to children. If alcohol is on the premises of a foster home the issue must be addressed in the licensing safety and supervision plan.

(2) ~~((Any other))~~ Licensed homes and facilities must not have illegal drugs on the premises.

(3) A group care facility or staffed residential home must not have alcohol or illegal drugs on the premises. The staff of these facilities may not consume alcohol or illegal drugs on the premises or during breaks.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0185 Is smoking permitted around children? (1) You must prohibit smoking in the living space of any home or facility caring for children and in motor vehicles while transporting children.

(2) You may permit adults to smoke outdoors away from children.

(3) Nothing in this section is meant to interfere with traditional or spiritual Native American or religious ceremonies involving the use of tobacco.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0200 Do I need first-aid supplies? (1) You must keep first-aid supplies, and additional medications recommended by a child's physician, on hand for immediate use ~~(, including unexpired syrup of ipecac that is to be used only when following the instruction of the poison control center)~~. You must keep the telephone number of the poison control center with the first aid supplies and you must post the number on or near your telephone.

(2) The following first-aid supplies must be kept on hand:

- (a) Barrier gloves and one-way resuscitation mask;
- (b) Bandages;
- (c) Scissors and tweezers;
- (d) Ace bandage;
- (e) Gauze; and
- (f) Thermometer.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0210 What requirements do I need to follow when I transport children? When you transport children under your care, you must follow these requirements.

(1) The vehicle must be kept in a safe operating condition.

(2) The driver must have a valid driver's license.

(3) There must be at least one adult other than the driver in a vehicle when:

(a) There are more than five preschool-aged children in the vehicle;

(b) Staff-to-child ratio guidelines or your contract require a second staff person; or

(c) The child's specific needs require a second adult person.

(4) The driver or owner of the vehicle must be covered under an automobile liability ~~(and)~~ insurance policy.

(5) Your vehicles must be equipped with, seat belts, car seats and booster seats, and/or other appropriate safety devices for all passengers as required by law.

(6) The number of passengers must not exceed the vehicle's seat belts.

(7) Buses approved by the state patrol are not required to have seat belts.

(8) All persons in the vehicle must use seat belts or approved child passenger restraint systems, as appropriate for age, whenever the vehicle is in motion.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0220 What fire safety requirements must I follow to qualify for a license? (1) If you operate a ~~((program or))~~ group care facility ((other than a foster home,)) or a staffed residential home((, or child placing agency)) licensed for six children, you must ~~((follow))~~ comply with the regulations developed by the chief of the Washington state ((Fire Marshal's office)) patrol through the director of the fire protection bureau (WSP/FPB). The regulations

are minimum requirements for protecting life and property against fire. ~~((You can find these))~~ They are contained in the current ((Uniform Fire Code with)) adopted fire code and Washington state amendments as adopted by the state of Washington. Contact the WSP/FPB for specific requirements.

(2) All foster homes and those staffed residential homes ((need)) licensed for five or fewer children must have inspections by ((fire marshal or)) WSP/FPB or the local fire ((department if)) authority only if, either:

(a) ~~((Licensors))~~ The licensor request the inspections due to questions of fire safety; or

(b) Local ordinances or WSP/FPB require these inspections.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0225 What fire safety requirements are there for exits? ~~((You))~~ (1) Group care facilities and staffed residential home licensed for six children must comply with the Washington state patrol protection bureau regulations regarding exits.

(2) All foster homes and those staffed residential home licensed for five or fewer children must comply with the fire safety requirements that follow concerning ((exists)) exits from homes ((and facilities)).

~~((1))~~ (a) Exit doors and rescue windows must be easily and quickly opened ((to the fully open position)) from the inside without requiring a key or special instructions.

~~((2))~~ Locks on outside exit doors must automatically unlock when the doorknob is turned from the inside.

(3) ~~Except in foster homes, night latches, dead bolts, security chains, manually operated edge or surface-mounted flush bolts and surface bolts must not be used.~~

(4)) (b) Each home and facility must have at least one swinging exit door that is pivoted or hinged on the side.

~~((5))~~ Other exit doors in your home or facility may be sliding doors.

(6)) (c) Each home or facility must have two ~~((exits, located at opposite ends of the building or))~~ means of exit, from the apartment, house, or facility, with at least one exit on each floor. The requirement for one of the two exits may be deleted if:

~~((a))~~ (i) A residential sprinkler system (complying with the ~~((state fire Marshal standards))~~ WSP/FPB regulations and the currently adopted edition of the National Fire Protection Association (N.F.P.A.) #13) is provided throughout the entire building; and

~~((b))~~ (ii) The remaining exit is a door.

~~((7))~~ (d) Every occupied area must have access to ~~((at least))~~ one exit ~~((that does not pass through rooms or spaces that can))~~. Such exits may not be locked or blocked from the opposite side.

~~((8))~~ (e) Obstacles must not be placed in corridors, aisles, doorways, exit doors, stairways, ramps, or ~~((rescue))~~ windows that could delay exiting in case of emergency.

~~((9))~~ (f) Barriers to exiting must be restricted to baby gates or ((other)) DLR-approved electronic monitoring

devices that ~~((are easily opened and))~~ do not delay exiting in case of emergency.

~~((10))~~ (g) Stoves or heaters must not block escape or exit routes.

~~((11))~~ (h) Flammable, combustible, or poisonous material must be stored away from exits and away from areas that are accessible to children under care.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0230 Are there other fire safety requirements for inside a foster home or ~~((facility))~~ staffed residential home licensed for five or fewer children? ~~((You))~~ All foster homes and those staffed residential homes licensed for five or fewer children must comply with the fire safety requirements that follow.

(1) Every ~~((room))~~ bedroom used by children under care must have easy entry and exit, including one of these features:

- (a) Two separate doors; or
- (b) One door leading to an area with an exit; and
- (c) A window that opens to the outside and is large enough for emergency ~~((escape or rescue))~~ personnel or rescuer access.

(2) No space may be lived-in by the children in care that is accessible only by a ladder, folding stairs, or a trap door.

(3) Every bathroom door lock must be designed to permit the opening of the locked door from the outside.

(4) Every closet door latch must be designed to be opened from the inside.

(5) Open-flame devices and fireplaces, heating and cooking appliances, and products capable of igniting clothing must not be left unattended or used incorrectly.

(6) Fireplaces, wood stoves and other heating systems that have a surface hot enough to cause a burn must have a barrier to prevent access by children under age six years.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0235 What are ~~((your))~~ the requirements for smoke detectors for foster homes and staffed residential homes licensed for five or fewer children? (1) ~~((You))~~ All foster homes and those staffed residential homes licensed for five or fewer children must place a smoke detector in good working condition in each bedroom or in areas close to where children sleep, such as a hallway. If the smoke detector is mounted on the wall, it must be twelve inches from the ceiling and a corner.

(2) If a sleeping or napping room has a ceiling height that is at least twenty-four inches higher than its adjoining hallway, you must install a smoke detector in both the hallway and the sleeping or napping room.

(3) ~~((In foster homes,))~~ Smoke detectors must be tested twice a year to ensure they are in working order.

(4) Document date and time of test.

(5) If questions arise concerning fire danger, the local fire protection authority must be consulted.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0240 What are ~~((your))~~ the requirements for fire extinguishers in homes and facilities? (1) ~~((You))~~ All homes and facilities must have readily available at least one approved 2A10BC-rated or larger all purpose (ABC) fire extinguisher.

Note: Approved 2A10BC-rated means a fire extinguisher with an Underwriters' Laboratory label on the nameplate classifying the extinguisher as 2A10BC-rated. These extinguishers are usually multipurpose, five-pound dry chemical units.

(2) Approved fire extinguisher(s) must be located in the area of the normal path of exiting. The maximum travel distance to an extinguisher from any place on the premises must not exceed seventy-five feet. When the travel distance exceeds seventy-five feet, additional extinguisher(s) are required.

(3) Fire extinguishers must be ready for use at all times.

(4) Fire extinguishers must be kept on a shelf or mounted in a bracket so that the top of the extinguisher is not more than five feet above the floor.

(5) Fire extinguishers must receive a maintenance certification by a licensed firm specializing in this work, based on the manufacturer's recommended schedule. Maintenance means a thorough check of the extinguisher for:

- (a) Mechanical parts;
- (b) Extinguishing agent; and
- (c) Expelling means.

(6) Exception: New fire extinguishers do not need to receive an additional certification test during the first year.

(7) For all foster homes and staffed residential homes licensed for five or fewer children, if local fire authorities require installation of a different type or size of fire extinguisher, those requirements apply instead of the departments, as long as at least the minimum size is maintained.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0245 What fire escape measures must be taken for multilevel ~~((dwellings))~~ homes and facilities? (1) Multilevel ~~((dwellings))~~ homes and facilities must have a means of escape from an upper floor.

(2) If a fire ladder is needed to escape from an upper story window, it must be functional and stored in a location that is easily accessible.

(3) For all foster homes and those staffed residential homes ~~((-a))~~ licensed for five or fewer children, the local fire ~~((department official))~~ authority may be consulted to determine if a fire ladder is needed to ensure adequate safety.

(4) For group care programs ~~((-this determination is made by the state fire marshal))~~ and staffed residential homes licensed for six children fire escape measures from multi-level buildings is determined by the WSP/FPB representative.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0250 What fire safety instructions must I give to children residing in a home or staffed residential home licensed for five or fewer children? (1) You must instruct children, under your care, who are capable of understanding and following emergency evacuation procedures ~~((and))~~ how to exit the building in case of fire.

(2) For foster homes and staffed residential homes licensed for five or fewer children, you must conduct fire drills at ((regular)) quarterly intervals or as required by WAC 212-12-044 by the WSP/FPB to test and practice ((the)) evacuation procedures.

(3) Any simulated fire drills for medically fragile or non-ambulatory children must meet WAC 212-12-005 as required by the WSP/FPB.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0255 What are the requirements for a fire evacuation plan? (1) You must develop a written fire evacuation plan for your home or facility. The evacuation plan must include an evacuation floor plan, identifying exit doors and windows. Except in foster homes, the plan must be posted at each exit door.

(2) You must ensure that the plan includes:

(a) Action to take by the person discovering a fire;

(b) Methods for sounding an alarm on the premises;

(c) Action to take for evacuating the building that ensures responsibility for the children; ~~((and))~~

(d) Action to take while waiting for the fire department; and

(e) If the use of a fire ladder is part of the evacuation plan it must be inspected at least annually to ensure it is in working order.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0260 What are the general requirements for bedrooms? You must meet all of the following requirements for bedrooms if you provide full-time care in a home or facility.

(1) An adult must be on the same floor or within easy hearing distance and ~~((accessibility))~~ access to where children under six years of age are sleeping. Infants under age one year must be on the same floor as an adult.

(2) You must use only bedrooms that have unrestricted direct access to hallways, corridors, living rooms, day rooms, or other such common use areas.

(3) You must not use hallways, kitchens, living rooms, dining rooms, and unfinished basements as bedrooms.

(4) For facilities licensed after December 31, 1986, bedrooms must have both:

(a) Adequate ceiling height for the safety and comfort of the occupants. Normally, this would be seven and a half feet; and

(b) A window ~~((of not less than one-tenth of the required floor space))~~ that can open into the outside, allowing natural

light into the bedroom and permitting emergency access or exit.

(5) ~~((For any))~~ Foster children ((six years of age and over, you must furnish separate sleeping quarters for each)) must not share the same bedroom with children six years or older of a different gender.

(6) Children in care must not share the same bed.

(7) In group care facilities and staffed residential homes licensed for six children, single occupancy bedrooms must provide at least fifty square feet of floor space.

(8) In foster homes and staffed residential homes licensed for five or fewer children, single occupancy bedrooms must provide adequate floor space for the safety and comfort of the child. Normally, this would be at least fifty square feet of floor space, not including closets.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0265 What are additional requirements for bedrooms ~~((having))~~ for more than one person?

(1) You must not allow a child over one year of age to share a bedroom with an adult who is not the child's parent. A foster child over one year may share the bedroom of the foster parent(s) for close supervision due to the child's medical or developmental condition. A written recommendation of the child's physician is required.

(2) There must be no more than four persons to a bedroom.

(3) Multiple occupancy bedrooms must provide adequate floor space for safety and comfort of the children. Normally this would be at least fifty square feet of floor space per occupant, not including closets.

(4) When a mother and her infant sleep in the same room, the room must contain at least eighty square feet of usable floor space.

(5) You must allow only one mother and her newborn infant(s) to occupy a bedroom.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0270 What are the requirements for beds? (1) Each child in care must have a bed of his or her own.

(2) For each child in care, you must provide a bed at least ~~((thirty))~~ twenty-seven inches wide with a clean and comfortable mattress in good condition, pillow, sheets, blankets, and pillowcases. Each child's pillow must be covered with waterproof material or be washable.

(3) Bedding must be clean.

(4) You must provide waterproof mattress covers or moisture resistant mattresses, if needed.

(5) You must provide an infant with a crib that ensures the safety of the infant and complies with chapter 70.111 RCW, Infant Crib Safety Act.

(6) Cribs must have no more than two and three-eighths inches space between vertical slats when used for infants under six months of age.

(7) Cribs, infant beds, bassinets, and playpens must:

(a) Have clean, firm, snug fitting mattresses covered with waterproof material that is easily sanitized; and

(b) Be made of wood, metal, or approved plastic with secure latching devices.

(8) Crib bumpers, stuffed toys and pillows must not be used in cribs, infant beds, bassinets, or playpens with an infant unless advised differently by the child's physician.

(9) You must follow the recommendation of the American Academy of Pediatrics, 1-800-505-CRIB, placing infants on their backs each time for sleep, unless advised differently by the child's physician.

(10) You may use toddler beds with a standard crib mattress that is sufficient in length and width for the comfort of children under six years of age.

(11) You must not allow children to use the loft style beds or upper bunks of double-deck beds if using them due to age, development or condition could hurt them. Examples: Preschool ((age)) children, expectant mothers, and children with ((disabilities)) a disability.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0275 Do I need a telephone at my home or facility? The department has two requirements for the telephone that you must meet at your home or facility.

(1) You must have at least one telephone on the premises for incoming and outgoing calls. The telephone must be accessible for emergency use at all times.

(2) You must post emergency phone numbers next to the phone, or at a specified place for easy access.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0300 How must I ventilate my home or facility? You must ensure that your physical facility is ventilated for the health and comfort of the persons under your care. ~~((A mechanical exhaust to the outside must ventilate toilets and bathrooms that do not have windows opening to the outside.))~~

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0305 What are ((your)) the requirements for laundry facilities? The department has specific requirements for laundry facilities at your home or facility.

(1) You must have separate and adequate facilities for storing soiled and clean linen.

(2) You must provide adequate laundry and drying equipment, or make other arrangements for getting laundry done on a regular basis.

(3) Except for foster homes, you must locate laundry equipment in an area separate from the kitchen and child care areas ((unless you are doing foster care in your home)).

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0315 What are ((your)) the requirements for toilets, sinks, and bathing facilities? You must meet certain requirements for toilets, sinks, and bathing facilities.

(1) You must provide at least one indoor flush-type toilet, one nearby hand-washing sink with hot and cold running water, and a bathing facility.

(2) You must comply with all of the following requirements for toilet and bathing facilities:

(a) Toilet and bathing facilities must allow privacy for children who are five years of age or older and opposite genders.

(b) Toilet, urinals, and hand-washing sinks must be the appropriate height for the children served, or have a safe and easily cleaned step stool or platform that is water-resistant.

(c) Hand-washing and bathing facilities must be provided with hot running water that does not exceed one hundred twenty degrees.

(d) All bathing facilities must have a conveniently located grab bar unless we approve other safety measures, such as nonskid pads.

(e) You must provide potty-chairs and toilet training equipment for toddlers. You must regularly maintain this equipment and keep it in sanitary condition. You must put potty-chairs, when in use, on washable, water-resistant surfaces.

(f) In group care facilities, whenever urinals are provided, the number of urinals must not replace more than one-third of the total number of required toilets.

(g) You must provide soap and clean towels, disposable towels or other approved hand-drying devices to the persons under your care.

(h) In programs providing care to expectant mothers:

(i) Bathing facilities must have adequate grab bars in convenient places; and

(ii) Except in foster homes, all sleeping areas must have at least one toilet and hand-washing sink on the same floor.

(3) ~~((There shall be at least one indoor flush-type toilet and one nearby handwashing sink with hot and cold or tempered running water.))~~ The following ratios of persons normally on the premises to bathrooms at the facilities shall apply:

	Toilets	Handwashing Sinks	Bathing Facilities
Group care ((programs and)) facilities and SRH licensed for six children	Two minimum and 1:8 ratio	Two minimum and 1:8 ratio	One minimum and 1:8 ratio
Foster ((family-home)) homes and staffed residential ((home)) homes licensed for five or fewer children	One minimum	One minimum	One minimum

PERMANENT

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0320 What are the requirements about drinking water? ~~((4))~~ You must provide the following:

~~((a))~~ (1) A public water supply or a private water supply approved by the local health authority at the time of licensing or relicensing; and

~~((b))~~ (2) Disposable paper cups, individual drinking cups or glasses, or angled jet type drinking fountains.

~~((2) You must not use bubbler type fountains or common drinking cups.))~~

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0325 What are the requirements for sewage and liquid wastes? You must discharge sewage and liquid wastes into a public sewer system or into a functioning septic system, or department of health approved alternative system.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0335 When must I get ~~((medical exams for the children))~~ an EPSDT exam for a child under my care? (1) ~~((You, together with the child's social worker, must schedule a medical exam for any child who, within the past year, has not:~~

~~(a) Been under regular medical supervision; or~~

~~(b) Had a physical exam by a physician, a physician's assistant, or an advanced registered nurse practitioner (ARNP).~~

~~((2) A physical exam))~~ An early and periodic screening, diagnosis and treatment (EPSDT) exam must be completed ((within)) for any child in care more than thirty days ((of placement and annually thereafter)), who within the past year, has not had a physical exam by a physician, a physician's assistant, or an advanced registered nurse practitioner (ARNP).

(2) In consultation with the child's social worker and physician, you must schedule an EPSDT exam by a physician, a physician's assistant, or an advanced registered nurse practitioner (ARNP) according to the published frequency schedule.

Note: You may contact the child's social worker for information on this.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0340 What are ~~((your))~~ the requirements for immunizations for children? (1) ~~((To receive care from you, children must have proof of current immunizations.))~~ Contact the child's social worker before beginning any immunization schedule to avoid duplication of immunizations.

(2) You may accept a child who has not received all immunizations on a conditional basis if immunizations are started as soon as medically possible.

(3) If you are providing care and have minor children of your own who are on the premises of a home or facility, your children must have proof of current immunizations.

(4) The department may give conditional approval for any of your own children who have not received all immunizations as long as their immunizations are started soon as medically possible.

(5) The department may grant exceptions to this requirement for immunizations for your children in two situations:

(a) You, as parent or guardian, have signed a statement indicating your religious, philosophical or personal objections to the requirement; or

(b) You have a physician's statement indicating that a valid medical reason exists for not obtaining immunizations for your own child.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0345 What must I do to prevent the spread of infections and communicable diseases? You must take precautions to guard against infections and communicable diseases infecting the children under care in your home or facility.

General communicable diseases and infections

(1) In each home or facility, other than a foster home, staff with a reportable communicable disease or notifiable disease condition, as defined by the department of health, in chapter 246-101 WAC, in an infectious stage must not be on duty until they have a physician's approval for returning to work.

(2) Each home or facility, other than a foster home, that cares for ~~((severely and multiple handicapped))~~ medically fragile children and children with a severe developmental disability must have an infection control program supervised by a registered nurse.

(3) Foster homes ~~((with))~~ and staffed residential homes licensed for five or fewer children who are medically fragile ((children)) may use other alternatives, such as in-home nursing services, to consult on infection control procedures.

Tuberculosis

(4) Applicants for a license or adults authorized to have unsupervised access to children in a home or facility must have a tuberculin (TB) skin test by the Mantoux method of testing. They must have this skin test upon being employed or licensed unless:

(a) The person has evidence of testing within the previous twelve months;

(b) The person has evidence that they have a negative chest X ray since a previously positive skin test;

(c) The person has evidence of having completed adequate preventive therapy or adequate therapy for active tuberculosis.

(5) The department does not require a tuberculin skin test if:

(a) A person has a tuberculosis skin test that has been documented as negative within the past twelve months; or

(b) A physician indicates that the test is medically unadvisable.

(6) Persons whose tuberculosis skin test is positive must have a chest X ray within thirty days following the skin test.

(7) The department does not require retesting for license renewals unless a person believes they have been exposed to someone with tuberculosis or if testing is recommended by their health care provider.

(8) The facility must keep the results of the applicant and employees TB test results in the personnel file available for review by DLR.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0350 ((How do I manage medications)) What are the requirements for obtaining consent for medical care for children under my care? ((1) You must meet the department's requirements for managing prescription and nonprescription medication for children under your care.

(2) If you care for children in the custody of a tribal court you must follow the direction of that court regarding giving or applying prescription and nonprescription medications or ointments.

(3) Only you or another authorized care provider may give or have access to medications for the child under your care;

(4) Give medications, prescription and nonprescription, only on the written approval of a parent, person or agency having authority by court order to approve medical care;

(5) Except for foster homes, keep a record of all medications you give a child;

(6) Foster homes must keep a record of all prescription medication given to foster children; and

(7) Properly dispose of medications that are no longer being taken or have expired.

Prescription medications

(8) You or another authorized care provider must:

(a) Give prescription medications:

(i) Only as specified on the prescription label; or

(ii) As otherwise approved by a physician or another person legally authorized to prescribe medication.

(b) Check with the physician or pharmacist about possible side effects for any prescription medications and interactions with nonprescription drugs the child is taking.

Psychotropic medications

(9) Care providers must not approve giving psychotropic medications to a child in care. Approval can only be given by one of these:

(a) The child's parent;

(b) Dependency guardians;

(c) A court order; or

(d) The child's social worker, if:

(i) The child is legally free and in the permanent custody of the department; or

(ii) It is impossible to obtain informed parental consent after normal work hours, on weekends, or on holidays.

~~(10) Children who are at least thirteen years old may decline to take prescription psychotropic medication. If this happens contact the child's social worker immediately.~~

~~Nonprescription medications~~

~~(11) Children taking psychotropic medications must have the prescribing physician's authorization before any nonprescription drugs are given.~~

~~(12) You or another authorized care provider must follow these requirements for nonprescription medications. You must:~~

~~(a) Give certain classifications of nonprescribed medications, only with the dose and directions on the manufacturer's label for the age and/or weight of the child needing the medication. These nonprescribed medications include but are not limited to:~~

~~(i) Nonaspirin antipyretics/analgesics, fever reducers/pain relievers;~~

~~(ii) Nonnarcotic cough suppressants;~~

~~(iii) Decongestants;~~

~~(iv) Antacids and anti-diarrhea medication;~~

~~(v) Anti-itching ointments or lotions intended specifically to relieve itching;~~

~~(vi) Shampoo for the removal of lice;~~

~~(vii) Diaper ointments and powders intended specifically for use in the diaper area of children;~~

~~(viii) Sun screen; and~~

~~(ix) Antibacterial ointments for first aid use.~~

~~(b) Give any other nonprescription medications only when approved in writing by a physician. These nonprescription medications may be given with a physician's standing order. Physician's standing orders must be patient specific))~~

(1) In general, the department is the legal custodian of a child in foster care. The department has the authority to consent to emergent and routine medical services on behalf of the child. The department delegates some of that authority to out-of-home placement providers (both foster parents and facility-based programs). You must contact the child's social worker or children's administration intake (emergency placements) for specific information for each child.

(2) In case of medical emergency, contact children's administration intake as soon as possible.

(3) If you care for children in the custody of another agency, tribal court or other court you must follow the direction of that agency or court regarding permission to provide consent for medical care.

NEW SECTION

WAC 388-148-0352 What are the requirements for the management of medication for children in my care? General medication management requirements

(1) Medication must not be used for behavior control, unless prescribed for that purpose by a physician or another person legally authorized to prescribe medication.

(2) Only you or another authorized care provider (such as a respite provider) are allowed to have access to medications for a child under your care.

(3) You or another authorized care provider must give prescription and nonprescription medications:

(a) Only as specified on the prescription label; or

(b) As otherwise approved by a physician or another person legally authorized to prescribe medication.

(4) If you care for children in the custody of another agency, tribal or other court you must follow the direction of that agency or court regarding giving or applying prescription and nonprescription medications.

(5) Foster homes must keep a record of all prescription medication given to a foster child.

(6) All licensees, except foster homes, must keep a record of all prescription and nonprescription medications given to children in care.

Nonprescription medications

(7) You or another authorized care provider may give the following nonprescription medications according to product instructions, without prior approval of the department:

(a) Nonaspirin antipyretics/analgesics, fever reducers/pain relievers;

(b) Nonnarcotic cough suppressants;

(c) Decongestants;

(d) Antacids and anti-diarrhea medication;

(e) Anti-itching ointments or lotions intended specifically to relieve itching;

(f) Shampoo for the removal of lice;

(g) Diaper ointments and powders intended specifically for use in the diaper area of children;

(h) Sun screen for children over six months; and

(i) Antibacterial ointments.

Note: Other nonprescription medications may be given with a physician's standing order, if the order is child specific.

Prescription medications

(8) Children taking prescription medications, internally, must have the prescribing physician's written authorization before any other medications, herbal supplements, remedies, vitamins, or minerals are given.

(9) You must notify the child's social worker of changes in prescribed medications.

(10) Except for foster homes, the disposal of any prescription medication must be documented and contain the following information:

(a) What medication was disposed;

(b) The name of the child the medication was prescribed for;

(c) The amount disposed;

(d) The name of the individual disposing of the medication; and

(e) The name of the individual witnessing the disposal.

Note: You may consult with a pharmacist on the proper disposal of medications that are no longer being taken or have expired.

Psychotropic medications

(11) Care providers must not consent to giving or stopping a psychotropic medication. Consent to begin or to stop a psychotropic medication for a child can only be given by one of these:

(a) The child's parent;

(b) Dependency guardians based on the authority of the dependency guardianship court order;

(c) A court order; or

(d) The child's social worker, if:

(i) The child is legally free and in the permanent custody of the department; or

(ii) It is impossible to obtain informed parental consent after normal work hours, on weekends, or on holidays.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0355 May I accept medicine from a child's parent or guardian? (1) The only medicine you may accept from the child's parent, guardian, or responsible relative is medicine in the original container labeled with:

(a) The child's first and last (~~names~~) name;

(b) The date the prescription was filled;

(c) The medication's expiration date; and

(d) Legible instructions for administration (manufacturer's instructions or prescription label) of the medication.

(2) You must notify the child's social worker when you receive a prescription from a child's parent or guardian.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0365 When may children take their own medicine? (1) You may permit children under your care to take their own medicine as long as:

(a) They are physically and mentally capable of properly taking the medicine; and

(b) (~~The social worker or guardian if they have custody, approves in writing.~~)

~~(2))~~ (2) You must keep the written approval by the child's social worker in your records.

~~((3))~~ (2) When a child is taking their own medication, the medication and medical supplies must be kept locked (~~so they are~~) or inaccessible to unauthorized persons.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0375 How often must I feed children?

(1) You must provide all children a minimum of three meals in each twenty-four-hour period. You may vary from this guideline only if you (~~write to your licensor requesting a change and the request is approved by the department~~) have written approval from the child's physician and social worker.

(2) The time interval between the evening meal and breakfast must not be more than fourteen hours.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0380 How do I handle a child's special diet? You must have approval of the child's social worker and written instructions by a physician, parent or guardian before serving nutrient concentrates, nutrient supplements, vitamins, and modified diets (therapeutic and allergy diets).

PERMANENT

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0385 (~~Do you have~~) **Are there special requirements for serving milk?** You must follow these requirements for serving milk:

- (1) Serve only pasteurized milk or a pasteurized milk product.
- (2) Not serve the following types of milk to any child less than twenty-four months of age unless you have written permission by a physician:
 - (a) Skim milk;
 - (b) Reconstituted nonfat dry milk; and
 - (c) One and two percent butterfat milk.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0395 **What requirements must I meet for feeding babies?** You must meet the following requirements for feeding babies:

- (1) In group care settings, all formulas must be in sanitized bottles with nipples and labeled with the child's name and date prepared if more than one child is bottle-fed.
- (2) You must refrigerate filled bottles if bottles are not used immediately and contents must be discarded if not used within twenty-four hours.
- (3) If you reuse bottles and nipples, you must sanitize them.
- (4) If breast milk is provided by anyone other than a baby's biological mother, approval must be obtained from the child's social worker.
- (5) Infants who are six months of age or over may hold their own bottles as long as an adult remains in the room and within observation range. You must take bottles from the child when the child finishes feeding or when the bottle is empty, or when the child falls asleep.
- (6) You must not prop bottles while feeding infants.
- (7) To prevent uneven heating, formula must not be warmed in a microwave oven in the bottle that will be used for feeding the baby.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0400 **What are ((your)) the requirements for diapers and diaper-changing areas?** In a foster home or group care program you must follow the requirements for diapers, diaper-changing rooms and ((~~pottery-chairs~~)) toilet-training equipment.

- (1) You must separate diaper-changing areas from food preparation areas.
- (2) You must sanitize diaper-changing areas and toilet-training equipment between each use or you must use a non-absorbent, disposable covering that is discarded after each use.
- (3) For cleaning children, you must use either disposable towels or clean cloth towels that have been laundered between each use.
- (4) You and any caregiver must wash hands before and after diapering each child.

(5) In group care programs, you must use disposable diapers, a commercial diaper service, or reusable diapers supplied by the child's family.

(6) In group care programs, diaper-changing procedures must be posted at the changing areas.

NEW SECTION

WAC 388-148-0422 **What are the requirements for privacy for children in out-of-home placements?** (1) In general, children in out-of-home placement have the right to privacy of personal mail and phone calls.

(2) The department and its delegates may censor the child's mail and monitor telephone calls to the extent necessary and in the manner specified by the court order for the child's safety or well-being.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0425 **What are the requirements about nondiscrimination?** You ((~~must~~)) are expected to follow all state and federal laws regarding nondiscrimination while providing services to children in your care.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0430 **May I take a foster child to church services, temple, mosque or synagogue?** (1) You may have a child attend church services, temple, mosque, or synagogue, if the child chooses to participate.

- (2) You must respect the religious ((~~rights~~)) backgrounds or preferences of the children under your care.
- (3) Children have the right to practice their own faith.
- (4) Children have the right not to practice your faith without consequences.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0445 **What toys and activities must I provide to children?** You must provide children with safe and suitable toys and activities that contribute to developing their physical, mental, social, and emotional skills. Activities must be designed for the developmental stages of the children you serve.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0455 **Do I need permission to travel on an overnight trip or out-of-state with my foster child?** Contact the child's social worker with the agency having legal custody of the child for written permission prior to overnight trips, out-of-state, or out-of-country travel.

((~~Note: The social worker with the agency having legal custody of the child is the contact person.~~))

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0460 What requirements do you have for supervising children? (1) For all homes and facilities you must provide or arrange for care and supervision that is appropriate for the child's age, developmental skill level, and condition.

(2) ~~((You must supervise children who help with food preparation in the kitchen, based on their age and skills.~~

~~((3)))~~ Preschool children and children with severe developmental disabilities must not be left unattended in a bathtub or shower.

~~((4)))~~ (3) Foster parents and facility staff must provide the children in their care with appropriate adult supervision, emotional support, personal attention, and structured daily routines and living experiences.

~~((5)))~~ (4) Except group receiving centers, children in group care ~~((children))~~ must be supervised during sleeping hours by at least one awake staff when:

- (a) There are more than six children in care; and
- (b) The major focus of the program is behavioral rather than the development of independent living skills such as a teen parent program or responsible living skills program; or
- (c) The youth's behavior poses a risk to self or others.

~~((6)))~~ (5) In foster homes and staffed residential homes, children must be supervised during sleeping hours by at least one awake staff only when it is part of the child's written supervision plan ~~((with the child's social worker))~~.

~~((7)))~~ (6) Adequate supervision should be arranged and maintained during times of crisis when one or more family members or staff members may be unavailable to provide the necessary supervision or coverage for other children in care.

~~((8)))~~ (7) When special supervision is required and agreed upon between the department and the agency or foster parent, the agency or foster parent provides the necessary supervision. This supervision may require auditory or visual supervision at all times.

~~((9)))~~ (8) When a child has exhibited behavior in a previous placement or the placement agency believes the child poses a risk to other children the agency must inform the provider and jointly develop a plan to address the risk.

~~((10))~~ ~~When a child exhibits behavior that poses a safety risk to other children in care, the child must not share a bedroom with other children.)~~

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0470 What types of disciplinary practices are forbidden? (1) You must not use cruel, unusual, frightening, unsafe or humiliating discipline practices, including but not limited to:

- (a) Spanking children with a hand or object;
- (b) Biting, jerking, kicking, hitting, or shaking the child;
- (c) Pulling the child's hair;
- (d) Throwing the child;
- (e) Purposely inflicting pain as a punishment;
- (f) Name calling, using derogatory comments;
- (g) Threatening the child with physical harm;
- (h) Threatening or intimidating the child; or

(i) Placing or requiring a child to stand under a cold water shower.

(2) You must not use methods that interfere with a child's basic needs. These include, but are not limited to:

- (a) Depriving the child of sleep;
- (b) Providing inadequate food, clothing, living space, or shelter;
- (c) Restricting a child's breathing;
- (d) Interfering with a child's ability to take care of their own hygiene and toilet needs; or
- (e) Providing inadequate medical or dental care.

(3) You must not use methods that deprive a child of necessary services. These include, but are not limited to, contacting:

- (a) The assigned social worker;
- (b) The assigned legal representative;
- (c) Parents or other family members who are identified in the ~~((ease))~~ service plan; or
- (d) Individuals providing the child with therapeutic activities as part of the child's ~~((ease))~~ service plan.

(4) You must not use medication in an amount or frequency other than that prescribed by a physician or psychiatrist.

(5) You must not use medications for a child that ~~((has))~~ have been prescribed for someone else.

~~((6))~~ ~~You must not physically lock doors or windows in a way that prohibits a child from exiting.)~~

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0480 ~~((What types of physical restraint are acceptable for children in homes and group care settings))~~ **When may a child be restrained?** (1) You must use efforts other than physical restraint to redirect or de((-)escalate a situation, unless the child's behavior poses an immediate risk to physical safety.

(2) ~~((In foster homes, in emergencies and only when the))~~ When a child's behavior poses an immediate risk to physical safety you may you use physical restraint. The restraint must be reasonable and necessary to:

- (a) Prevent a child ~~((on the premises))~~ from harming ~~((themselves))~~ him or herself, or others; or
- (b) Protect property from serious damage.

(3) If ~~((your))~~ a group care program is approved by DLR for the use of physical restraint, the licensee and staff must be trained in the appropriate use of restraining techniques in accordance with the ~~((department's))~~ children's administration's behavior management policy before restraining a child.

(4) Medication prescribed by a physician to control behavior must be only given as prescribed.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0485 What types of physical restraint are not acceptable for children? Homes and facilities must follow these requirements. You must not:

(1) Use physical restraint as a form of punishment or discipline.

(2) Use mechanical restraints, such as handcuffs and belt restraints, unless ordered by the child's physician, such as a belt restraint for an infant with reflux who must be secured to a wedge.

~~(3) ((Use locked time-out rooms.~~

(4)) Use physical restraint techniques that restrict breathing, inflict pain as a strategy for behavior control, or that ((might injure)) is likely to cause injury that is more than transient to a child. These include, but are not limited to:

(a) Restriction of body movement by placing pressure on joints, chest, heart, or vital organs;

(b) Sleeper holds, which are holds used by law enforcement officers to subdue a person;

(c) Arm twisting;

(d) Hair holds;

(e) Choking or putting arms around the throat; or

(f) Chemical restraints, including but not limited to pepper spray.

NEW SECTION

WAC 388-148-0487 Are there requirements for time-out or quiet rooms? (1) Locked time-out or quiet rooms are prohibited in foster homes and staffed residential homes licensed for five or fewer children.

(2) Locked time-out or quiet rooms are prohibited in group care facilities and staffed residential homes licensed for six unless, the group facility or staffed residential home:

(a) Has approval from the Washington state patrol fire protection bureau or a certificate of compliance stating that the facility is in compliance with the fire codes with Washington state amendments;

(b) Has approval from the DLR licensor stating the facility is in compliance with the children's administration's behavior management guidelines; and

(c) Has current written approval of the DLR director.

NEW SECTION

WAC 388-148-0488 Are time-delay mechanisms allowed on windows and doors of a facility or staffed residential home licensed for six? The use of time-delay mechanisms that meet the fire codes with Washington state amendments of the Washington state patrol fire protection bureau for fire and life safety may be approved for group care facilities and staffed residential homes licensed for six children, if:

(1) There is an exterior door(s) that ensures egress when the building needs to be evacuated;

(2) The time-delay mechanism(s) automatically unlocks when the fire alarm goes off;

(3) The licensee has approval from the DLR licensor stating that the program is in compliance with the children's administration's behavior management guidelines; and

(4) The licensee has current written approval of the DLR director.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0490 What must I do following an incident that involved using physical restraint? (1) In foster homes, the foster parent must send a copy of the documented use of physical restraint to the child's social worker and licensor within forty-eight hours; or if the foster home is supervised by a child-placing agency to the case manager.

(2) The CPA case manager ((will)) must furnish a copy of the incident report to the child's DCFS social worker and DLR licensor.

~~((2))~~ (3) For group care programs and all staffed residential homes, the director or program supervisor must:

(a) Review any incident with the staff who used physical restraint to ensure that the decision to use physical restraint and its application were appropriate; and

(b) Report the incident if it meets criteria in WAC 388-148-0120.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0520 What are the training requirements for foster parents and prospective foster parents? At least one foster parent must:

(1) ~~((To receive a foster home license, you must))~~ Attend required orientation and preservice training programs that the department sponsors, or that your licensed child-placing agency offers(-); and

(2) ~~((You need proof of completion of current first-aid/CPR training that is geared for the ages of the foster children you want in your home.~~

(3) ~~You need proof of completion of HIV/AIDS training.~~

(4) ~~The primary care givers must))~~ Complete all other required DLR-approved training after licensing.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0525 How many children may my foster home serve? (1) The department may restrict the number, age range, or gender of children a foster home is licensed to serve up to the maximum listed below. The age of the foster and birth applicant or licensee's children, and the physical and emotional condition of the children are considered in making this decision. These requirements are for all foster homes, including those that only have foster children for a short time (sometimes called a "receiving home").

(2) In a two-parent household, the maximum number of children in your home ~~((is restricted to))~~ may be no more than six children, including your own children.

(3) In a single parent household, the ~~((total))~~ maximum number of children in your home ~~((is restricted to))~~ may be no more than four children, including your own children.

(4) A home may at the discretion of the department be licensed for the care of at least one child when the foster parent(s) have more of their own children than specified in subsection (2) and (3) of this section, if they meet the other licensing requirements.

(5) You may have only two children under two years of age in your home at a time. This includes foster children and your own children.

(6) The capacity restrictions in this section may at the discretion of the department be exceeded in extraordinary situations, such as to place a sibling group, to place a child with a relative, or because the foster family has demonstrated exceptional abilities in relation to the special needs of a foster child, if this appears to be in the best interest of the child and would not jeopardize the health and safety of the other children in the home. Approval to exceed the capacity restrictions must be in writing and signed by the DLR manager or designee.

(7) The department may license a foster home for up to three medically fragile foster children (~~((with mental or physical disabilities))~~) that are severe enough to need semi-skilled maintenance or supportive services if:

(a) Your training and/or experience qualifies you to provide proper care;

(b) The children's treatment requires nursing service oversight; and

(c) The ~~((total))~~ maximum number of medically fragile children (~~((with mental or physical disabilities))~~) in your home is three or fewer; and

(d) You have a written plan on how you will evacuate children in case of fire or other emergency.

(8) The department may license a foster family for up to two nonmobile children.

(9) While providing respite care, you may only exceed the number of children you are licensed to serve with prior approval by the DLR director or designee.

(10) The department may license a foster home to serve up to four children with developmental disabilities as defined in RCW 71A.10.020, at any one time.

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

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

FOSTER HOMES—FOSTER PARENT EMPLOYMENT AND RESPITE

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0535 Do I need to have income separate from foster care payments? You must have sufficient regular income, at least, an amount that meets current TANF standards for the number of persons in your home, to maintain your own family, without the foster care payments made for the children in care.

~~((FOSTER HOMES—RESPITE CARE PROVIDED))~~

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0540 When may I use respite care? (1) Foster families may arrange for respite (brief temporary relief) care (~~((only with the prior))~~) with the consent of the child's social worker.

(2) Respite care may be arranged in advance or on an emergency basis.

(3) Respite care may be arranged to support the care a foster parent is providing or to provide substitute care in the absence of foster parents.

(4) Respite care given outside the foster parent's home must be provided by licensed providers.

(5) While providing respite, licensees must not exceed their licensed capacity and must maintain compliance with the licensing requirements.

NEW SECTION

WAC 388-148-0541 Excluding respite care, who may provide care to a foster child in the foster home when the foster parent is away from the home? (1) Occasionally, and for less than twenty-four hours, the foster parent, at their own expense, may use a friend or a relative as a substitute caregiver in the foster home, without verifying criminal and founded child abuse/neglect history when the foster parent has no reason to suspect the substitute caregiver:

(a) Has a criminal or founded child abuse or neglect history that would disqualify them from caring for a department child; or

(b) Would be a risk to the foster child while in the substitute's care.

(2) The foster parent must:

(a) Be familiar and comfortable with the individual who will be caring for the foster child;

(b) Meet with the substitute caregiver and review the expectations regarding supervision and discipline of the foster child, including the requirement that no physical discipline is used on foster children;

(c) Be responsible for providing the caregiver any special care instructions;

(d) Provide information on how to be contacted by the substitute caregiver; and

(e) Ensure the child has a safety plan.

(3) If the care by the friend or relative is a regular arrangement, the foster parents must have written approval of the social worker for the arrangement and provide the social worker with evidence from the substitute caregiver of:

(a) Current first aid and age-appropriate CPR training;

(b) HIV/AIDS and blood borne pathogens training;

(c) A nondisqualifying background check; and

(d) A tuberculosis test.

NEW SECTION

WAC 388-148-0542 May a foster child be supervised by someone under eighteen in the foster home? (1) A foster parent, at their own expense, may use a friend or relative

who is sixteen or seventeen to supervise (baby sit) a foster child under the following conditions:

(a) The foster parent knows the youth babysitter to be reliable and mature enough to provide appropriate care to the foster child.

(b) The youth babysitter has completed a background check within the past year. Exception: For occasional care of less than twenty-four hours, the verification of the background check is not required, as provided in WAC 388-148-0541 (1)(a)(b).

(c) The youth babysitter must not be responsible for more than three children.

(2) If the care by the youth babysitter is a regular arrangement, the foster parents must have the written approval of the social worker and provide the social worker with evidence from the youth babysitter of:

(a) Current first aid and age-appropriate CPR training;
(b) HIV/AIDS training including blood borne pathogens training;

(c) A nondisqualifying background check; and
(d) A tuberculosis test.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0555 Do I need a social summary for children under my care? (1) Except for foster homes and group receiving centers, all programs must develop a written diagnostic social summary for each child accepted for care.

(2) The social summary must serve as the basis of the child's admission to care.

(3) If a child needs to be accepted for emergency care, such as placement in a crisis residential center, the department does not require the social study to be completed prior to admission. In these cases, if the child remains in care beyond thirty days, a summary must be completed as soon as possible.

(4) The study must contain the following information for the child:

(a) Copies of psychological or psychiatric evaluations, if any, on the child under care.

(b) A narrative description of the child's background and family that identifies the immediate and extended family resources;

(c) The child's interrelationships and the problems and behaviors that have required care away from his or her own home;

(d) The child's primary and alternate permanency plan;

(e) Previous placement history, if any; and

(f) An evaluation of the child's need for the particular services and type of care you provide.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0560 Do I need a treatment plan for children under my care? (1) ~~((If you operate a))~~ Except group receiving centers, all group care programs, staffed residential ((home or a group care program you)) homes, and foster homes of child-placing agencies that have contracts or agreements with the department to provide treatment or ther-

apeutic services to dependent children, must assist in developing and implementing a written treatment plan for each child ~~((accepted for care in any of the programs you provide))~~ by the thirtieth day in care.

(2) The treatment plan must:

(a) Identify the service needs of the child, parent or guardian;

(b) Describe the treatment goals and strategies for achieving those goals;

(c) Include a running account of the treatment received by the child and others involved in the treatment plan, such as any group treatment or individual counseling; and

(d) Be updated at least quarterly to show the progress toward meeting goals and list barriers to the permanent plan.

(3) A social service staff person must review and sign approving the child's treatment plan.

ALL LICENSES EXCEPT FOSTER HOMES AND GROUP RECEIVING CENTERS—SOCIAL SERVICE STAFF QUALIFICATIONS AND STAFFING RATIOS

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0585 What social service staff do I need ~~((for my home or facility))~~? (1) Except for foster homes, group receiving centers, and juvenile detention facilities, you must provide or arrange for social services by qualified persons who ~~((have specific educational training. Except for juvenile detention facilities, social service staff must))~~ meet the education and training requirements that follow:

~~((1))~~ (a) One person who provides social services must have a master's degree in social work or a closely related field from an accredited school.

~~((2))~~ (b) Social service staff without a master's degree in social work or closely related field must have a bachelor's degree in social work or a closely related field from an accredited school. A person with a master's degree must consult ~~((at least eight hours per month))~~ with any social service staff who ~~((have))~~ has only a bachelor's degree one hour for every twenty hours the staff person works.

~~((3))~~ (2) When social services are provided by another agency, you must have a written agreement with the agency describing the scope of service they provide. ~~((Written agreements must meet the requirements of this rule.~~

~~(4) A social service staff person must review and sign approving the child's treatment plan.~~

~~(5) A social service staff person must review and sign approving licensing application packets before they are submitted to DLR.)~~

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0600 Do I need professional consultants for my program? (1) Except for foster homes, you must have consultants available~~((s))~~ as needed, to work with your staff, the children you serve, and the children's families. The consultants that are used by your program must meet the

full professional competency and requirements and academic training in their respective fields. The consultant or consultants must have:

(a) A master's degree from a recognized school of social work or ~~((similar academic training in the))~~ closely related field ~~((they will be advising))~~;

(b) The training, experience, knowledge and demonstrated skills in each area that he or she will be supervising or advising; and

(c) The ability to ensure ~~((your))~~ staff develop their skills and understanding needed to effectively manage their cases.

(2) Consultants may be hired as staff or operate under a contract with ~~((your))~~ the program.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0605 Is in-service training required?

If you have employees in your home or facility, you must offer in-service training programs for developing and upgrading staff skills.

(1) If you have five or more employees or volunteers, your training plan must be in writing.

(2) You must discuss with the staff your policies and procedures as well as the rules contained in this chapter.

(3) You must provide or arrange for your staff to have training for the services that you provide to children under your care.

(4) Your training on behavioral management must be approved by DLR and must include nonphysical age-appropriate methods of redirecting and controlling behavior, as described in ~~((the department's))~~ children's administration's guidelines on behavior management ~~((policy))~~.

(5) You must record the amount of time and type of training provided to staff.

(6) This information must be kept in each employee's file or in a separate training file.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0610 What are the required ratios of social service staff to children under care? You must meet the minimum ratios of social service staff to children under care as shown in the chart below:

Type of ((Program)) <u>Facility</u>	Minimum Ratio of Full-Time Social Service Staff to Children Under Care
Day treatment program	1 to 15
Group homes	1 to 25
Child-placing agency	1 to 25
Maternity services	1 to 25
Regular and secure crisis residential centers	1 to 5

~~((ALL LICENSES, EXCEPT FOSTER HOMES AND CHILD PLACING AGENCIES))~~ **GROUP CARE FACILITIES AND STAFFED RESIDENTIAL HOMES LICENSED FOR SIX CHILDREN—FIRE SAFETY REQUIREMENTS**

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0620 What safety features do I need for hazardous areas? The department requires hazardous areas in ~~((your))~~ a group care facility or a staffed residential home ~~((or group care facility to have certain safety features.~~

~~(1) Hazardous areas must be separated from the staffed residential home or group care facility by at least a "one-hour" fire-resistant wall. Hazardous areas include rooms or spaces containing:~~

- ~~(a) A commercial-type cooking kitchen;~~
- ~~(b) A boiler;~~
- ~~(c) A maintenance shop;~~
- ~~(d) A janitor closet;~~
- ~~(e) A woodworking shop;~~
- ~~(f) Flammable or combustible materials; or~~
- ~~(g) Painting operations.~~

~~(2) We do not require a fire-resistant wall when:~~

~~(a) A kitchen contains only a domestic cooking range; and~~

~~(b) Food preparation does not produce smoke or grease-laden vapors))~~ licensed for six children meet the facility fire and life safety requirements as developed by the chief of the Washington state patrol through the director of the fire protection bureau.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0625 What other requirements must I follow for smoke detectors? (1) Group care facilities and staffed residential homes licensed for six children must have smoke detectors ~~((must have a UL approval sticker and sound an alarm that is audible in all sleeping and napping areas.~~

~~(2) In new construction, required smoke detectors must receive their primary power from building wiring from a commercial source. Wiring must be permanent, with a disconnecting switch only for overcurrent protection.~~

~~(3) Smoke detectors must also:~~

- ~~(a) Be equipped with a battery backup; and~~
- ~~(b) Emit a signal when the batteries are low.~~

~~(4) If installed in existing buildings or buildings without commercial power, smoke detectors may be solely battery operated.~~

~~(5) Single station smoke detectors must be tested at monthly intervals or in a manner specified by the manufacturer. Records of such testing must be maintained upon the premises))~~ that are UL or Factory Mutual approved.

(2) Smoke detectors must have a strobe and be in compliance with the Americans with Disabilities Act (ADA).

PERMANENT

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0640 What fire safety procedures ~~((to))~~ do staff of a group care facility and a staffed residential home ~~((and group care program staff))~~ licensed for six children need to know? You and your staff at ~~((the))~~ a group care facility and a staffed residential home ~~((or group care facility))~~ licensed for six children must be familiar with safety procedures related to fire prevention.

(1) You and your staff must be familiar with all aspects of the fire drill.

(2) You and your staff must be able to:

(a) Operate all fire extinguishers installed on the premises;

(b) Test smoke detectors (single station types); and

(c) Conduct frequent inspections of the home or facility to identify fire hazards and take action to correct any hazards noted during the inspection.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0645 What are the requirements for fire drills and testing smoke detectors? (1) You must conduct a fire drill in your staffed residential home licensed for six children or group care facility at least once each month at varying times of the day and night so that staff on all shifts practice the procedures.

~~((2))~~ You must maintain a written record on the premises that indicates the date and time that all drill practices were completed.

(2) Single-station smoke detectors must be tested monthly or in a manner specified by the manufacturer. You must maintain a written record of such testing on the premises that indicates the date and time the test was completed.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0655 Are there different construction and fire safety requirements for facilities that have ~~((mixed groups))~~ multiple licenses in the same building? (1) ~~((If a facility, such as a regular or a secure crisis residential center (CRC) or group home and a CRC, has mixed groups))~~ A facility with multiple Washington state licenses or certifications for the care of children in the same building ~~((the facility))~~ must ~~((follow))~~ comply with the most stringent construction and fire safety requirements ~~((of the two groups))~~ for the physical structure, if children share the same space.

(2) If ~~((a))~~ the same facility ~~((is certified by the department of health, such as a secure residential treatment center, the facility must meet construction and fire safety standards for psychiatric hospital security rooms when they have a secure CRC or a secure residential treatment center within the physical structure))~~ has multiple Washington state licenses the licensee must notify:

(a) The Washington state patrol fire protection bureau inspector; and

(b) All of the licensing and certification agents.

~~((ALL LICENSES, EXCEPT FOSTER HOMES AND CHILD PLACING AGENCIES))~~ GROUP CARE FACILITIES AND STAFFED RESIDENTIAL HOMES—FOOD AND MEALS

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0660 Do mealtimes need to be established? ~~((You))~~ Group care facilities and staffed residential homes must establish and post a schedule of mealtimes.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0670 What types of group care programs are licensed to provide care to children? (1) The following types of programs may be licensed as group care to provide care for children on a twenty-four-hour basis:

~~((1))~~ (a) Group ~~((home))~~ residential programs;

~~((2))~~ (b) Independent living skills programs;

~~((3))~~ (c) Maternity services;

~~((4))~~ (d) Services to children with severe developmental disabilities and medically fragile children; ~~((and~~

~~((5))~~ (e) Crisis residential centers and secure crisis residential centers; ~~((and~~

~~((6))~~ (f) Group receiving centers; and

(g) Day treatment programs. Day treatment programs are considered group care programs under this chapter, though they are not twenty-four-hour residential programs.

(2) If your group care facility provides services named in WAC 388-148-0670 (1)(c) through (g) you will need to comply with the licensing requirements specific to those programs. A license may be issued for that specific type of care, such as a crisis residential center in addition to the group care license.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0685 Who may ~~((I serve as))~~ a group care program provider serve? (1) If you are a group care program provider, you may serve children who are at least six years of age and meet one of the following conditions:

(a) Have behavior that cannot be safely or effectively managed in foster care;

(b) Need temporary placement awaiting a more permanent placement;

(c) Need emergency placement during a temporary disruption of a current placement;

(d) Have emotional, physical, or mental disabilities; ~~((or))~~

(e) Need a transitional living setting;

(f) Need respite care from a licensed provider; or

(g) Are age sixteen or older and need to acquire independent living skills.

(2) If your group care program serves children with severe developmental disabilities, medically fragile children, maternity services, or is a group receiving center or meets

RCW 74.15.020 (2)(m), the children may be younger than six years of age.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0695 Must I give a child an allowance? Group care facilities, except group receiving centers, must give the children under their care allowances based on age, needs and ability to handle money. These facilities must keep track of allowances given to children in a ledger.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0700 What are the qualifications for an executive director for a group care program or child-placing agency? ~~((1))~~ A group care program, child-placing agency executive director, or person responsible for the agency administration, agency oversight, and fiscal operation must meet, at a minimum, the requirements that follow.

~~((a))~~ (1) Be able to communicate to the department the roles, expectations and purposes of the program; ~~((and~~ ~~(b))~~ (2) Work with representatives of other agencies; ~~(-)~~ ~~(2) They must also meet one of these education or experience requirements:~~

~~(a) Have a bachelor's degree in social science or closely related field from an accredited school; or~~

~~(b) Have a minimum of two years of successful, full-time relevant experience, such as working in a group care facility; or~~

~~(c) Have a minimum of two years as a foster parent with a letter of recommendation from the licensing agency and supervising agency); and~~

~~(3) Have appropriate education and four years of successful experience with similar duties and responsibilities for the administration oversight, and fiscal management of an agency.~~

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0705 Do I need an on-site program manager or social service staff at each group care facility? Each group care facility must have an on-site program manager, social service staff, or person with the equivalent training and experience of an on-site program manager at each facility during business hours.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0710 What are the responsibilities of the on-site program manager or social service staff for a group care ((program)) facility? The on-site program manager or social service staff has the following responsibilities:

(1) Coordinates the day-to-day operations of the program;

(2) Supervises the child care staff;

(3) Oversees the completion of each child's plan of care and treatment.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0715 What qualifications must the on-site program manager, or social service staff for a group care program or a CPA program manager have? (1) Each on-site program manager or social service staff for group care and CPA program manager must have the following qualifications:

~~((1))~~ (a) A bachelor's degree in a social ~~((science))~~ services or closely ~~((affied))~~ related field from an accredited school; or

~~((2))~~ (b) Five years of successful full-time experience in a relevant field; and

~~((3))~~ (c) Supervisory abilities that promote effective staff performance; and

~~((4))~~ (d) Relevant experience, training, and demonstrated skills in each area that he or she will be supervising or managing.

~~((5))~~ (2) The same person may have the responsibilities of the executive director and the group care on-site program manager, social service staff or a CPA program manager, if that person meets the qualifications for both positions.

NEW SECTION

WAC 388-148-0718 What are the responsibilities for child care staff at a group care program? The child care staff responsibilities at a group care program includes care, supervision, and behavior management of the children under care.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0720 What are the qualifications ((must the)) for child care staff ((for a group care program have)) and case aides? ~~((The child care staff person is responsible for the care, supervision, and behavior management of children under your care.))~~ The department requires ~~((the))~~ child care staff ~~((of each group care program))~~ and case aides:

(1) Be at least twenty-one years old;

(2) Exception: Child care staff may be eighteen to twenty years old if enrolled and participating in an internship or practicum program with an accredited college or university; and supervised by staff twenty-one years or older;

(3) Have a high school diploma or GED;

(4) Have one year of experience working with children;

(5) Have the skills and abilities to work successfully with the challenging behaviors of children in care; and

(6) Have effective communication and problem solving skills.

NEW SECTION

WAC 388-148-0722 What are the qualifications for health care staff for a group care program or a child-placing agency caring for medically fragile children? (1) The health care staff, such as a licensed practical nurse (LPN) and nurse assistant certified, must meet the full professional com-

petency requirements in their respective field when working in a group care facility or a CPA program for medically fragile children.

(2) The health care staff must maintain their certification or licensure as required by the department of licensing.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0725 What is the ratio of child care staff to children in group care facilities? The department has specific requirements for the ratio of child care staff to children in group care.

(1) The ratio for group ~~((homes))~~ care is at least one child care staff member on site for every eight children during waking and sleeping hours.

Note: Crisis residential centers, group receiving centers, staffed residential homes, maternity programs, and programs for children with severe developmental disabilities have different requirements.

(2) At least two adults, including at least one child care staff person, must be on site whenever more than eight children are on the premises.

(3) To keep the proper ratio of staff to children, the executive director, health care staff, on-site program manager, support staff and maintenance staff may serve temporarily as child care staff if they ~~((have adequate))~~ meet all other child care staff qualifications and training.

(4) During sleeping hours of youth, at least one staff person must be awake in all group home programs when:

(a) There are more than six youth in care; and

(b) The major focus of the program is behavioral change rather than the development of independent living skills, such as teen parent and independent living skills programs; or

(c) The youth's behavior poses a safety risk to self or others.

(5) When only one child care staff is on site, a second staff must be on call.

(6) You must have relief staff so that all staff can have the equivalent of two days off a week.

(7) If you have more than one program in one building, such as a group care program and a crisis residential center, you must follow the most stringent staffing ratio requirements.

(8) For ~~((certified))~~ juvenile detention facilities certified as meeting the minimum licensing requirements, at least one child care staff member must be on duty for every ten children in care during the sleeping and waking hours.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0730 ~~((Do you have))~~ Are there room requirements for group care facilities? You must meet the following room requirements to operate a group care facility.

(1) You must provide rooms that are ample in size and properly furnished for the number of children you serve.

(2) You must have a comfortably furnished living room.

(3) You must have a dining room area that is ample in size and suitably furnished for your residents.

(4) ~~((Exception:))~~ Juvenile detention facilities, certified as meeting the licensing requirements, are not required to meet these first three standards, (WAC 388-148-0730 (1)(2)(3)).

(5) With more than twelve children, you must provide at least one separate indoor recreation area. Its size and location must be sufficient for the age and number of the children to engage in recreational and informal education activities.

(6) You must provide a room or area that is used as an administrative office. In addition, suitable offices must be provided for social service staff. In facilities caring for fewer than thirteen children, these offices may be combined with the administrative office.

(7) You must provide a space that can be used as a visiting area.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0750 What maternity services must I provide? If you operate a licensed program for expectant mothers and new mothers with infants, you must provide or arrange for the following services:

(1) Information and referral services to every expectant and new mother who applies for care.

(2) Individual or group counseling sessions, if necessary, about the following topics:

(a) Pregnancy counseling;

(b) Independent living education;

(c) Infant and child care training;

(d) Living arrangements;

(e) Medical care planning;

(f) Legal issues;

(g) Vocational or educational guidance;

(h) Plans for the child;

(i) Financial, emotional or psychological problems;

(j) Relations with parents and birth father; and

(k) Home management and consumer education.

(3) An expectant mother's delivery in a licensed hospital or licensed birthing facility.

(4) Postpartum medical examinations, as prescribed by a physician, to a new mother.

(5) Childcare, as needed.

(6) Case management services.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0765 What types of health education must I offer expectant and new mothers? You need to offer or arrange health education for expectant and new mothers that includes the following areas:

(1) ~~((Pregnancy))~~ Hygiene;

(2) Suitable preparation for childbirth;

(3) The physiological changes during pregnancy;

(4) Examinations and childbirth procedures;

(5) Postnatal and pediatrics care;

(6) Contraception and family planning;

(7) Nutritional requirements for mother and child;

(8) Child health and development; and

(9) Psychological and emotional changes during and after pregnancy.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0775 Do expectant and new mothers need to be under a physician's care? A program providing maternity services to expectant and new mothers must ((be under)) provide or assist them in obtaining a physician's care for ((prenatal care to receive maternity services from programs or facilities licensed by the department)) pre- and post-natal care.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0785 What is the proper ratio of staff to children in home or group care facilities offering maternity services? Residential programs provide twenty-four-hour care to expectant mothers and to new mothers with infants.

(1) These programs must employ sufficient numbers of residential staff to meet the physical, safety, health and emotional needs of the residents. Residential staff are in charge of supervising the day-to-day living situation for youth.

Note: Child care staff may carry out any maintenance tasks that do not detract from their primary function.

(2) When youth are on the premises, the ratio of staff to residents must be as follows:

(a) At least one residential staff member must be on duty for every eight mothers.

(b) When more than eight ~~((persons (including mothers and children)))~~ mothers are on the premises, at least two adults, including at least one child care staff must be on duty.

~~((3) You must have relief staff so that all staff can have the equivalent of two days off a week.))~~

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0795 How is capacity determined for a maternity services facility? We count the number of mothers and children in determining capacity. The space required for a mother and infant bedroom needs to be considered when determining the capacity of a group care facility ((or home (see WAC 388-148-0670)) providing maternity services is determined by the department of health representative.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0800 What is the purpose of day treatment programs? (1) A day treatment program must provide educational and therapeutic group experiences for emotionally disturbed children who are not in need of residential care. These services are provided during part of the twenty-four-hour day, usually during a five-day week.

(2) Day treatment is for children who are:

(a) Unable to adjust to school programs due to disruptive behavior, family stress, learning disabilities or other serious emotional disabilities; and/or

(b) ~~((Are unable to profit from outpatient child guidance clinic services and related programs))~~ Have intensive needs, which can not be adequately met through out-patient community mental health services.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0805 What staff must my day treatment program have? (1) Your day treatment program must have an executive director to manage the financial and administrative operations of the program and an on-site program manager to supervise the child care staff and the treatment program at the facility.

Note: The executive director and on-site program manager may be the same person if that person is qualified for both positions.

(2) Either the executive director or on-site program manager must be on the premises while the children are in care. Another competent person may be left in charge during the director's and/or program supervisor's temporary absence.

(3) The qualifications for executive director and on-site program manager are ~~((outline))~~ outlined in WAC 388-148-0700 and 388-148-0715, respectively.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0810 What consultants must my day treatment program have? If you operate a day treatment program, you must use psychiatrists, psychologists, teachers, and group counselors for children under care as follows. Your day treatment program must:

(1) Receive regular consultation from a child psychiatrist;

(2) Provide or arrange for a psychologist for psychological testing and related services if the child's school does not provide these services;

(3) Provide or arrange for teaching by certified teachers qualified by training or experience in remedial education; and

(4) Use group counselors who are qualified by training or by experience in the care of emotionally disturbed children.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0830 What services must ((you)) be provide for medically fragile children and children with severe developmental disabilities? (1) If you care for medically fragile children and children with severe developmental disabilities you must ensure the following services are provided, if prescribed by a physician:

(a) An individualized treatment plan suited to the unique needs of each child in care; and

(b) Care by physicians, including surgeons, general and family practitioners, and specialists in the child's particular

PERMANENT

diagnosis on either a referral, consultative, or ongoing treatment basis.

(2) You must also provide the following nursing services, if prescribed by a physician, if you care for medically fragile children, or children with severe developmental disabilities unless these children are in a foster home:

(a) Sufficient licensed nursing staff to meet the nursing care needs of the children; or

(b) Regular nursing consultation that includes at least one weekly on-site visit by a registered nurse.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0860 Are there ~~((additional))~~ room requirements ~~((if I serve children with severe developmental disabilities))~~ for group care facilities for medically fragile children less than age six? If you operate a group care program that serves medically fragile children ~~((with severe developmental disabilities))~~ less than age six, you must follow these additional room requirements.

(1) If you are licensed to care for thirteen or more children, you must provide separate, safe play areas for children ~~((under))~~ less than one year ~~((of age))~~ or children not walking. The department must approve the rooms or areas.

(2) Children ~~((under))~~ less than one year ~~((of age))~~ must be cared for in rooms or areas separate from older children.

(3) No more than eight children ~~((under))~~ less than one year of age may be in the room at a time.

(4) Hand-washing facilities must be available ~~((in these rooms))~~ nearby.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0870 What additional record-keeping requirements exist for medically fragile children and children with severe developmental disabilities? (1) In addition to meeting standard requirements for keeping records (see WAC 388-148-0120 through 388-148-0140), you must also keep the following information for any medically fragile child and child with a severe developmental ~~((disabilities))~~ disability:

(a) Information you received upon admission including family background, current diagnosis and medical status, an inventory of personal belongings, medical history, and a report of a physical examination and diagnosis by a physician;

(b) Information about the child's daily care including treatment plans, medications, observations, medical examinations, physicians' orders, allergic responses, consent authorizations, releases, diagnostic reports, and revisions of assessments;

(c) Upon discharge, a summary including diagnoses, treatments, and prognosis by the person responsible for providing care, and any instructions and referrals for continuity of care; and

(d) Evidence of meeting criteria for eligibility for services from the division of developmental disabilities.

(2) If the child has died, you must also have the following information:

(a) The time and date of death;

(b) Apparent cause of death;

(c) Notification of the physician and relevant others (including the coroner if necessary); and

(d) Regarding the disposal of the child's body and how the child's personal effects will be dealt with.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0875 What types of crisis residential centers may be licensed? (1) A facility may be licensed as a regular crisis residential center (CRC) or a secure crisis residential center.

(2) A foster home may be licensed as a family CRC. The foster home licensed, as a CRC, must meet the licensing standards for foster homes outlined in this chapter.

(3) Family CRCs and regular CRCs are not locked facilities, but are operated in a way that reasonably assures that youth placed there will not run away.

Note: Regular CRCs are also known as semi-secure CRCs, as referred to in RCW 13.32A.030 ~~((13) and (14))~~ (16).

(4) A secure facility is designed and operated to prevent a youth from leaving without permission of the staff. ~~((This facility has locking doors, locking windows, or secured perimeters.))~~

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0880 What levels of secure CRCs exist? The department licenses ~~((two))~~ three types of secure crisis residential centers (CRCs): Level one ~~((and))~~, level two, and level three. Level one is the most secure facility and level ~~((two))~~ three is the least secure facility.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0885 What are the requirements for a level-one secure CRC? A level-one crisis residential center (CRC) must meet each of these requirements:

(1) Be a free-standing facility, separate unit, or separate building within a campus with windows and exterior doors that prevent exit.

(2) Meet or exceed the current state building code when locking doors and windows prevent exit.

(3) Ensure that no youth is kept in a locked room that isolates the youth from the general population and/or staff.

(4) Maintain a recreation area, within the secured facility or secured on the property of the facility, that can support youth's vigorous physical activity. ~~((f))~~ Any fences used to secure the recreation area must meet or exceed the specifications of the level-two CRC referenced in WAC 388-148-0890(3)(f)).

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0890 What are the requirements for a level-two secure CRC? A level-two secure crisis residential center (CRC) must meet each of these requirements:

(1) ~~((Prevent))~~ Be a free-standing facility, separate unit, or separate building within a campus that prevents unauthorized entering and exiting with a nonscalable fence around the perimeter of the facility property;

(2) Not prevent exit by locking facility doors or windows;

(3) Design the nonscalable fence so that it does not cause injury, such as avoiding use of electrification, razor wire or concertina wire;

(4) Ensure that no youth is kept in a locked room that isolates him or her from the general population and/or staff; and

(5) Maintain a recreation area surrounded by a nonscalable fence that can support youth's vigorous physical activity.

NEW SECTION

WAC 388-148-0892 What are the requirements for a level three secure CRC? A level-three secure crisis residential center (CRC) must meet each of these requirements:

(1) Be a free-standing facility, separate unit or separate building within a campus with exterior doors that have special egress-control devices;

(2) Meet or exceed the current state building code for facilities with special egress-control devices; and

(3) Maintain a recreation area, within the secured facility or secured on the property of the facility, that can support youth's vigorous physical activity. Any fences used to secure the recreation area must meet or exceed the specifications of the level-two secure CRC referenced in WAC 388-148-0890(3).

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0895 May a juvenile detention center operate as a separate secure CRC program? (1) A juvenile detention center may operate ~~((as))~~ a separate secure crisis residential center (CRC) program. The physical facility must be operated so that no direct communication or physical contact can be made between a resident of the secure crisis residential center and a person held in the detention facility.

(2) Staff assigned to the secure crisis residential center youth must not be simultaneously assigned to the juvenile detention center residents on the same shift.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0900 What youth may a CRC serve?

All CRCs

A crisis residential center (CRC) provides emergency, temporary residence to youth ages twelve through seventeen who meet one of the following criteria:

(1) Are beyond the control of their parents or guardians and behave in a way that endangers any person's welfare;

(2) Need assistance getting food, shelter, health care, clothing, educational services, and/or resolving family conflicts;

(3) Need temporary protective custody; or

(4) Have parents who are not able or willing to continue efforts to keep the family together.

Secure CRCs

(5) Youth ordered by the court to serve time for contempt on CHINS, ~~((APY))~~ ARP, or truancy orders may be ordered into a secure CRC that is co-located with a detention facility.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0905 Can law enforcement officers place youth in secure CRCs? Law enforcement officers ~~((must))~~ may place youth in secure crisis residential centers (CRCs), when available, when youth:

(1) Are runaways;

(2) Are in dangerous situations; or

(3) Are in violation of curfew.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0915 What steps must be taken after a youth is admitted into a CRC?

All CRCs

(1) The director or designee of a crisis residential center (CRC) must immediately notify the parents of the youth who has been admitted.

(2) If the director or designee of any CRC is unable to contact the youth's parents within, forty-eight hours, he or she must:

(a) Contact the department and request that the case be reviewed for dependency filing under chapter 13.34 RCW or "child in need of services" filing under chapter 13.32A RCW; and

(b) Document the contact with the department in the youth's case record.

Secure CRCs

(3) Within the first twenty-four hours after admitting a youth to a secure crisis residential center, and each twenty-four hours after, the director or designee must assess the youth's risk of running.

(4) The secure CRC director or designee must determine what type of CRC, regular or secure, would be best for the youth.

(5) The secure CRC director or designee must use the following criteria in making the decision, considering the safety, health and welfare of the youth and others:

(a) The youth's age and maturity;

(b) The youth's physical, mental, and emotional condition upon arrival at the center;

(c) The circumstances that led to the youth's placement at the facility;

(d) The youth's behavior;

(e) The youth's history of running away;

(f) The youth's willingness to cooperate in conducting the assessment;

(g) The youth's need for continued assessment, protection, and intervention services in a CRC; and

(h) The likelihood the youth will remain at a CRC.

(6) The secure CRC director or designee must put the decision about the youth's status in writing in the youth's file.

(7) After a youth is admitted, the secure CRC director or designee must ensure that a youth is assessed for any health needs requiring immediate attention.

(8) By the first school day after admission, the crisis residential center staff must:

(a) Notify the youth's school district about the youth's placement; and

(b) Assess the youth for any educational needs as a part of the assessment process for inclusion in the discharge summary.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0995 What are the ratio requirements of youth care staff to youth in crisis residential centers?

(1) You must ensure the safety of the youth that are residing in crisis residential centers (CRCs) by maintaining staffing ratios. This may require a staffing ratio higher than the minimum listed if necessary for the health and safety of youth and/or staff.

Regular CRCs

(2) At all times, regular crisis residential centers must have at least one youth care staff on duty for every four youth in care when youth are present.

(3) Regular crisis residential centers must have at least two awake youth care staff on duty during waking hours of the youth when youth are present.

(4) Regular crisis residential centers must have at least one awake youth care staff on duty during sleeping hours of the youth. One or more additional (back-up) staff must be on the premises during sleeping hours to maintain staffing ratios.

Under extraordinary circumstances, the DLR director may approve an alternative back-up plan.

Secure CRCs

(5) At all times, secure crisis residential centers must have at least two staff on duty ~~((at all times))~~ when youth are present.

(6) At all times, secure crisis residential centers not co-located with a detention center must have at least one youth care staff on duty for every three youth in care.

(7) At all times, secure crisis residential centers that are located in the same facility as a detention ((facilities)) center must have ~~((the))~~ at least one awake youth care staff on duty for every four youth in care.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-1025 What must be included in a written ~~((agreement to provide services as))~~ program description for a staffed residential home? (1) A written ~~((agreement with the department))~~ program description to provide services to children at a staffed residential home must be submitted for department approval.

(2) The program description must include but is not limited to:

~~((1))~~ (a) The number of children served at one time;

~~((2))~~ (b) The expectations of services to be provided;

~~((3))~~ (c) The steps to be taken to include the child's family;

~~((4))~~ (d) The plan on how coordination will occur with community partners;

~~((5))~~ (e) The plan on how permanency planning for the children will take place;

~~((6))~~ (f) A safety and supervision plan for each child; and

~~((7))~~ (g) A behavior management plan for each child, as appropriate.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-1030 What services must a staffed residential home provide? (1) A staffed residential home must be able to provide the specialized services required by the group that is served in the staffed residential home. These services may be provided through your own program or through using other community resources.

(2) You must provide ~~((care))~~ a safety and supervision ((for children you serve in a staffed residential home,)) plan for each child you serve considering ((their ages)) his or her age and physical ((conditions)) condition.

(3) ~~((You must submit a written program description for department approval that includes:~~

~~((a))~~ A list of services that you will provide to children and their families must include but is not limited to:

(a) The steps to be taken to include the child's family in the services;

(b) Who and how these services will be carried out; and

(c) A schedule of typical daily activities for the children under your care.

(4) Services for children must include:

(a) Transportation;

(b) Teaching social and living skills;

(c) Opportunities for play and recreation; and

(d) Opportunities to participate in community and cultural activities.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-1035 Who must be on the premises when children are under care at a staffed residential home? The on-site program manager or a person meeting the same qualifications must be on the premises of the staffed residential home during business hours when children are under care if:

(1) The major focus of the program is behavioral rather than the development of independent living skills such as a teen parent program or responsible living skills program; and

(2) ~~((The))~~ A youth's behavior poses a risk to self or others.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-1045 What is the ratio of child care staff to children in staffed residential homes? (1) You must meet the minimum ratios of child care staff to children under care at a staffed residential home.

(2) To keep the proper ratio of staff to children, the director, support staff and maintenance staff may serve as child care staff if they have adequate training.

(3) The ratio for staffed residential homes is, at least, one child care staff for every six children during waking hours of children.

(4) During sleeping hours of youth, at least, one staff person must be awake when:

(a) There is a written supervision agreement or a contract with the department of social and health services specifying an awake staff is needed for either the program or a specific child; ~~((or))~~

(b) ~~((The))~~ A youth's behavior poses a safety risk to self and/or others; or

(c) A child's medical condition requires constant monitoring.

(5) The need for overnight supervision must be documented in each child's treatment plan, if awake supervision is necessary.

(6) You may only be licensed for maximum of three pregnant or parenting youth.

(7) When only one child care staff person is on duty, a second person must be on call and available to respond within one half-hour.

(8) You must have relief staff so that all staff can have the equivalent of two days off a week. This is not required for family members if the staffed residential home is a family residence.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-1050 How many children may I serve in my staffed residential home? The department restricts the number of children that a licensed staffed residential home may serve.

(1) The department may license a staffed residential home for six or fewer children. The ~~((total))~~ maximum number of children in your home or facility must not exceed six at any time.

(2) The department may restrict the number of children in a staffed residential home according to the age and needs of the children.

(3) If only one staff person is on duty at a staffed residential home providing maternity services, that home must not care for more than four persons under the age of eighteen. An additional staff person is required to care for more than four ~~((children))~~ persons under the age of eighteen.

(4) Except for maternity program, you may have only two children under two years of age in your home at a time.

(5) The department may license a staffed residential home for up to three children with mental or physical disabilities that are severe enough to require nursing care if you meet the following conditions:

(a) You provide staff that are qualified by training and experience to provide proper care, including necessary medical procedures; and

(b) The children's treatment is under the supervision of physicians.

CHILD PLACING AGENCIES—PROGRAM AND SERVICES ((OUT-OF-STATE PLACEMENTS))

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-1060 What services may a child-placing agency provide? The department licenses child-placing agencies to provide:

(1) Certification of eligible foster homes meeting full licensing requirements, including respite care foster homes;

(2) Maternity services to expectant mothers;

(3) Specialized (treatment) foster care;

(4) Residential care programs, such as group homes, crisis residential centers, and independent living skills programs; and

(5) Adoption services.

NEW SECTION

WAC 388-148-1066 What written information is needed before a child is accepted for care by a child-placing agency? Before accepting a child for care from a parent or legal guardian, a child-placing agency must obtain the following written consent and information from the parent or legal guardian:

(1) Permission from the child's parent or legal guardian authorizing the placement of the child;

(2) Permission to seek emergency medical care or surgery on behalf of the child;

(3) Permission to transport the child;

(4) Basic family information, including address, telephone numbers, and emergency contacts; and

(5) Basic medical information, including current medication, immunization history (if available), known allergies, and at-risk behaviors of the child.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-1070 What health histories need to be provided to foster or adoptive parents? ~~((1) To meet department requirements, you))~~ A child-placing agency must provide adoptive ~~((see WAC 388-25-0330), or foster))~~ parents with ~~((the following))~~ information ~~((when available, at the time of placement:~~

~~((a) The mental and physical health histories of the birth parents;~~

~~((b) A written health history for each child prior to placement, including a history of immunizations, allergies, previous illnesses, and conditions that may adversely affect the child's health; and~~

~~((c) The developmental and psychological history for the adoptive children.~~

~~Note: You must arrange for the child's medical examinations, immunizations, and health care as required by WAC 388-148-0335 and 388-148-0340.~~

~~(2) The adoptive parent(s) must sign one copy of the report, showing that they have received the information. You must retain this signed copy in the child's permanent file.~~

~~(3) When the child is being placed for adoption, your report must not contain information that might identify the birth parents)) that meets the federal and state statutes on full disclosure of health information.~~

CHILD-PLACING AGENCY STAFF QUALIFICATIONS

NEW SECTION

WAC 388-148-1076 What are the qualifications for an executive director, a program manager/social service staff, and a consultant for a child-placing agency? The qualifications of child-placing agency staff are as follows:

(1) The executive director of a child-placing agency must meet the executive director qualifications outlined for programs and agencies in WAC 388-148-0700.

(2) A program manager/social service staff for a child-placing agency must meet the program manager qualifications outlined in WAC 388-148-0715.

(3) A consultant for a child-placing agency must meet the consultant qualifications outlined in WAC 388-148-0600.

NEW SECTION

WAC 388-148-1077 What are the qualifications for a case aide for a child-placing agency program? The qualifications for a case aide at a child-placing agency program must meet the qualifications for the child care staff at a group care program, outlined in WAC 388-148-0720.

NEW SECTION

WAC 388-148-1078 What are the qualifications for health care staff hired or contracted by a child-placing agency to provide services to children in care? A child-placing agency health care staff, such as licensed practical nurses (LPN) and nursing assistants-certified must meet the health care staff qualifications outlined in WAC 388-148-0722.

NEW SECTION

WAC 388-148-1079 What are the qualifications or the foster home licensor for a child-placing agency? A child-placing agency licensor responsible for the certification of foster homes supervised by their child-placing agency must meet, at a minimum, the requirements that follow:

- (1) Be at least twenty-one years old;
- (2) Have a bachelor's degree in social services or related field; or
- (3) Four years of relevant full-time experience serving children may be substituted for the bachelor's degree with DLR administrative approval.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-1085 How may my child-placing agency certify a foster home for licensing by the department? (1) To certify a foster home for licensing by the department, you must use applications, home study forms, and procedures that are approved by the department (see WAC 388-148-0050 through 388-148-0080).

(2) A foster home must be certified by your child-placing agency as meet the licensing requirements your child-placing in order to be licensed by the department.

(3) A social service staff person must review and sign approving the foster home licensing application packet before the application is submitted to DLR.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-1115 ~~((Do you have))~~ **What are the requirements for providing adoptive services?** (1) As a child-placing agency providing adoption services, you must ~~((meet the department's requirements under chapter 388-25-WAC-~~

~~(2) You must))~~;

(a) Comply with federal and state adoption and adoption support laws and policies;

(b) Recruit potential adoptive families that reflect the diversity of children in your community((-

~~(3) You must)); and~~

(c) Provide adoptive applicants with the following services, at a minimum:

~~((a))~~ (i) Information about the adoption process;

~~((b))~~ (ii) Adoption support programs;

~~((c))~~ (iii) Your agency's policies, practices and legal procedures;

~~((d))~~ (iv) Types of children available for adoption and implications for parenting different types of children; and

~~((e))~~ (v) Information on adoption support programs.

~~((4))~~ (2) You must document that you provided this information to the adoptive applicant in the applicant's file.

(3) You must have contact with each adoptive home of all adoptive placements at least once every thirty days, until the adoption is finalized. Contact may include a home visit, telephone call, or office visit.

(4) Every ninety days you must complete a face-to-face visit in the adoptive home to observe the parent and child and complete a health and safety check.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-1120 What is the process for adoptions? You must go through the following steps to place a child for adoption.

(1) The applicants must submit an application (including a completed background inquiry form) to the child-placing agency.

(2) Once you have received an application, but before you ~~((have))~~ sign a contract for services, you must give the applicants a written statement about:

(a) The adoption agency's fixed fees and fixed charges to be paid by the applicant;

(b) An estimate of additional itemized expenses to be paid by applicant; and

(c) Specific services covered by fees that you offer for child placement or adoption.

(3) Your staff must complete an adoptive home study as required in RCW 26.33.190 with the participation of the applicant(s). For the study, your staff and the applicants (~~need to decide about~~) must decide the following:

(a) The suitability of the applicant(s) to be adoptive parent(s) including completion of background checks of the applicant(s) independent of the department; and

(b) The type of child(ren) for which the applicant or applicants are best suited.

(4) Your staff must accept or deny the application and give an explanation for your decision.

(5) You must file preplacement (home study) reports with the court (as required by RCW 26.33.180 through 26.33.190).

(6) Your staff must prepare the potential adoptive parent(s) for placement of a specific child by:

(a) Locating and providing information about the child and the birth family to the prospective adoptive family (~~as described in chapter 388-25 WAC~~) provided under federal and state statute;

(b) Discussing the likely implications of the child's background for adjusting in the adoptive family.

(7) Your staff must reevaluate the applicant(s) suitability for adopting a child each time an adoptive placement is considered.

(8) You must advise the family of the existence of the adoption support program and procedures for applying.

GROUP CARE FACILITIES—GROUP RECEIVING CENTERS PROGRAM REQUIREMENTS AND SERVICES

NEW SECTION

WAC 388-148-1205 What is a group receiving center? A group receiving center is a facility licensed by the division of licensed resources for the care of more than six children placed by the department, generally for thirty days or less.

NEW SECTION

WAC 388-148-1210 What age children may a center serve? Group receiving centers may provide care for children from age two through seventeen. There may be situations when a group receiving center would be licensed for children less than two years of age to accommodate sibling groups.

NEW SECTION

WAC 388-148-1215 What hours must a center be open? A group receiving center must be open twenty-four hours a day, seven days a week.

NEW SECTION

WAC 388-148-1220 What services are provided or arranged for by a group receiving center? (1) A group receiving center must provide direct receiving care and assessment or an appraisal of a child in terms of his or her physical, mental, social, and emotional condition.

(2) A group receiving center may provide transportation and/or family support services, such as the supervision of family visits.

(3) Arrange for or provide transportation for each school-age child in care to attend school.

NEW SECTION

WAC 388-148-1225 Is a center required to provide an orientation for a child placed? (1) As part of admission to a center, the staff must provide an orientation to children, as age-appropriate that includes, but is not limited to:

(a) A description of the program and services;

(b) The physical facility;

(c) The department-approved policy that states that youth may not have guns or other weapons, alcohol, tobacco, or illegal drugs within the facility; and

(d) The department-approved policy on client visitation that includes access to the youth's attorney and social worker.

(2) Written documentation of this orientation must be in each child's file.

NEW SECTION

WAC 388-148-1230 Does each child need space for personal items at the center? You must provide separate space for the storage of personal items such as clothing, radios, and toys for each child at your group receiving center.

GROUP RECEIVING CENTERS—STAFF TRAINING

NEW SECTION

WAC 388-148-1235 What staff training is required? (1) All group receiving center staff must complete a minimum of sixteen hours of pre-service job orientation prior to beginning unsupervised child care responsibilities. Training must include:

(a) Presentation of the group receiving centers policies and procedures as well as the standards contained in this chapter;

(b) Behavior management techniques;

(c) Crisis intervention techniques;

(d) Family dynamics and family intervention techniques;

(e) Child abuse and neglect reporting requirements;

(f) Youth supervision requirements; and

(g) HIV/AIDS/blood borne pathogen training.

(2) Staff must complete a minimum of twenty-four hours of on-going education and in-service training annually. This training must include:

(a) Crisis intervention techniques, including verbal de-escalation, positive behavior support, and physical response/restraint training as approved by the department;

(b) Behavior management techniques;

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- (c) Substance abuse;
 - (d) Suicide assessment and intervention;
 - (e) Family intervention techniques;
 - (f) Cultural diversity;
 - (g) Mental health issues and interventions;
 - (h) Mediation skills;
 - (i) Conflict management/problem-solving skills;
 - (j) Physical and sexual abuse identification;
 - (k) Characteristics and management of sexually aggressive and physically assaultive behavior; and
- (1) Monthly fire drill proactive and disaster training for each staff.
 - (3) You must record the amount of time and type of training provided to staff.
 - (4) This information must be kept in each employee' file or in a separate training file.

GROUP CARE FACILITIES-GROUP RECEIVING CENTERS—STAFFING RATIOS AND SUPERVISION

NEW SECTION

WAC 388-148-1240 What is the ratio of child care staff to children at a center? The department has specific requirements for the ratio of child care staff to children at group receiving centers.

(1) At least two staff, including at least one child care staff person, must be on site whenever children are on the premises.

(2) The ratio for a group receiving center is at least one child care staff person on site for every four children who are under age six, during waking and sleeping hours.

(3) The ratio for a group receiving center is at least one child care staff person on site for every six children age six years and older, during waking and sleeping hours.

(4) If a DLR-approved safety plan addressing the age groups is in effect, the center may provide care for more than one of the following age groups:

- (a) Age two through five;
- (b) Six through twelve; and
- (c) Thirteen through seventeen.

(5) If the center provides care for children under age six and children six and older, you may allow common activities for the children of different age groups provided you maintain the staffing ratio designated for the youngest child in the group and have an approved safety plan in place.

(6) To keep the proper ratio of staff to children, the executive director, on-site program manager, support staff, and maintenance staff may serve temporarily as child care staff if they have adequate training and are performing child care staff duties.

(7) You must have relief staff so that all staff can have the equivalent of two days off a week.

(8) If you have more than one program in one building, such as a group receiving center and a crisis residential center, you must follow the most stringent staffing ratio requirements, if the same staff are supervising both programs.

NEW SECTION

WAC 388-148-1245 What are the requirements for supervision of children at a center? (1) A group receiving center must operate under a DLR-approved, written supervision and safety plan for the children in care.

(2) At a group receiving center, children under age six must be within visual range at all times during waking hours.

(3) You must ensure that the staff providing direct care and supervision of the children is free of other duties at the time of care.

(4) When a child has exhibited behavior that posed a safety risk to other children in a previous placement or the placing agency believes the child poses a risk to other children the placing agency must inform the provider and jointly develop a plan to address the risk.

NEW SECTION

WAC 388-148-1250 Who must be on the premises while children are in care at a center? (1) The director or on-site program manager at a group receiving center must normally be on the premises during business hours when children are in care.

(2) If temporarily absent (for two hours or less) from the center, the director and on-site program manager must leave a competent, designated staff person in charge. This person must meet the qualifications of a child care staff person.

GROUP CARE FACILITY-GROUP RECEIVING CENTERS—RECREATIONAL ACTIVITIES, EQUIPMENT, AND SPACE

NEW SECTION

WAC 388-148-1255 What are the requirements for an activity program? (1) You must provide an activity program at a group receiving center that is designed to meet the developmental, cultural, and individual needs of the children served at your group receiving center.

(2) You must ensure that group receiving center's activity program allows time for children to have daily opportunities for small and large muscle activities and outdoor play, as appropriate to the weather conditions.

NEW SECTION

WAC 388-148-1260 What activities must I provide to children? (1) Activities must be designed for the developmental stages of the children you serve at a group receiving center, allowing a balance between:

- (a) Child-initiated and staff-initiated activities;
- (b) Free play and organized events;
- (c) Individual and group activities; and
- (d) Quiet and active experiences.

(2) You must ensure that children at a group receiving center are grouped to ensure the safety of the children.

NEW SECTION

WAC 388-148-1265 What are the requirements for indoor recreation areas? (1) Depending on the number and age range of children served, the group receiving center's indoor premises must contain:

- (a) Adequate area for the child play; and
 - (b) Sufficient space to house a developmentally appropriate program.
- (2) You must provide a minimum of thirty-five square feet of usable floor space per child, not counting bathrooms, hallways, and closets.
- (3) You may use and consider the napping area as child care space, if there are not beds or cots on the floor space.

NEW SECTION

WAC 388-148-1270 What are the requirements for an outdoor recreation area? (1) You must provide a safe and securely-fenced or department-approved, enclosed outdoor recreation area at a group receiving center.

- (2) The fenced or approved enclosed outdoor recreation must prevent child access to roadways and other dangers.
- (3) The fence or enclosure must protect the play area from unauthorized exit or entry. Any fence or enclosure must be designed to discourage climbing.
- (4) The outdoor recreation area must adjoin directly the indoor premises or be reachable by a safe route and method.
- (5) The outdoor recreation area must promote the child's active play, physical development, and coordination.

NEW SECTION

WAC 388-148-1275 What are the size requirements for an outdoor recreation area? (1) You must ensure the recreation area at a group receiving center contains a minimum of seventy-five usable square feet per child.

- (2) If not all of the children are using the outdoor recreation area at the same time, you may reduce the size to the number of children normally using the area at one time.

NEW SECTION

WAC 388-148-1280 What are the requirements for playground equipment? (1) You must provide a variety of age-appropriate play equipment for climbing, pulling, pushing, riding, and balancing activities at a group receiving center.

- (2) You must design, construct, arrange, and maintain equipment and ground cover to prevent child injury.
- (3) The quantity of outdoor play equipment must offer a child a range of outdoor recreation options.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-148-0285 Do I need a housekeeping sink?

- WAC 388-148-0360 Whom do I notify about medication changes and reactions?
- WAC 388-148-0450 What types of toys must I provide to children?
- WAC 388-148-0500 May I receive more than one in-home care license?
- WAC 388-148-0615 Are there specific fire safety requirements for the care of nonmobile children?
- WAC 388-148-0630 What fire prevention measures must I take?
- WAC 388-148-0635 What are the requirements for fire sprinkler systems?
- WAC 388-148-0650 What requirements do you have regarding windows in staffed residential homes and group care facilities?
- WAC 388-148-0735 When do I need a special care room?
- WAC 388-148-0935 How long may a youth stay at a CRC?
- WAC 388-148-1020 Must a staffed residential home operate in conjunction with another program?
- WAC 388-148-1065 Do child-placing agency foster homes and group care facilities need to be licensed before placements?

WSR 04-09-093
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 [Filed April 20, 2004, 4:20 p.m.]

Date of Adoption: April 15, 2004.
 Purpose: The Department of Social and Health Services' Economic Services Administration (ESA) is revising sections of chapter 388-295 WAC to correct errors made in the most recent rule filing, and to make other sections more clear.
 Citation of Existing Rules Affected by this Order: Amending WAC 388-295-0020, 388-295-0060, 388-295-0070, 388-295-0090, 388-295-0100, 388-295-0110, 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, and 388-295-7050.
 Statutory Authority for Adoption: Chapters 74.12 and 74.15 RCW.
 Adopted under notice filed as WSR 04-05-084 on February 17, 2004.

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Changes Other than Editing from Proposed to Adopted Version: The following changes were made in rules as adopted compared to the proposed rules, as a result of comments received. New wording is underlined, and deleted wording is lined-through.

WAC 388-295-0070, subsections (1)(a) through (c):

(1) You, your staff and volunteers must have the following personal characteristics in order to operate or work in a child care facility:

(a) The understanding, ability, physical health, emotional stability, good judgment and personality suited to meet the physical, intellectual, mental, emotional and social needs of the children ~~under your~~ in care;

(b) Be qualified by our background inquiry check prior to having unsupervised access to children. To "be qualified" means ~~that you have not~~ having been convicted of, or have charges pending for, crimes posted on the DSHS secretary's list of permanently disqualifying convictions for ESA. You can find the complete list at <http://www.dshs.wa.gov/esa/dccel/policy.shtml>. This includes ~~your~~ not having committed or been convicted of child abuse or any crime involving harm to another person; and

(c) Be able to furnish the child in ~~your~~ care with a healthy, safe, nurturing, respectful, supportive and responsive environment...

WAC 388-295-3010, subsection (1)(d):

(d) Reviewed, ~~and~~ signed and dated by a physician a physician's assistant or registered nurse when you change your policies and procedures or type of care that you provide, or at least every three years when you are due for re-licensing...

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 19, 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 19, Repealed 0.

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

April 15, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-0020 Who needs to become licensed?

(1) ~~((The person or organization operating a child care center is subject to licensing by authority under chapter 74.15 RCW.))~~ Individuals, entities and agencies that provide care for children must be licensed unless specifically ~~((exempted~~

~~by)) exempt under RCW 74.15.020(2). ((Exemptions include:~~

~~(a) Blood relatives;~~

~~(b) Adoptive parents;~~

~~(c) Stepparents or stepsiblings;~~

~~(d) "Extended family members" as defined by law or custom of the Indian child's tribe;~~

~~(e) Legal guardians;~~

~~(f) Nursery schools or kindergartens that are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours a day;~~

~~(g) Seasonal day camps of three months' or less duration engaged primarily in recreational or educational activities;~~

~~(h) Private schools or kindergartens;~~

~~(i) An agency located on a military reservation;~~

~~(j) An agency operated by a unit of local, state, or federal government;~~

~~(k) An agency licensed by an Indian tribe, located within the boundaries of a federally recognized Indian reservation; and~~

~~(l) A facility where the parent remains on the premises for reasons other than employment.))~~

(2) The person or organization ~~((operating a child care center and qualifying for an exemption to licensing under RCW 74.15.020(2) is not subject to licensure. The person or organization))~~ claiming an exemption must provide us with proof of right to the exemption if we request it.

(3) ~~((RCW 74.15.020 (2)(d) exempts facilities from licensing where parents on a mutually cooperative basis exchange care of one another's children. To qualify for this cooperative exemption:~~

~~(a) At least one parent or guardian of each child attending the facility regularly must be involved in the direct care of children at the facility;~~

~~(b) Parents or guardians must be involved in the direct care of children on a relatively equal basis; and~~

~~(c) A person other than a parent or guardian of a child at the facility must not be involved in the care of children or the operation of the facility.~~

(4)) We do not license a center that is legally exempt from licensing per RCW 74.15.020(2). However, if the applicant requests it, we follow all licensing regulations to investigate and may certify the center as meeting licensing and other pertinent requirements. In such a case, all our licensing requirements and procedures apply equally to certification.

~~((5))~~ (4) We may certify a child care center for payment without further investigation if the center is:

(a) Licensed by an Indian tribe;

(b) Certified by the Federal Department of Defense; or

(c) Approved by the superintendent of public instruction's office.

~~((6))~~ (5) The center listed in subsection ~~((5))~~(4)(a), (b), or (c) of this section must be licensed, certified, or approved in accordance with national or state standards, or standards approved by us. It must be operated on the premises where the entity operating the center has jurisdiction.

~~((7))~~ (6) We must not license a department employee or a member of their household when the employee is involved

directly, or in an administrative or supervisory capacity, in the:

- (a) Licensing or certification process;
- (b) Placement of a child in a licensed or certified center;

or

- (c) Authorization of payment for the child in care.

~~((8))~~ (7) We may license a center located in a private family residence when the portion of the residence accessible to the child is:

- (a) Used exclusively for the child during the center's operating hours or while the child is in care; or
- (b) Separate from the family living quarters.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-0060 What are the requirements for applying for a license to operate a child care center? (1) To apply or reapply for a license to operate a child care center you must:

- (a) Be twenty-one years of age or older;
- (b) The applicant ~~((and))~~, director and program supervisor must attend the orientation programs ~~((the))~~ that we provide, arrange or approve;
- (c) Submit to us a completed and signed application for a child care center license or certification using our forms (with required attachments).

(2) The application package must include the following attachments:

- (a) The annual licensing fee. The fee is based on your licensed capacity, and is forty-eight dollars for the first twelve children plus four dollars for each additional child;

~~((A completed criminal history and background inquiry form for yourself and for each staff person or volunteer who has regular or unsupervised access to the children in care; and~~

- ~~((e)))~~ If the center is solely owned by you, a copy of your:

(i) Photo identification issued by a government entity; and

(ii) Social Security card that is valid for employment or verification of your employer identification number.

(c) If the center is owned by a corporation, verification of the corporation's employer identification number;

- (d) An employment and education resume for:

(i) The person responsible for the active management of the center; and

- (ii) The program supervisor.

(e) Diploma or education transcript copies of the program supervisor;

(f) Three professional references each, for yourself, the director, and the program supervisor;

(g) Articles of incorporation if you choose to be incorporated;

- (h) List of staff (form is provided in the application);

- (i) Written parent communication (child care handbook);

(j) Copy of transportation insurance policy (liability and medical);

(k) In-service training program (for ~~((agencies))~~ facilities employing more than five persons);

- (l) A floor plan of the facility drawn to scale;

(m) A copy of your health care plan reviewed and signed by an advisory physician, physician's assistant, or registered nurse;

(n) A copy of your policies and procedures that you give to parents; and

- (o) A copy of your occupancy permit.

(3) You must submit to the department's background check central unit a completed criminal history and background inquiry form for yourself and for each staff person or volunteer who has regular or unsupervised access to the children in care; and

(4) You must submit your application and reapplication ninety or more calendar days before the date:

- (a) ~~((The date))~~ You expect to open your new center;

(b) ~~((The expiration date of))~~ Your current license is scheduled to expire;

- (c) ~~((The date))~~ You expect to relocate your center;

- (d) ~~((The date))~~ You expect to change licensee; or

(e) ~~((The date))~~ You expect a change in your license category.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-0070 What personal characteristics do my volunteers, all staff and I need to provide care to children? (1) You, your staff and volunteers must have the following personal characteristics in order to operate or work in a child care facility:

(a) The understanding, ability, physical health, emotional stability, good judgment and personality suited to meet the physical, intellectual, mental, emotional, and social needs of the children ~~((under your))~~ in care;

(b) Be qualified by our background inquiry check ~~((chapter 388-06 WAC))~~ prior to having unsupervised access to children. To "be qualified" means not having been convicted of, or have charges pending for, crimes posted on the DSHS secretary's list of permanently disqualifying convictions for ESA. You can find the complete list at <http://www.dshs.wa.gov/esa/dccel/policy.shtml>. This includes ~~((your))~~ not having committed or been convicted of child abuse or any crime involving harm to another person; and

(c) Be able to furnish the child in ~~((your))~~ care with a healthy, safe, nurturing, respectful, supportive, and responsive environment.

(2) If we decide it is necessary, you must provide to us any additional reports or information regarding you, any assistants, volunteers, members of your household or any other person having access to the child in care if any of those individuals may be unable to meet the requirements in chapter 388-295 WAC. This could include:

- (a) Sexual deviancy evaluations;

- (b) Substance abuse evaluations;

- (c) Psychiatric evaluations; and

- (d) Medical evaluations.

(3) Any evaluation requested under WAC 388-295-0070 (2)(a) through (d) will be at the expense of the person being evaluated.

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(4) You must give us permission to speak with the evaluator in WAC 388-295-0070 (2)(a) through (d) prior to and after the evaluation.

(5) We investigate staff and volunteers, including accessing criminal histories and law enforcement files.

(6) We can also investigate members of your household and members of your staffs and volunteers households. This includes accessing criminal histories and law enforcement files.

(7) We can investigate any other person who has access to a child in care, including accessing criminal history and law enforcement files.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-0090 When ~~((will))~~ **does the department issue ~~((me an))~~ initial ~~((license))~~ and full licenses, and when are licensing fees due?** We may issue an initial license to centers that have not yet begun providing care, but are accepting application for potential clients.

(1) We may issue an initial license when you can show that you are following the rules regarding the child's health and safety.

(2) We may issue an initial license if you have not yet opened for business, and so are not yet able to show that you are complying with the rules pertaining to:

- (a) Staff to child interactions;
- (b) Group size and staff to child ratios;
- (c) Behavior management and discipline;
- (d) Activity programs;
- (e) Child records and information; and
- (f) Other rules that require us to observe your facility's ability to comply with rules.

(3) You must provide us with a plan to comply with the rules listed in subsection (2)(a) through (f) of this section. We must approve of that plan.

(4) We may issue an initial license to an applicant for a period not to exceed six months, renewable for a period not to exceed two years.

(5) When you have an initial license we:

(a) Evaluate your ability to comply with all rules contained in this chapter ~~((during the period of initial licenser))~~ prior to issuing a full license ~~((-~~

~~((6-We))~~;

(b) May issue a full license to you when you have demonstrated compliance with chapter 388-295 WAC ~~((at any time during the period of initial licenser.~~

~~((7-We))~~; and

(c) Do not issue a full license to you if you do not demonstrate the ability to comply with all rules contained in chapter 388-295 WAC ~~((during the initial licenser))~~.

~~((8))~~ (6) You must pay licensing fees at the time you apply for an initial license and when your license is being renewed.

~~((9))~~ (7) We do not process your application until you have paid the required fee.

~~((10))~~ (8) You can pay licensing fees for:

- (a) A minimum of one year; or
- (b) The entire length of your license.

~~((11))~~ (9) You pay your fee by mailing a check or money order for the required amount to the department of social and health services, according to instructions on the licensing application.

~~((12))~~ (10) If you pay your fee one time per year, you pay the annual rate each time. The annual fee is due thirty days before each annual anniversary date of the license.

~~((13))~~ (11) If you pay for more than one year, the total fee you pay is based on the annual fee rate. For example, if you are licensed for three years and want to pay the licensing fee for the entire period at once, you multiply the annual fee by three years, and pay that amount at the time of your license application or renewal.

~~((14))~~ (12) If there is a change in your facility that places your facility in a higher fee category, we prorate the additional fee amount over the remainder of the license period.

~~((15))~~ (13) If you withdraw your application before we deny or issue a license, we refund one-half of the fee.

~~((16))~~ (14) If there is a change that requires a new license, we refund any fee that remains after your next licensing date. A new license requires a new application and fee.

~~((17))~~ (15) If we deny, revoke, or suspend your license, we do not refund your licensing fee.

~~((18))~~ (16) If you reapply for a license after we revoke or suspend your license, you must pay a new license fee.

~~((19))~~ (17) If you do not pay licensing fees when they are due, we suspend or deny your license.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-0100 When can my license application be denied and when can my license be suspended or revoked? (1) If you do not meet the requirements in chapter 388-295 WAC we ~~((will))~~ deny your license application or suspend or revoke your license.

(2) If more than one person applies for a license or is licensed under this chapter to provide child care at the same facility:

(a) We consider qualifications separately and together.

(b) We deny the license application, or suspend or revoke the license if one person fails to meet the minimum licensing requirements.

(3) We must deny, suspend, or revoke your license if you:

(a) Have been found to have abused, neglected, sexually exploited, abandoned a child or allowed such persons on the premises as defined in chapter 26.44 RCW;

(b) Have ~~((a disqualifying criminal history as listed in chapter 388-06 WAC))~~ been convicted of, or have charges pending for, crimes posted on the DSHS secretary's list of permanently disqualifying convictions for ESA. You can find the complete list at <http://www.dshs.wa.gov/esa/dccel/policy.shtml>;

(c) Have had a license denied, suspended, or revoked for the care of adults or children in this state or any other state. However, if you demonstrate by clear and convincing evidence that you have taken enough corrective action and rehabilitation to justify the public trust to operate the center

according to the rules of this chapter, we ~~((will))~~ consider issuing you a license;

(d) Commit or allow an illegal act to be committed on the licensed premises;

(e) Allow children in your care to be abused, neglected, exploited, or treated with cruelty or indifference;

(f) Use illegal drugs;

(g) Use alcohol to the extent that it interferes with your ability to provide care for the children as required by this chapter;

(h) Refuse to permit an authorized representative of the department, state fire marshal, or state auditor's office with official identification to:

(i) Inspect the premises;

(ii) Access your records related to the centers operation;

or

(iii) Interview staff or children in care.

(i) Refuse to provide us a copy of your:

(i) Photo identification issued by a government entity;

and

(ii) Social Security card that is valid for employment or verification of your employer identification number.

(4) We may deny, suspend, or revoke your license if you:

(a) Try to get or keep a license by making false statements or leaving out important information on your application;

(b) Do not provide enough staff in relation to the numbers, ages, or characteristics of children in care;

(c) Allow a person who is not qualified by training, experience or temperament to care for or be in contact with children in care;

(d) Fail to provide adequate supervision to children in care;

(e) Do not exercise fiscal responsibility and accountability while operating the center;

(f) Knowingly allow an employee or volunteer on the premises that has made false statements on an application for employment or volunteer service;

(g) Refuse to supply additional information requested by us;

(h) Fail to pay fees when due;

(i) Fail to comply with the minimum licensing requirements set forth in this chapter or any provision of chapter 74.15 RCW; or

(j) Provide care on the premises for children of an age different from the ages for which the center is licensed.

(d) Information about the maximum allowable penalty we can impose if you do not come into compliance by the given date;

(e) How you can get technical assistance services provided by us or by others; and

(f) Information about how you can ~~((to))~~ request an extension to the date you must be in compliance, if we decide you have a good reason.

(2) The length of time we establish for you to come into compliance depends on:

(a) The seriousness of the violation;

(b) The potential threat to the health, safety and welfare of children in your care; or

(c) If you have had previous opportunities to correct the deficiency and have not done so.

(3) We use the following criteria to determine if we impose a civil fine based on, but not limited to, these reasons:

(a) The child care center has previously been subject to an enforcement action for the same or similar type of violation for the same statute or rule; or

(b) The child care center has previously been given notice of the same or similar type of violation of the same law or rule; or

(c) The violation represents a potential threat to the health, safety, and/or welfare of children in care.

(4) We can impose a civil fine in addition to or at the same time as other disciplinary actions against a child care center. These include probation, suspension, or other action.

(5) You must pay any civil fines no more than twenty-eight days after you receive the notice that you have a fine. We may specify a later date.

(6) We can waive the fine if your center comes into compliance during the notification period.

(7) You must post the final notice of a civil fine in a noticeable place in your center. The notice must remain posted until we notify you that we have received your payment.

(8) Each violation of a law or rule is a separate violation. We can penalize each violation. We can impose a penalty for each day the violation continues or as a flat amount of the maximum allowable penalty.

(9) If you fail to pay your fine within ten days after the assessment becomes final, we can suspend, revoke, or not renew your license.

(10) You have the right to a hearing when we assess a civil fine under RCW 43.20A.215.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-0110 When can I be fined for not following the minimum licensing requirements? (1) We notify you in writing of our intention to impose a civil fine. We may use personal service, including by our licensor, or certified mail. The letter will include:

(a) A description of the violation and a quote of the law or rule that you have failed to meet;

(b) A statement of what you must do to come into compliance;

(c) The date by which we require compliance;

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-1070 What continuing state training and registry system (STARS) training is required for child care center staff? (1) The director, program supervisor and lead teachers must complete ten clock hours or one college credit of continuing education yearly after completing the initial training required in WAC 388-295-1010.

(2) The director and program supervisor must have five of the ten hours in program management and administration for the first two years in ~~((the director position))~~ their respective positions. Each additional year, three of the ten hours

required must be in program management and administration.

(3) Agencies or organizations that have been approved by the Washington State Training and Registry System (STARS) may offer up to six clock hours of continuing education each year to their employees. The remaining four hours must be obtained from other training offered in the community.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-1110 Who must have Human Immunodeficiency Virus (HIV), Acquired Immunodeficiency Syndrome (AIDS) and bloodborne pathogen training? (1) Every employee who is included in the staff to child ratio must have written proof of HIV/AIDS and bloodborne pathogen training that includes prevention, transmission, treatment and confidentiality issues.

(2) You must comply with applicable Washington Industrial Safety and Health Act (WISHA)/labor and industries safety and health regulations under chapter 296-823 WAC that apply to you.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-2010 What types of play materials, equipment and activities must I provide for the children? You must:

(1) Provide a variety of easily accessible learning and play materials of sufficient quantity to implement the centers program and meet the developmental needs of children in care.

(2) Have a current daily schedule of activities and lesson plans that are designed to meet the children's developmental, cultural, and individual needs. The toys, equipment and schedule must be:

- (a) Specific for each age group of children; and
- (b) Include at least one activity daily for each of the following (you can combine several of the following for one activity):

- (i) Child initiated activity (free play);
- (ii) Staff initiated activity (organized play);
- (iii) Individual choices for play;
- (iv) Creative expression;
- (v) Group activity;
- (vi) Quiet activity;
- (vii) Active activity;
- (viii) Large and small muscle activities; and
- (ix) Indoor and outdoor play.

(3) You must ensure the lesson plan, daily schedule of events, available toys and equipment contains a range of learning experiences to allow each child the opportunity to:

- (a) Gain self-esteem, self-awareness, self-control, and decision-making abilities;
- (b) Develop socially, emotionally, intellectually, and physically;
- (c) Learn about nutrition, health, and personal safety; and
- (d) Experiment, create, and explore.

(4) Post the daily schedule and lesson plan in each room for easy reference by parents and by caregivers;

(5) Keep the daily schedule of events and lesson plans for the past six months on site for inspection;

(6) Maintain staff-to-child ratios and group size during transitions from one activity to another during the day;

(7) Plan for smooth transitions by:

- (a) Establishing familiar routines; and
- (b) Using transitions as a learning experience.

(8) Ensure the center's program affords the child daily opportunities for small and large muscle activities, outdoor play, and exposure to language development and books; and

(9) Afford staff classroom planning time.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-2090 What are the required staff to child ratios and maximum group sizes for my center? (1) You must ensure the required staff to child ratios are met at all times when children are in your care. In centers licensed for thirteen or more children, the licensee must conduct group activities within the group size and staff to child ratio requirements, according to the age of the children:

If the age of the children is:	Then the staff to child ratio is:	And the maximum group size is:
(a) One month, through 11 months (infant)	1:4	8
(b) Twelve months through 29 months (toddler)	1:7	14
(c) Thirty months through 5 years (preschooler)	1:10	20
(d) Five years ((and)) through 12 years (school-age child)	1:15	30

(2) In centers licensed for twelve or fewer children, you may combine children of different age groups, provided you:

- (a) Maintain the staff-to-child ratio designated for the youngest child in the mixed group; and
- (b) Provide a separate care area when four or more infants are in care. In such case the maximum group size ~~((shall be))~~ is eight infants.

(3) You must conduct activities for each group in a specific room or other defined space within a larger area.

(4) You must ensure each group is under the direct supervision of a qualified staff person or team of staff involved in directing the child's activities.

(5) We may approve reasonable variations to group size limitations if you maintain required staff-to-child ratios, dependent on:

- (a) Staff qualifications;
- (b) Program structure; and
- (c) Useable square footage.

(6) After consulting with the child's parent, you may place the individual child in a different age group and serve the child within the different age group's required staff-to-child ratio based on the child's:

- (a) Developmental level; and
- (b) Individual needs.

(7) You may combine children of different age groups for no more than one hour, provided you maintain the staff-

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to-child ratio and group size designated for the youngest child in the mixed group.

(8) In centers licensed for thirteen or more children, you may group ambulatory children between one year and two years of age with older children, provided:

(a) The total number of children in the group does not exceed twelve; and

(b) Two staff are assigned to the group.

(9) You must ensure the staff person providing direct care and supervision of the child is free of other duties at the time of care.

(10) You must maintain required staff-to-child ratios indoors, outdoors, on field trips, and during rest periods. During rest periods, staff may be involved in other activities if:

(a) Staff remain on the premises; and

(b) Each child is within continuous visual and auditory range of a staff person.

(11) You must ensure staff:

(a) Attend to the group of children at all times; and

(b) Keep each child (including school age children) within continuous visual and auditory range of center staff. Toilet trained children using the toilet must be within auditory range of a center staff member.

(12) When only one staff person is present, you must ensure a second staff person is readily available in case of emergency.

(13) When only one caregiver is required to meet the staff to child ratio, you must be sure there is coverage for emergencies to meet both ratios and worker qualifications by either:

(a) Posting the name, address, and telephone number of a person who meets the qualifications of at least a lead teacher, who has agreed in writing to be available to provide emergency relief and who can respond immediately; or

(b) Having a second person that meets the qualifications of at least a lead teacher on the premises who is not needed for the staff to child ratio, but is available to provide emergency relief.

(14) Service staff, such as cooks, janitors, or bus drivers, ~~((must not))~~ may be counted in the required staff to child ratio ~~((unless))~~ if they ~~((~~

~~((a))~~ meet all child care worker qualifications ~~((; and~~

~~((b) Are acting as a child care provider and are giving full attention to the children)).~~

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-2100 What are the exceptions to group sizes and staff to child ratios? (1) If the center is licensed for twelve or fewer children, you may combine children (excluding infants) of different age groups if you:

(a) Maintain the staff to child ratio for the youngest child in the mixed group; and

(b) Provide a separate area when infants are in care.

(2) You must conduct activities for each group in a specific room or other specifically defined space within a larger area;

(3) Excluding infants, you may place an individual child in a different age group and serve the child within the different age group's required staff to child ratio, based on the child's individual needs and developmental level. You must consult with the child's parent prior to making the change;

(4) You may combine children of different age groups for periods of no more than one ~~((hours))~~ hour at the beginning and end of the day provided you maintain the staff to child ratio and group size designated for the youngest child in the mixed group;

(5) You may have nine infants in a classroom with appropriate square footage if you maintain a ratio of one staff to three infants; and

(6) You can request a waiver to group size limitations. If we approve variations to group size limitations, you must maintain the required staff-to-child ratios. Our approval will depend on but is not limited to:

(a) Staff qualifications;

(b) Program structure;

(c) Square footage; and

(d) Lower staff to child ratios.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-3010 What kind of health policies and procedures must I have? (1) You must have written health policies and procedures that are:

(a) Written in a clear and easily understood manner;

(b) Shared with all new staff during orientation;

(c) Posted for staff and families to review; and

(d) Reviewed ~~((and))~~, signed and dated by a physician, a physician's assistant or registered nurse when you change your policies and procedures or type of care that you provide, or at least every three years when you are due for ~~((re-licen-
se))~~ re-licensing. (For example, if you go from caring for children from twelve months and older to caring for infants, you must update your health policies and procedures and have them reviewed and signed.)

(2) Your health policies and procedures must have information on how you plan to:

(a) Provide general cleaning of areas including but not limited to bathrooms, floors, walls, and doorknobs;

(b) Clean and sanitize areas including but not limited to food contact surfaces, kitchen equipment, diapering areas, toys, toileting equipment and areas, equipment that might be shared with several children such as sleep mats, cribs or high chairs;

(c) Prevent, manage and report communicable diseases;

(d) Handle minor injuries such as nosebleeds, scrapes and bruises;

(e) Provide first aid;

(f) Screen children daily for illnesses;

(g) Notify parents that children have been exposed to infectious diseases and parasites;

(h) Handle minor illnesses;

(i) Handle major injuries and medical emergencies that require emergency medical treatment or hospitalization;

(j) Manage medication;

(k) Assist with handwashing and general hygiene including diapering and toileting;

(l) Handle food;

(m) Provide nutritious meals and snacks;

(n) Respond during any disasters;

(o) Care for children that may have special needs;

(p) Care for infants and obtain infant nurse consultation (if licensed for four or more infants); and

(q) Place infants to sleep on their backs to reduce the risk of Sudden Infant Death Syndrome (SIDS).

(3) Your health policies and procedures must have information on when you plan to:

(a) Require ill children to stay home and for how long;

(b) Allow the ill child to return; and

(c) Call a parent to pick up their child and how you will care for the child until the parent arrives.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-4010 At what age can we accept infants into care? You must not accept into care an infant (~~into care that~~) who is less than one month of age.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-4100 What sleep equipment do I need for infants? (1) You must not put infants to sleep (~~infants~~) in infant or car seats.

(2) You must provide each infant with a single-level crib (stacking cribs must not be used), infant bed, bassinet or playpen for napping until you and the parent agree that the child can safely use a mat, cot or other approved sleeping equipment.

(3) Cribs, if used, must:

(a) Be sturdy and made of wood, metal or plastic with a secure latching device;

(b) Be constructed with vertical slats that are no more than two and three-eighths inches apart or be solid plexiglas;

(c) Have corner posts that extend less than one-sixteenth of an inch above the sides and railing;

(d) Not have cutout designs on the end panels;

(e) Have a rail height and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position of at least nine inches;

(f) Have a rail height and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position of at least twenty-six inches; and

(g) Not use crib bumper pads, stuffed toys, quilts, lamb-skins, and pillows in cribs, infant beds, bassinets or playpens.

(4) You must provide a crib, infant bed, playpen or bassinet mattress that is:

(a) Snug fitting and touches each side of the crib to prevent the infant from becoming entrapped between the mattress and crib side rails;

(b) Waterproof; and

(c) Easily cleaned and sanitized, without tears or tape.

(5) To allow walking room between cribs and reduce the spread of germs you must:

(a) Space cribs a minimum of thirty inches apart. You may place cribs end to end if you provide a barrier. If you use barriers, staff must be able to observe and have immediate access to each child.

(b) Provide a moisture resistant and easily cleanable solid barrier on the side or end adjacent to another crib.

(6) You must provide:

(a) An appropriate fitting sheet or cover for the sleeping surface; and

(b) A clean light weight blanket or suitable cover for the child.

(7) You must launder bedding at least weekly and more often if it becomes soiled.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-5030 What do I need to include in my disaster plan? (1) You must develop and implement a disaster plan designed for response to fire, natural disasters and other emergencies. The plan must address what you are going to do if there is a disaster and parents are not able to get to their children for two or three days.

(2) The fire plan must follow the requirements in chapter 212-12 WAC or the state fire marshal requirements.

(3) In areas where local emergency plans are in place, such as school district emergency plan, centers may follow those procedures and actions in developing their own plan.

(4) The disaster plan must be:

(a) Specific to the child care center;

(b) Relevant to the types of disasters that might occur in the location of your child care center;

(c) Able to be implemented during hours of operation; and

(d) Posted in every classroom for easy access by parents and staff.

(5) Your disaster plan must identify:

(a) The designated position of the person (example: director, lead teacher, program supervisor, etc.) who is responsible for each part of the plan;

(b) Procedures for accounting for all children and staff during and after the emergency;

(c) How you evacuate (~~their~~) the premises, if necessary, and the meeting location after evacuation;

(d) How you care for children with special needs during and after the disaster;

(e) How you provide for children until parents are able to pick them up;

(f) How you contact parents or how parents can contact the child care center; and

(g) Transportation arrangements, if necessary.

(6) Your written records must include a disaster plan, with signatures and dates of persons completing the disaster plan review on-site. The disaster plan must be read, reviewed and signed by:

(a) The director(,) and staff annually; and

(b) Parents (~~must read, review and sign the disaster plan annually. Your written records must include signatures and~~

dates of persons completing the annual disaster plan review on-site)) when children are enrolled.

(7) In addition to the requirements for fire drills and training set forth by the state fire marshal in chapter 212-12 WAC, you must:

(a) Document staff education and training of the disaster plan;

(b) Conduct and document quarterly disaster drills for children and staff (you do not have to conduct a drill quarterly for each potential disaster - just one drill per quarter);

(c) Keep written documentation of the drills on-site; and

(d) Debrief and evaluate the plan in writing after each disaster incident or drill.

(8) You must keep the twelve month record indicating the date and time you conducted the required monthly fire evacuation drills on-site for the current year plus the previous calendar year.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-5150 Are there ((ventilation and)) temperature requirements for my facility? (1) You must maintain all rooms used by children at temperature of:

(a) Sixty-eight degrees Fahrenheit to 75 degrees Fahrenheit during winter months; and

(b) Sixty-eight degrees Fahrenheit to 82 degrees Fahrenheit during the summer months.

(2) In addition, you must:

(a) Equip the room or building with a mechanical air cooling system or equivalent when the inside temperature of child-occupied areas exceeds 82 degrees Fahrenheit. This includes but is not limited to, swamp coolers, fans, air conditioners, or drip systems;

(b) Not take children outdoors during extremes temperatures that put children at risk for physical harm.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-7010 What information must be kept in the child's individual file? (1) You must keep current organized confidential records and information about each child in care on the premises. You must make sure that each child's record contains, at a minimum:

(a) Completed enrollment application signed by the parent;

(b) Name, birth date, dates of enrollment and termination, and other identifying information;

(c) Name, address, and home and business telephone number of the parent and other person to be contacted in case of an emergency;

(d) Health history;

(e) Individual plan of care when needed for chronic health conditions and life threatening medical conditions;

(f) Written consent from the parent for you to seek and approve medical care in an emergency situation, a court order waiving the right of informed consent, or parent's alternate plans for emergency medical and surgical care if the parent can not be reached;

(g) Information on how to contact the parents, especially in emergencies;

(h) Instructions from parent or health care providers related to medications, specific food or feeding requirements, allergies, treatments, and special equipment or health care needs if necessary;

(i) Written records of any illness or injury that occurs during child care hours and the treatment provided; and

(j) Written records of any medications given while the child is at child care.

(2) You must include the following authorizations in each child's record:

(a) Name, address, and telephone number of the person authorized to remove the child from the center;

(b) Written parental consent for transportation to and from school; and

(c) Written parental consent for transportation provided by the center to and from field trips, including field trip location, date of trip, departure and arrival times and any other additional information the parent may need to be advised of.

(3) You can use any health history form you choose as long as it includes:

(a) The date of the child's last physical exam or the date the child was last seen by a health care provider for reasons other than immunizations;

(b) Allergies, expected symptoms, and method of treatment if necessary;

(c) Health and developmental concerns or issues;

(d) Any life threatening medical condition that requires an individual health plan;

(e) A list of current medications used by the child;

(f) Name, address and phone number of the child's health care provider; and

(g) Name, address and phone number of the child's dentist, if the child has a dentist.

(4) The individual records, including the certificate of immunization status, must be kept on the premises:

(a) For each child currently in care; and

(b) For one year after the child leaves your care.

~~((5) Attendance records, sign in and out records and invoices for state paid children must be kept for five years after the child leaves your care.))~~

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-7040 Am I required to keep licensing information available on-site for parents to review? You must keep a file on-site containing the following licensing information:

(1) Copies of the most recent child care center checklists for licensing renewal and facility licensing compliance agreement for any deficiencies noted; and

(2) Copies of the most recent child care centers monitoring checklist and facility licensing compliance agreement for ~~((and))~~ any deficiencies noted.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-7050 What personnel records and policies must I have? (1) Each employee and volunteer who has unsupervised access to a child in care must complete the following forms on or before their date of hire:

(a) An application for employment on a form prescribed by us, or on a comparable form approved by the department; and

(b) A criminal history and background inquiry form.

(2) You must submit the criminal history and background inquiry form to us within seven calendar days of the employee's first day of work. The form authorizes a criminal history background inquiry for that person.

(3) Until the criminal background inquiry results are returned and show the employee to not be disqualified, you must not leave the employee ((is not to be)) unsupervised with the children.

(4) We discuss the information on the criminal history background inquiry form with you, the director, or other person responsible for the operation of the center, such as a human resources professional, if applicable.

(5) If you employ five or more people you must have written personnel policies. These policies must describe staff benefits, if any, and duties and qualifications of staff.

(6) You must maintain a system of record keeping for personnel. In addition to the other requirements in this chapter, you must keep the following information on file on the premises for yourself, each staff person and volunteer:

(a) An employment application, including work and education history;

~~(b) ((A photo copy of the Social Security card that is valid for employment or verification of your employer identification number (EIN);~~

~~(c) A photo copy of a photo identification issued by a government entity;~~

~~(d))~~ Documentation that a criminal history and background inquiry form was submitted;

~~((e))~~ (c) Written documentation of trainings and meetings such as but not limited to:

(i) Orientation;

(ii) On-going trainings;

(iii) Bloodborne pathogen training (including HIV/AIDS);

(iv) CPR/first aid;

(v) Food handler's cards (if applicable);

(vi) STARS;

(vii) Staff meetings; and

(viii) Child abuse and neglect.

~~((f))~~ (d) Documentation of the results of Tuberculosis (TB) testing by the Mantoux skin test prior to starting work.

(7) You must keep the following information on file for the owner of the facility:

(a) If the center is solely owned by you:

(i) A photocopy of your social Security card that is valid for employment or verification of your employer identification number (EIN); and

(ii) A photocopy of your photo identification issued by a government entity.

(b) If the center is owned by a corporation, verification of the corporation's EIN.

(8) Training documentation must include a certificate, card, or form with a copy placed in each individual employee's file that contains the:

(a) Topic presented;

(b) Number of clock hours;

(c) Date and names of persons attending; and

(d) Signature and organization of the person conducting the training.

WSR 04-10-026

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed April 27, 2004, 1:24 p.m., effective August 1, 2004]

Date of Adoption: April 20, 2004.

Purpose: Chapter 296-802 WAC, Access to records; chapter 296-37 WAC, Safety standards for diving operations; chapter 296-62 WAC, General occupational health standards; chapter 296-155 WAC, Safety standards for construction workers; chapter 296-305 WAC, Safety standards for fire fighters; and chapter 296-800 WAC, Safety and health core rules. The department rewrote the requirements relating to access to records for clarity and ease of use. This proposal will move access to records requirements from chapter 296-62 WAC, General occupational health standards, to new chapter 296-802 WAC, Access to records.

Citation of Existing Rules Affected by this Order: Amending WAC 296-37-575 Recordkeeping requirements, 296-62-07314 Medical surveillance, 296-62-07329 Vinyl chloride, 296-62-07336 Acrylonitrile, 296-62-07342 1, 2-Dibromo 3, Chloropropane, 296-62-07375 Recordkeeping, 296-62-07427 Recordkeeping, 296-62-07460 Butadiene, 296-62-07470 Methylene chloride, 296-62-07521 Lead, 296-62-07540 Formaldehyde, 296-62-07631 Recordkeeping, 296-62-07727 Recordkeeping, 296-62-09041 Recordkeeping, 296-62-14533 Cotton dust, 296-62-20023 Recordkeeping, 296-62-40019 Recordkeeping, 296-155-17331 Recordkeeping, 296-155-174 Cadmium, 296-305-02501 Emergency medical protection, 296-800-17005 Develop, implement, maintain and make available a written chemical hazard communication program and 296-800-180 Material safety data sheets as exposure records; and repealing WAC 296-62-052 Access to employee exposure and medical records, 296-62-05201 Purpose, 296-62-05203 Scope and application, 296-62-05205 Definitions, 296-62-05207 Preservation of records, 296-62-05209 Access to records, 296-62-05213 Employee information, 296-62-05215 Transfer of records, 296-62-05217 Appendices, 296-62-05219 Effective date, 296-62-05221 Appendix A—Sample authorization letter for the release of employee medical record information to a designated representative, and 296-62-05223 Appendix B—Availability of NIOSH registry of toxic effects of chemical substances (RTECS).

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Adopted under notice filed as WSR 03-23-101 on November 18, 2003.

Changes Other than Editing from Proposed to Adopted Version: As a result of written and oral comments received, the following sections are being changed as indicated below:

CHANGES TO THE RULES (Proposed rule versus rule actually adopted):

Chapter 296-802 WAC, Access to records.

WAC 296-802-20010 Keep employee exposure records.

- Added a note to the section to clarify that exposure to substances that were purchased and used as consumer products was exempt from this section.
- Revised wording to give options of how the record of the identity of toxic substances could be kept.

WAC 296-802-40005 Provide access to employee medical records, exposure records, and analyses.

- Added a bullet to the note to clarify that designated representatives must have written authorization from employees.

WAC 296-802-40010 Provide employee medical records.

- Rewrote note to clarify information.

WAC 296-802-40015 Provide employee exposure records.

- Added bullet for clarification.

WAC 296-802-60005 Transfer or dispose of employee medical and exposure records when you go out of business.

- Corrected errors in information in the table.

WAC 296-802-900 Definitions.

- Corrected definition of trade secrets.

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 17, Amended 25, Repealed 12.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 17, Amended 25, Repealed 12.

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 17, Amended 25, Repealed 12.

Effective Date of Rule: August 1, 2004.

April 27, 2004

Paul Trause

Director

Chapter 296-802 WAC

EMPLOYEE MEDICAL AND EXPOSURE RECORDS

NEW SECTION

WAC 296-802-100 Scope. The purpose of this chapter is to provide employees and their designated representatives the right to access relevant medical and exposure records. It also describes the procedures WISHA will follow when accessing confidential medical information.

This chapter applies to:

- All employers who make, maintain, contract for, or have access to records relating to employee exposure to toxic substances or harmful physical agents, whether or not they are required by specific occupational safety and health rules. These records include:

- Employee medical records.
- Employee exposure records.
- Analyses of employee medical or exposure records.

IMPORTANT:

- The requirements of this chapter do not affect any other legal and ethical obligations the employer has to keep employee medical information confidential.

Exemption: Agricultural operations covered by chapter 296-307 WAC, Safety standards for agriculture, are exempt from the requirements of this chapter.

Reference:

- Requirements for material safety data sheets are found in WAC 296-800-180, Material safety data sheets (MSDSs) as exposure records.
- Additional information about accessing medical information can be found in chapter 70.02 RCW, Medical record—Health care information access and disclosure.

NEW SECTION

WAC 296-802-200 Keep employee medical and exposure records. Summary:

Your responsibility:

To keep employee medical records, exposure records, and analyses.

IMPORTANT:

- Physicians or other health care personnel may keep medical records for you.

- You may keep information in any form as long as the information is retrievable.

- Unless a specific occupational safety and health rule provides a different time period, you must keep records for the period required by this chapter.

You must:

Keep employee medical records

WAC 296-802-20005.

Keep employee exposure records

WAC 296-802-20010.

Keep analyses of medical or exposure records

WAC 296-802-20015.

NEW SECTION

WAC 296-802-20005 Keep employee medical records.

You must:

- Keep medical records for at least as long as the employee works for you plus thirty years.

Exemption:

- If an employee works for you for less than one year and you provide the records to them when they leave employment, you do not have to keep their medical records.
- You do not need to keep the following records for any specific period:
 - Health insurance claims records maintained separately from your medical program and records.
 - Records of first-aid treatment, if made on-site by a nonphysician and if kept separately from the employee medical record.

You must:

- Keep chest X-ray films in their original state, such as film or electronic image.

NEW SECTION

WAC 296-802-20010 Keep employee exposure records.

IMPORTANT:

You do not need to keep employee exposure records for exposure to toxic substances when they are:

- Purchased as a consumer product;

AND

- Used in the same manner and frequency that a consumer would use them.

You must:

- Keep employee exposure records for at least thirty years from the date the exposure record was made. These records include the following:
 - The sampling results.
 - The collection methodology (sampling plan).
 - A description of the analytical and mathematical methods used.
 - Background data to environmental monitoring or measuring, such as laboratory reports and work sheets.

Note: You do not have to keep the actual background data for more than one year if you keep a summary of the data for thirty years.

You must:

Keep a record, for at least thirty years, of the identity of any toxic substance used in your workplace. Include:

- Where the substance was used.
- When the substance was used.

Note: The identity may be retained either as part of the exposure record or as a separate record.

NEW SECTION

WAC 296-802-20015 Keep analyses of medical or exposure records.

You must:

- Keep each analysis using medical or exposure records for at least thirty years.

NEW SECTION

WAC 296-802-300 Inform employees about records.

Summary:

Your responsibility:

To inform current employees about their medical and exposure records.

You must:

Inform current employees about their medical and exposure records

WAC 296-802-30005.

NEW SECTION

WAC 296-802-30005 Inform current employees about their medical and exposure records.

You must:

• Inform employees covered by this rule about medical and exposure records when they first start employment, and then at least annually. Include the following information:

- Where the records are located.
- Who is responsible for the records.
- Who to contact for access to the records.
- Their rights to copy the records.

• Make copies of this rule available upon request to employees.

• Distribute to your employees any information about this chapter that you are given by the department.

Note: Some of the ways to inform employees that you have medical and exposure records include e-mail, letters, posters, or classroom training.

NEW SECTION

WAC 296-802-400 Provide employees access to records and analyses.

Summary:

Your Responsibility:

To provide employees access to records and analyses.

IMPORTANT:

• Employees or their designated representatives can use the collective bargaining process to gain access to records beyond what is required by this chapter.

• The requirements of this section apply to both current and former employees.

You must:

Provide access to employee medical records, exposure records, and analyses

WAC 296-802-40005.

Provide employee medical records

WAC 296-802-40010.

Provide employee exposure records

WAC 296-802-40015.

NEW SECTION

WAC 296-802-40005 Provide access to employee medical records, exposure records, and analyses.

You must:

• Provide employees and their designated representatives access to requested records and analyses as follows:

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- In a reasonable time, place, and manner.
- Within fifteen working days.

■ If there is a delay, inform the requesting party of the reason and the earliest date the record will be made available.

Exemption: You do not have to provide analyses that are currently being worked on or have not been reported to you.

You must:

• Provide a copy of the record, when requested, to the employee or designated representative without cost. This may be done by one of the following methods:

- Make a copy for the requestor.
- Make the record and a copier available.
- Loan the record to the employee or designated representative for a reasonable time, so a copy can be made.

Note: • Access to employee medical records will be provided to designated representatives only when the employee provides specific written authorization. See WAC 296-802-40010.

• To locate or identify the records being requested, you may request, from employees or their designated representatives, only known and necessary information. For example, you may request dates and location of where the employee worked during the time period in question.

• You are not required to perform an analysis of medical or exposure records at the request of an employee or designated representative.

• When there is an original X ray you may restrict access to an on-site examination or make other arrangements for a temporary loan.

• When a record has been provided without cost to an employee or designated representative, and they request additional copies, you may charge a reasonable, nondiscriminatory administrative cost. For example, you may charge search and copying expenses but not overhead expenses.

- A reasonable fee for copying, as defined in chapter 70.02 RCW, should not exceed sixty-five cents per page for the first thirty pages and fifteen cents per page for all additional pages. In addition, a clerical fee for searching and handling may be charged not to exceed fifteen dollars.

NEW SECTION

WAC 296-802-40010 Provide employee medical records.

You must:

• Make sure employees have access, upon request, to their own medical records.

Note: • A physician, nurse, or other responsible health care professional who maintains employee medical records may delete from requested medical records the identity of individuals who provided confidential information regarding an employee's health status.

• If a physician represents you and believes that providing an employee access to their specific diagnosis of a terminal illness or psychiatric condition could harm the employee, they may request that the record be released only to a designated representative having specific written authorization.

• The physician representing you may recommend that the employee or designated representative do one of the following:

- Consult with the physician to review and discuss requested records.
- Accept a summary of facts and opinions instead of requested records.
- Accept the release of requested records only to another physician or designated representative.

You must:

• Make sure that individual employees are not identified in any portion of analyses that report the contents of employee medical records.

- Identifying information includes both direct identifiers such as name, address, Social Security number, and payroll number, and other information that could reasonably be used in the circumstances to identify individual employees such as exact age, height, or weight.

Note: If it is not feasible to remove personal identifying information from a document, you do not have to provide the portions where personal identifiers cannot be moved.

You must:

• Provide designated representatives access to employee medical records when the employee provides specific written authorization.

- If the written authorization does not contain an expiration date, it expires ninety days after it is signed.

- Release only medical information that exists on the date of the written employee consent, unless the consent specifically states that future information may be released.

Note: An employee may revoke the specific written authorization in writing at any time.

NEW SECTION

WAC 296-802-40015 Provide employee exposure records.

You must:

• Provide requested exposure records that show the type and amount of toxic substances or harmful physical agents to which the employee is or has been exposed, for an employee's current or transfer work assignment.

- In the absence of records specific to the employee, exposure records of other employees with the same job duties or related working conditions will be used to the extent necessary to respond to the request.

• Provide a designated representative, who does not have specific employee consent, access to employee exposure records only when a reasonable written request is made that includes the following:

- The records requested.
- The occupational health need for accessing these records.

Note: Trade secret information may be withheld from exposure records. See chapter 296-816 WAC, Protecting trade secrets, for more information.

NEW SECTION

WAC 296-802-500 Respond to medical record access orders. Summary:

IMPORTANT:

This section describes how WISHA accesses employee medical records and your related rights and obligations.

Your responsibility:

To post written WISHA access orders.

You must:

Respond to WISHA access orders for employee medical records

WAC 296-802-50005.

Content of WISHA written access orders
WAC 296-802-50010.

NEW SECTION

WAC 296-802-50005 Respond to WISHA access orders for employee medical records.

You must:

- Promptly respond to a written access order you receive from WISHA for personally identifiable employee medical information.
- Post a copy of the cover letter you receive from WISHA for fifteen working days where employees can easily review it.

NEW SECTION

WAC 296-802-50010 Content of WISHA written access orders. A written access order from WISHA will contain at least the following information:

- The identity of employees whose medical information is being requested.
 - This may be either by name, job classification, time clock number, department, or similar identifier.
- A description of the medical information that will be examined.
 - The purpose for seeking access to this medical information.
 - Any additional evidence supporting access to the medical information.
 - A step-by-step description of how the records will be obtained, copied, reviewed, and stored, specifying the following:
 - Who will be in charge of on-site review of the records, or who will take possession of the records for off-site review.
 - Where the records will be reviewed.
 - When review or receipt of the records is to take place.
 - If the records are to be reviewed on-site, what type of information will be copied and removed off-site.
 - How personal identifiers will be separated from the medical information and how long this information will be kept.
- The principal WISHA investigator's full name, business address and telephone number.
- The full names and titles of all individuals that will review the records.
- The WISHA industrial hygiene program manager's full name, business address and telephone number.

Note: WISHA does not need a written access order for the following types of employee medical records:

- Medical records and analyses that do not contain personal identification information.
- Examination of records to verify compliance with the medical surveillance requirements of another occupational health and safety rule.
- The following records when required by another occupational health and safety rule:
 - Medical opinions.
 - Biological monitoring results.
 - Results of medical examinations and laboratory tests.

NEW SECTION

WAC 296-802-600 Transfer and disposal of employee records. Summary:

Your responsibility:

To transfer or dispose of employee medical and exposure records when you go out of business.

You must:

Transfer or dispose of employee medical and exposure records when you go out of business
WAC 296-802-60005.

NEW SECTION

WAC 296-802-60005 Transfer or dispose of employee medical and exposure records when you go out of business.

You must:

• Follow the requirements in Table 1 when transferring or disposing of records.

**Table 1
Transfer or Disposal of Records**

If	Then
Another employer continues the business when you go out of business	Transfer all employee records to that employer
No other employer continues the business when you go out of business	Do the following: – Notify affected current employees of their rights of access to records at least three months prior to the termination of your business AND EITHER: – Notify WISHA in writing of your impending decision to dispose of records at least three months prior to your planned disposal; OR – Transfer the records to WISHA, if required by a specific WISHA safety and health rule
You intend to dispose of records after the retention period has expired Note: If you dispose of records on a regular basis, you may notify WISHA once annually, at least three months before your first disposal, with the	• Do the following: – Notify WISHA in writing of your impending decision to dispose of records at least three months prior to your planned disposal; OR

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Table 1
Transfer or Disposal of Records

If	Then
schedule of your planned disposals for the year	– Transfer the records to WISHA, if required by a specific WISHA safety and health rule

Note: The address to notify WISHA in writing is:
Department of Labor & Industries/WISHA Services
Attention: Medical Records
P.O. Box 44610
Olympia, WA 98504-4610

NEW SECTION

WAC 296-802-900 Definitions.

Access

The right and opportunity to examine and copy an employee record.

Analysis using exposure or medical records

• Any collection of data or a statistical study based on either:
– Information from individual employee exposure or medical records;

OR

– Information collected from health insurance claim records.

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

Means a record containing any of the following kinds of 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 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.

Employee medical record

A record concerning the health status of an employee which is made or maintained by a physician, nurse, or other health care personnel, or technician, including:

- Medical and employment questionnaires or histories (including job description and occupational exposures).
- The results of medical examinations (preemployment, preassignment, periodic, or episodic) and laboratory tests (including chest and other X-ray examinations taken for purposes of establishing a baseline or detecting occupational illness, and all biological monitoring not defined as an "employee exposure record").
- Medical opinions, diagnoses, progress notes, and recommendations.
- First-aid records.
- Descriptions of treatments and prescriptions.
- Employee medical complaints.

An employee medical record does **not** include any of these types of medical information:

- Physical specimens (for example, blood or urine samples), which are routinely discarded as a part of normal medical practice.
- Records concerning health insurance claims if maintained separately from the employer's medical program and its records, and not accessible to the employer by employee name or other direct personal identifier, such as Social Security number or payroll number.
- Records created solely in preparation for litigation that are privileged from discovery under applicable rules of procedure or evidence.
- Records concerning voluntary employee assistance programs, such as alcohol, drug abuse, or personal counseling programs, if maintained separately from the employer's medical program and records.

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.

First aid

Any of the following are considered first aid:

- Using a nonprescription medication at nonprescription strength.
- Administering tetanus immunizations. Other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment.
- Cleaning, flushing or soaking wounds on the surface of the skin.
 - Using wound coverings such as bandages, Band-Aids™, or gauze pads.
 - Using butterfly bandages or Steri-Strips™.
 - Using hot or cold therapy.
 - Using any nonrigid means of support, such as elastic bandages, wraps, or nonrigid back belts.
 - Using temporary immobilization devices, such as splints, slings, neck collars, or back boards, while transporting an accident victim.
- Drilling a fingernail or toenail to relieve pressure.
- Draining fluid from a blister.
- Using eye patches.

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- Removing foreign bodies from the eye using only irrigation or a cotton swab.
- Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means.

- Using finger guards.
- Using massages.
- Drinking fluids for relief of heat stress.

Harmful physical agent

Any physical stress such as noise, vibration, repetitive motion, heat, cold, ionizing and nonionizing radiation, and hypo- or hyperbaric pressure which:

- Is listed in the latest edition of the National Institute for Occupational Safety and Health (NIOSH) *Registry of Toxic Effects of Chemical Substances* (RTECS);

OR

- Has shown positive evidence of an acute or chronic health hazard in testing conducted by, or known to, the employer;

OR

- Is the subject of a material safety data sheet kept by or known to the employer showing that the material may pose a hazard to human health.

Health professional

A physician, occupational health nurse, industrial hygienist, toxicologist, or epidemiologist, who provides 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 other information that reveals the precise chemical designation of the substance, such as:

- Chemical name;

OR

- Chemical abstracts service (CAS) registry number.

Specific written authorization

A written authorization containing at least the following:

- The name and signature of the employee authorizing the release of medical information.
- The date of the written authorization.
- The name of the individual or organization that is authorized to release the medical information.
- The name of the designated representative (individual or organization) that is authorized to receive the information.
- A general description of the medical information that is authorized to be released.
- A general description of the purpose for the release of the medical information.
- A date or condition upon which the written authorization will expire.

Toxic substance

Any chemical substance or biological agent, such as bacteria, virus, and fungus, which is any of the following:

- Listed in the latest edition of the National Institute for Occupational Safety and Health (NIOSH) *Registry of Toxic Effects of Chemical Substances* (RTECS).

- Shows positive evidence of an acute or chronic health hazard in testing conducted by, or known to, the employer.

- The subject of a material safety data sheet kept by or known to the employer showing the material may pose a hazard to human health.

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.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-17005 Develop, implement, maintain, and make available a written Chemical Hazard Communication Program.

You must:

- Develop, implement, maintain, and make available a written Chemical Hazard Communication Program specific to your workplace. The Chemical Hazard Communication Program must, at a minimum, include:

- A list of hazardous chemicals known to be present in your workplace.

- Procedures for making sure all containers are properly labeled.

- A description of how you are going to obtain and maintain your material safety data sheets (MSDSs).

- A description of how you are going to train and inform your employees about hazardous chemicals in their workplace.

- A description of how you are going to inform your employees about:

- ◆ Chemical hazards used during nonroutine tasks.

- ◆ The hazards associated with chemicals contained in unlabeled pipes in employee work areas.

You must:

- Make your Chemical Hazard Communication Program available to your employees.

Note:

- You must make the written Chemical Hazard Communication Program available, upon request, to employees, their designated representatives, the department and NIOSH, in accordance with the requirements of ((Access to records, WAC 296-62-052)) chapter 296-802 WAC. Employee medical and exposure records.

- Where employees must travel between workplaces during a workshift, that is, if their work is carried out at more than one geographical location, the written Chemical Hazard Communication Program may be kept at the primary workplace facility.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-180 Material safety data sheets (MSDSs) as exposure records. Important: Exposure records contain information about employees' exposure to toxic substances or harmful physical agents. Material safety data sheets (MSDSs) are one type of exposure record. The preservation of and access to exposure records is necessary to improve detection, treatment, and prevention of occupational diseases.

This rule supplements the chemical hazard communication rule by extending access to MSDSs, or their alternative, after employment and after the hazardous chemical is no longer used in the workplace. Your responsibility:

To preserve and provide access to material safety data sheets (MSDSs) or their alternative as exposure records.

You must:

Preserve exposure records for at least 30 years.

WAC 296-800-18005.

Inform current employees of exposure records.

WAC 296-800-18010.

Provide access to exposure records.

WAC 296-800-18015.

Transfer records when ceasing to do business.

WAC 296-800-18020.

Note: • ((Access to records, WAC 296-62-052)) Employee medical and exposure records, chapter 296-802 WAC, requires the preservation and access to other exposure records including records such as workplace monitoring data and biological monitoring results and medical records. If you keep these other types of employee exposure records or employee medical records, you must comply with these additional requirements.

- This rule applies to every employer who maintains, makes, contracts for, or has access to MSDSs for chemicals used in their workplace.
- The specific identity of a toxic substance may be withheld from a disclosable record if it is a verifiable trade secret. For trade secret requirements see ((WAC 296-62-053)) chapter 296-816 WAC.

AMENDATORY SECTION (Amending WSR 03-09-110, filed 4/22/03, effective 8/1/03)

WAC 296-305-02501 Emergency medical protection.

(1) Fire fighters who perform emergency medical care or otherwise may be exposed to blood or other body fluids shall be provided with emergency medical face protection devices, and emergency medical garments that meet the applicable requirements of NAPA, Standard on Protective Clothing for Emergency Medical Operations 1999, 1992 edition.

Note: Prior to purchase, fire departments should request the technical data package required in NAPA 1999, 1992 edition, in order to compare glove and garment performance data. Departments reviewing these packages should ensure a relative ranking of the performance data before they purchase in order to provide the best performance of the EMS personal protective clothing.

(2) Fire fighters shall don emergency medical gloves prior to initiating any emergency patient care.

(3) Fire fighters shall don emergency medical garments and emergency medical face protection devices prior to any

patient care during which splashes of body fluids can occur such as situations involving spurting blood or childbirth.

Note: Fire fighter turnout gear and gloves with vapor barriers may be used in lieu of emergency medical gloves and garments.

(4) Contaminated emergency medical garments, emergency medical face protection, gloves, devices, and emergency medical gloves shall be cleaned and disinfected, or disposed of, in accordance with chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.

(5) Fire departments shall establish a designated infection (exposure) control officer who shall ensure that an adequate infection control plan is developed and all personnel are trained and supervised on the plan.

(6) The infection control officer shall be responsible for establishing personnel exposure protocols so that a process for dealing with exposures is in writing and available to all personnel.

(7) The infection control officer or his/her designee will function as a liaison between area hospitals and fire department members to provide notification that a communicable disease exposure is suspected or has been determined by hospital medical personnel. The department infection control officer will institute the established exposure protocols immediately after report of an exposure. The infection control officer shall follow the confidentiality requirements of chapter 246-100 WAC and the medical protocol requirements of ((WAC 296-62-05209)) chapter 296-802 WAC.

(8) Fire departments shall have a written infection (exposure) control plan which clearly explains the intent, benefits, and purpose of the plan. The written document must cover the standards of exposure control such as establishing the infection control officer and all members affected; education and training; HB. vaccination requirements; documentation and record keeping; cleaning/disinfection of personnel and equipment; and exposure protocols.

(9) Policy statements and standard operating procedure guidelines shall provide general guidance and specific regulation of daily activities. Procedures shall include delegation of specific roles and responsibilities, such as regulation of infection control, as well as procedural guidelines for all required tasks and functions.

(10) Fire departments shall establish a records system for members health and training.

(11) Fire fighters shall be trained in the proper use of P.E., exposure protection, post exposure protocols, disease modes of transmission as it related to infectious diseases.

(12) Infectious disease programs shall have a process for monitoring fire fighters compliance with established guidelines and a means for correcting noncompliance.

(13) Fire department members shall be required to annually review the infectious disease plan, updates, protocols, and equipment used in the program.

(14) Fire departments shall comply with chapter 296-823 WAC, Occupational exposure to bloodborne pathogens, in its entirety.

(15) Tuberculosis (TB) exposure and respiratory protection requirements.

(a) Fire fighters shall wear a particulate respirator (PR) when entering areas occupied by individuals with suspected or confirmed TB, when performing high risk procedures on

such individuals or when transporting individuals with suspected or confirmed TB in a closed vehicle.

(b) A NIOSH-approved, 95% efficient particulate air respirator is the minimum acceptable level of respiratory protection.

(i) Fit tests are required.

(ii) Fit tests shall be done in accordance with chapter 296-62 WAC, Part E.

Note 1: Emergency-response personnel should be routinely screened for tuberculosis at regular intervals. The tuberculin skin test is the only method currently available that demonstrates infection with *Mycobacterium tuberculosis* (*M. tuberculosis*) in the absence of active tuberculosis.

Note 2: If possible, the rear windows of a vehicle transporting patients with confirmed, suspected, or active tuberculosis should be kept open, and the heater or air conditioner set on a noncirculating cycle.

Additional References:

Chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.

WAC 296-62-08001(3), Exposure Control.

AMENDATORY SECTION (Amending Order 92-15, filed 2/3/93, effective 3/15/93)

WAC 296-155-17331 Recordkeeping. (1) Objective data for exempted operations.

(a) Where the employer has relied on objective data that demonstrate that products made from or containing MDA are not capable of releasing MDA or do not present a dermal exposure problem under the expected conditions of processing, use, or handling to exempt such operations from the initial monitoring requirements under WAC 296-155-17311(2), the employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(b) The record shall include at least the following information:

(i) The product qualifying for exemption;

(ii) The source of the objective data;

(iii) The testing protocol, results of testing, and/or analysis of the material for the release of MDA;

(iv) A description of the operation exempted and how the data support the exemption; and

(v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(c) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(2) Historical monitoring data.

(a) Where the employer has relied on historical monitoring data that demonstrate that exposures on a particular job will be below the action level to exempt such operations from the initial monitoring requirements under WAC 296-155-17311(2), the employer shall establish and maintain an accurate record of historical monitoring data reasonably relied upon in support of the exemption.

(b) The record shall include information that reflect the following conditions:

(i) The data upon which judgments are based are scientifically sound and were collected using methods that are sufficiently accurate and precise;

(ii) The processes and work practices that were in use when the historical monitoring data were obtained are essentially the same as those to be used during the job for which initial monitoring will not be performed;

(iii) The characteristics of the MDA-containing material being handled when the historical monitoring data were obtained are the same as those on the job for which initial monitoring will not be performed;

(iv) Environmental conditions prevailing when the historical monitoring data were obtained are the same as those on the job for which initial monitoring will not be performed; and

(v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exception.

(c) The employer shall maintain this record for the duration of the employer's reliance upon such historical monitoring data.

(3) The employer may utilize the services of competent organizations such as industry trade associations and employee associations to maintain the records required by this section.

(4) Exposure measurements.

(a) The employer shall keep an accurate record of all measurements taken to monitor employee exposure to MDA.

(b) This record shall include at least the following information:

(i) The date of measurement;

(ii) The operation involving exposure to MDA;

(iii) Sampling and analytical methods used and evidence of their accuracy;

(iv) Number, duration, and results of samples taken;

(v) Type of protective devices worn, if any; and

(vi) Name, Social Security number, and exposure of the employees whose exposures are represented.

(c) The employer shall maintain this record for at least thirty years in accordance with chapter 296-62 WAC, Part B.

(5) Medical surveillance.

(a) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance by WAC 296-155-17327 in accordance with chapter 296-62 WAC, Part B.

(b) The record shall include at least the following information:

(i) The name and Social Security number of the employee;

(ii) A copy of the employee's medical examination results, including the medical history, questionnaire responses, results of any tests, and physician's recommendations;

(iii) Physician's written opinions;

(iv) Any employee medical complaints related to exposure to MDA; and

(v) A copy of the information provided to the physician as required by WAC 296-155-17327.

(c) The employer shall ensure that this record is maintained for the duration of employment plus thirty years in accordance with chapter 296-62 WAC, Part B.

(d) A copy of the employee's medical removal and return to work status.

(6) Training records. The employer shall maintain all employee training records for one year beyond the last date of employment.

(7) Availability.

(a) The employer, upon written request, shall make all records required to be maintained by this section available to the assistant secretary and the director for examination and copying.

(b) The employer, upon request, shall make any exposure records required by WAC 296-155-17311 and 296-155-17327 available for examination and copying to affected employees, former employees, designated representatives, and the director, in accordance with ~~((WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05223))~~ chapter 296-802 WAC.

(c) The employer, upon request, shall make employee medical records required by WAC 296-155-17327 and this section available for examination and copying to the subject employee, anyone having the specific written consent of the subject employee, and the director in accordance with chapter ~~((296-62))~~ 296-802 WAC ~~((,-Part B))~~.

(8) Transfer of records.

(a) The employer shall comply with the requirements concerning transfer of records set forth in ~~((WAC 296-62-05215))~~ chapter 296-802 WAC.

(b) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the director at least 90 days prior to disposal and, upon request, transmit them to the director.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-155-174 Cadmium. (1) Scope. This standard applies to all occupational exposures to cadmium and cadmium compounds, in all forms, in all construction work where an employee may potentially be exposed to cadmium. Construction work is defined as work involving construction, alteration, and/or repair, including but not limited to the following:

(a) Wrecking, demolition, or salvage of structures where cadmium or materials containing cadmium are present;

(b) Use of cadmium containing-paints and cutting, brazing, burning, grinding, or welding on surfaces that were painted with cadmium-containing paints;

(c) Construction, alteration, repair, maintenance, or renovation of structures, substrates, or portions thereof, that contain cadmium, or materials containing cadmium;

(d) Cadmium welding; cutting and welding cadmium-plated steel; brazing or welding with cadmium alloys;

(e) Installation of products containing cadmium;

(f) Electrical grounding with cadmium-welding, or electrical work using cadmium-coated conduit;

(g) Maintaining or retrofitting cadmium-coated equipment;

(h) Cadmium contamination/emergency cleanup; and

(i) Transportation, disposal, storage, or containment of cadmium or materials containing cadmium on the site or location at which construction activities are performed.

(2) Definitions.

(a) Action level (AL) is defined as an airborne concentration of cadmium of 2.5 micrograms per cubic meter of air ($2.5 \mu\text{g}/\text{m}^3$), calculated as an 8-hour time-weighted average (TWA).

(b) Authorized person means any person authorized by the employer and required by work duties to be present in regulated areas or any person authorized by WISHA or regulations issued under it to be in regulated areas.

(c) Competent person, in accordance with WAC 296-155-012(4), means a person designated by the employer to act on the employer's behalf who is capable of identifying existing and potential cadmium hazards in the workplace and the proper methods to control them in order to protect workers, and has the authority necessary to take prompt corrective measures to eliminate or control such hazards. The duties of a competent person include at least the following: Determining prior to the performance of work whether cadmium is present in the workplace; establishing, where necessary, regulated areas and assuring that access to and from those areas is limited to authorized employees; assuring the adequacy of any employee exposure monitoring required by this standard; assuring that all employees exposed to air cadmium levels above the PEL wear appropriate personal protective equipment and are trained in the use of appropriate methods of exposure control; assuring that proper hygiene facilities are provided and that workers are trained to use those facilities; and assuring that the engineering controls required by this standard are implemented, maintained in proper operating condition, and functioning properly.

(d) Director means the director of the department of labor and industries or authorized representative.

(e) Employee exposure and similar language referring to the air cadmium level to which an employee is exposed means the exposure to airborne cadmium that would occur if the employee were not using respiratory protective equipment.

(f) Final medical determination is the written medical opinion of the employee's health status by the examining physician under subsection (12)(c) through (l) of this section or, if multiple physician review under subsection (12)(m) of this section or the alternative physician determination under subsection (12)(n) of this section is invoked, it is the final, written medical finding, recommendation or determination that emerges from that process.

(g) High-efficiency particulate air (HEPA) filter means a filter capable of trapping and retaining at least 99.97 percent of mono-dispersed particles of 0.3 micrometers in diameter.

(h) Regulated area means an area demarcated by the employer where an employee's exposure to airborne concentrations of cadmium exceeds, or can reasonably be expected to exceed the permissible exposure limit (PEL).

(i) This section means this cadmium standard.

(3) Permissible exposure limit (PEL). The employer shall assure that no employee is exposed to an airborne concentration of cadmium in excess of five micrograms per cubic meter of air ($5 \mu\text{g}/\text{m}^3$), calculated as an 8-hour time-weighted average exposure (TWA).

(4) Exposure monitoring

(a) General.

(i) Prior to the performance of any construction work where employees may be potentially exposed to cadmium, the employer shall establish the applicability of this standard by determining whether cadmium is present in the workplace and whether there is the possibility that employee exposures will be at or above the action level. The employer shall designate a competent person who shall make this determination. Investigation and material testing techniques shall be used, as appropriate, in the determination. Investigation shall include a review of relevant plans, past reports, material safety data sheets, and other available records, and consultations with the property owner and discussions with appropriate individuals and agencies.

(ii) Where cadmium has been determined to be present in the workplace, and it has been determined that there is a possibility the employee's exposure will be at or above the action level, the competent person shall identify employees potentially exposed to cadmium at or above the action level.

(iii) Determinations of employee exposure shall be made from breathing-zone air samples that reflect the monitored employee's regular, daily 8-hour TWA exposure to cadmium.

(iv) Eight-hour TWA exposures shall be determined for each employee on the basis of one or more personal breathing-zone air samples reflecting full shift exposure on each shift, for each job classification, in each work area. Where several employees perform the same job tasks, in the same job classification, on the same shift, in the same work area, and the length, duration, and level of cadmium exposures are similar, an employer may sample a representative fraction of the employees instead of all employees in order to meet this requirement. In representative sampling, the employer shall sample the employee(s) expected to have the highest cadmium exposures.

(b) Specific.

(i) Initial monitoring. Except as provided for in (b)(iii) of this subsection, where a determination conducted under (a)(i) of this subsection shows the possibility of employee exposure to cadmium at or above the action level, the employer shall conduct exposure monitoring as soon as practicable that is representative of the exposure for each employee in the workplace who is or may be exposed to cadmium at or above the action level.

(ii) In addition, if the employee periodically performs tasks that may expose the employee to a higher concentration of airborne cadmium, the employee shall be monitored while performing those tasks.

(iii) Where the employer has objective data, as defined in subsection (14)(b) of this section, demonstrating that employee exposure to cadmium will not exceed airborne concentrations at or above the action level under the expected conditions of processing, use, or handling, the employer may rely upon such data instead of implementing initial monitoring.

(iv) Where a determination conducted under (a) or (b) of this subsection is made that a potentially exposed employee is not exposed to airborne concentrations of cadmium at or above the action level, the employer shall make a written record of such determination. The record shall include at least the monitoring data developed under (b)(i) through (iii) of this subsection, where applicable, and shall also include the

date of determination, and the name and Social Security number of each employee.

(c) Monitoring frequency (periodic monitoring).

(i) If the initial monitoring or periodic monitoring reveals employee exposures to be at or above the action level, the employer shall monitor at a frequency and pattern needed to assure that the monitoring results reflect with reasonable accuracy the employee's typical exposure levels, given the variability in the tasks performed, work practices, and environmental conditions on the job site, and to assure the adequacy of respiratory selection and the effectiveness of engineering and work practice controls.

(ii) If the initial monitoring or the periodic monitoring indicates that employee exposures are below the action level and that result is confirmed by the results of another monitoring taken at least seven days later, the employer may discontinue the monitoring for those employees whose exposures are represented by such monitoring.

(d) Additional monitoring. The employer also shall institute the exposure monitoring required under (b)(i) and (c) of this subsection whenever there has been a change in the raw materials, equipment, personnel, work practices, or finished products that may result in additional employees being exposed to cadmium at or above the action level or in employees already exposed to cadmium at or above the action level being exposed above the PEL, or whenever the employer or competent person has any reason to suspect that any other change might result in such further exposure.

(e) Employee notification of monitoring results.

(i) No later than five working days after the receipt of the results of any monitoring performed under this section, the employer shall notify each affected employee individually in writing of the results. In addition, within the same time period, the employer shall post the results of the exposure monitoring in an appropriate location that is accessible to all affected employees.

(ii) Wherever monitoring results indicate that employee exposure exceeds the PEL, the employer shall include in the written notice a statement that the PEL has been exceeded and a description of the corrective action being taken by the employer to reduce employee exposure to or below the PEL.

(f) Accuracy of measurement. The employer shall use a method of monitoring and analysis that has an accuracy of not less than plus or minus 25 percent ($\pm 25\%$), with a confidence level of 95 percent, for airborne concentrations of cadmium at or above the action level and the permissible exposure limit.

(5) Regulated areas.

(a) Establishment. The employer shall establish a regulated area wherever an employee's exposure to airborne concentrations of cadmium is, or can reasonably be expected to be in excess of the permissible exposure limit (PEL).

(b) Demarcation. Regulated areas shall be demarcated from the rest of the workplace in any manner that adequately establishes and alerts employees of the boundaries of the regulated area, including employees who are or may be incidentally in the regulated areas, and that protects persons outside the area from exposure to airborne concentrations of cadmium in excess of the PEL.

(c) Access. Access to regulated areas shall be limited to authorized persons.

(d) Provision of respirators. Each person entering a regulated area shall be supplied with and required to use a respirator, selected in accordance with subsection (7)(b) of this section.

(e) Prohibited activities. The employer shall assure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in regulated areas, or carry the products associated with any of these activities into regulated areas or store such products in those areas.

(6) Methods of compliance.

(a) Compliance hierarchy.

(i) Except as specified in (a)(ii) of this subsection, the employer shall implement engineering and work practice controls to reduce and maintain employee exposure to cadmium at or below the PEL, except to the extent that the employer can demonstrate that such controls are not feasible.

(ii) The requirement to implement engineering controls to achieve the PEL does not apply where the employer demonstrates the following:

(A) The employee is only intermittently exposed; and

(B) The employee is not exposed above the PEL on 30 or more days per year (12 consecutive months).

(iii) Wherever engineering and work practice controls are not sufficient to reduce employee exposure to or below the PEL, the employer nonetheless shall implement such controls to reduce exposures to the lowest levels achievable. The employer shall supplement such controls with respiratory protection that complies with the requirements of subsection (7) of this section and the PEL.

(iv) The employer shall not use employee rotation as a method of compliance.

(b) Specific operations.

(i) Abrasive blasting. Abrasive blasting on cadmium or cadmium-containing materials shall be conducted in a manner that will provide adequate protection.

(ii) Heating cadmium and cadmium-containing materials. Welding, cutting, and other forms of heating of cadmium or cadmium-containing materials shall be conducted in accordance with the requirements of WAC 296-155-415 and 296-155-420, where applicable.

(c) Prohibitions.

(i) High speed abrasive disc saws and similar abrasive power equipment shall not be used for work on cadmium or cadmium-containing materials unless they are equipped with appropriate engineering controls to minimize emissions, if the exposure levels are above the PEL.

(ii) Materials containing cadmium shall not be applied by spray methods, if exposures are above the PEL, unless employees are protected with supplied-air respirators with full facepiece, hood, helmet, suit, operated in positive pressure mode and measures are instituted to limit overspray and prevent contamination of adjacent areas.

(d) Mechanical ventilation.

(i) When ventilation is used to control exposure, measurements that demonstrate the effectiveness of the system in controlling exposure, such as capture velocity, duct velocity, or static pressure shall be made as necessary to maintain its effectiveness.

(ii) Measurements of the system's effectiveness in controlling exposure shall be made as necessary within five working days of any change in production, process, or control that might result in a significant increase in employee exposure to cadmium.

(iii) Recirculation of air. If air from exhaust ventilation is recirculated into the workplace, the system shall have a high efficiency filter and be monitored to assure effectiveness.

(iv) Procedures shall be developed and implemented to minimize employee exposure to cadmium when maintenance of ventilation systems and changing of filters is being conducted.

(e) Compliance program.

(i) Where employee exposure to cadmium exceeds the PEL and the employer is required under (a) of this subsection to implement controls to comply with the PEL, prior to the commencement of the job the employer shall establish and implement a written compliance program to reduce employee exposure to or below the PEL. To the extent that engineering and work practice controls cannot reduce exposures to or below the PEL, the employer shall include in the written compliance program the use of appropriate respiratory protection to achieve compliance with the PEL.

(ii) Written compliance programs shall be reviewed and updated as often and as promptly as necessary to reflect significant changes in the employer's compliance status or significant changes in the lowest air cadmium level that is technologically feasible.

(iii) A competent person shall review the comprehensive compliance program initially and after each change.

(iv) Written compliance programs shall be provided upon request for examination and copying to the director, or authorized representatives, affected employees, and designated employee representatives.

(7) Respirator protection.

(a) General. For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this section. Respirators must be used during:

(i) Periods necessary to install or implement feasible engineering and work-practice controls when employee exposures exceed the PEL.

(ii) Maintenance and repair activities, and brief or intermittent operations, for which employee exposures exceed the PEL and engineering and work-practice controls are not feasible or are not required.

(iii) Work operations in regulated areas specified in subsection (5) of this section.

(iv) Work operations for which the employer has implemented all feasible engineering and work-practice controls, and such controls are not sufficient to reduce exposures to or below the PEL.

(v) Emergencies.

(vi) Work operations for which an employee, who is exposed to cadmium at or above the action level, requests a respirator.

(vii) Work operations for which engineering controls are not required under (a)(ii) of this subsection to reduce employee exposures that exceed the PEL.

(b) Respirator program.

(i) The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).

(ii) If an employee has breathing difficulty during fit testing or respirator use, the employer must provide the employee with a medical examination as required by subsection (12)(f)(ii) of this section to determine if the employee can use a respirator while performing the required duties.

(iii) No employees must use a respirator when, based on their recent medical examination, the examining physician determines that the employee will be unable to continue to function normally while using a respirator. If the physician determines the employee must be limited in, or removed from, their current job because of the employee's inability to use a respirator, the job limitation or removal must be conducted as required by (k) and (l) of this subsection.

(c) Respirator selection.

(i) The employer must select the appropriate respirator from Table 1 of this section.

Table 1

Respiratory Protection for Cadmium

Airborne concentration or condition of use ^a	Required respirator type ^b
10 x or less	A half-mask, air-purifying respirator equipped with a HEPA ^c filter. ^d
25 x or less	A powered air-purifying respirator ("PAPR") with a loose-fitting hood or helmet equipped with a HEPA filter, or a supplied-air respirator with a loose-fitting hood or helmet facepiece operated in the continuous flow mode.
50 x or less	A full facepiece air-purifying respirator equipped with a HEPA filter, or a powered air-purifying respirator with a tight-fitting half-mask equipped with a HEPA filter, or a supplied air respirator with a tight-fitting half-mask operated in the continuous flow mode.
250 x or less	A powered air-purifying respirator with a tight-fitting full facepiece equipped with a HEPA filter, or a supplied-air respirator with a tight-fitting full facepiece operated in the continuous flow mode.

Table 1

Respiratory Protection for Cadmium

Airborne concentration or condition of use ^a	Required respirator type ^b
1000 x or less	A supplied-air respirator with half-mask or full facepiece operated in the pressure demand or other positive pressure mode.
>1000 x or unknown concentrations	A self-contained breathing apparatus with a full facepiece operated in the pressure demand or other positive pressure mode, or a supplied-air respirator with a full facepiece operated in the pressure demand or other positive pressure mode and equipped with an auxiliary escape type self-contained breathing apparatus operated in the pressure demand mode.
Fire fighting	A self-contained breathing apparatus with full facepiece operated in the pressure demand or other positive pressure mode.

- Note:
- ^a Concentrations expressed as multiple of the PEL.
 - ^b Respirators assigned for higher environmental concentrations may be used at lower exposure levels. Quantitative fit testing is required for all tight-fitting air purifying respirators where airborne concentration of cadmium exceeds 10 times the TWA PEL (10 x 5 µg/m³ = 50 µg/m³). A full facepiece respirator is required when eye irritation is experienced.
 - ^c HEPA means High Efficiency Particulate Air.
 - ^d Fit testing, qualitative or quantitative, is required.
- Source: Respiratory Decision Logic, NIOSH, 1987.

(ii) The employer shall provide a powered, air-purifying respirator (PAPR) instead of a negative-pressure respirator when an employee entitled to a respirator chooses to use this type of respirator and such a respirator will provide adequate protection to the employee.

(8) Emergency situations. The employer shall develop and implement a written plan for dealing with emergency situations involving substantial releases of airborne cadmium. The plan shall include provisions for the use of appropriate respirators and personal protective equipment. In addition, employees not essential to correcting the emergency situation shall be restricted from the area and normal operations halted in that area until the emergency is abated.

(9) Protective work clothing and equipment

(a) Provision and use. If an employee is exposed to airborne cadmium above the PEL or where skin or eye irritation is associated with cadmium exposure at any level, the employer shall provide at no cost to the employee, and assure that the employee uses, appropriate protective work clothing and equipment that prevents contamination of the employee

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and the employee's garments. Protective work clothing and equipment includes, but is not limited to:

- (i) Coveralls or similar full-body work clothing;
- (ii) Gloves, head coverings, and boots or foot coverings;

and

- (iii) Face shields, vented goggles, or other appropriate protective equipment that complies with WAC 296-155-215.

(b) Removal and storage.

(i) The employer shall assure that employees remove all protective clothing and equipment contaminated with cadmium at the completion of the work shift and do so only in change rooms provided in accordance with subsection (10)(a) of this section.

(ii) The employer shall assure that no employee takes cadmium-contaminated protective clothing or equipment from the workplace, except for employees authorized to do so for purposes of laundering, cleaning, maintaining, or disposing of cadmium-contaminated protective clothing and equipment at an appropriate location or facility away from the workplace.

(iii) The employer shall assure that contaminated protective clothing and equipment, when removed for laundering, cleaning, maintenance, or disposal, is placed and stored in sealed, impermeable bags or other closed, impermeable containers that are designed to prevent dispersion of cadmium dust.

(iv) The employer shall assure that containers of contaminated protective clothing and equipment that are to be taken out of the change rooms or the workplace for laundering, cleaning, maintenance or disposal shall bear labels in accordance with subsection (13)(c) of this section.

(c) Cleaning, replacement, and disposal.

(i) The employer shall provide the protective clothing and equipment required by (a) of this subsection in a clean and dry condition as often as necessary to maintain its effectiveness, but in any event at least weekly. The employer is responsible for cleaning and laundering the protective clothing and equipment required by this subsection to maintain its effectiveness and is also responsible for disposing of such clothing and equipment.

(ii) The employer also is responsible for repairing or replacing required protective clothing and equipment as needed to maintain its effectiveness. When rips or tears are detected while an employee is working they shall be immediately mended, or the worksuit shall be immediately replaced.

(iii) The employer shall prohibit the removal of cadmium from protective clothing and equipment by blowing, shaking, or any other means that disperses cadmium into the air.

(iv) The employer shall assure that any laundering of contaminated clothing or cleaning of contaminated equipment in the workplace is done in a manner that prevents the release of airborne cadmium in excess of the permissible exposure limit prescribed in subsection (3) of this section.

(v) The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with cadmium of the potentially harmful effects of exposure to cadmium, and that the clothing and equipment should be laundered or cleaned in a manner to effectively prevent the release of airborne cadmium in excess of the PEL.

(10) Hygiene areas and practices.

(a) General. For employees whose airborne exposure to cadmium is above the PEL, the employer shall provide clean change rooms, handwashing facilities, showers, and lunchroom facilities that comply with WAC 296-155-140.

(b) Change rooms. The employer shall assure that change rooms are equipped with separate storage facilities for street clothes and for protective clothing and equipment, which are designed to prevent dispersion of cadmium and contamination of the employee's street clothes.

(c) Showers and handwashing facilities.

(i) The employer shall assure that employees whose airborne exposure to cadmium is above the PEL shower during the end of the work shift.

(ii) The employer shall assure that employees who are exposed to cadmium above the PEL wash their hands and faces prior to eating, drinking, smoking, chewing tobacco or gum, or applying cosmetics.

(d) Lunchroom facilities.

(i) The employer shall assure that the lunchroom facilities are readily accessible to employees, that tables for eating are maintained free of cadmium, and that no employee in a lunchroom facility is exposed at any time to cadmium at or above a concentration of 2.5 $\mu\text{g}/\text{m}^3$.

(ii) The employer shall assure that employees do not enter lunchroom facilities with protective work clothing or equipment unless surface cadmium has been removed from the clothing and equipment by HEPA vacuuming or some other method that removes cadmium dust without dispersing it.

(11) Housekeeping.

(a) All surfaces shall be maintained as free as practicable of accumulations of cadmium.

(b) All spills and sudden releases of material containing cadmium shall be cleaned up as soon as possible.

(c) Surfaces contaminated with cadmium shall, wherever possible, be cleaned by vacuuming or other methods that minimize the likelihood of cadmium becoming airborne.

(d) HEPA-filtered vacuuming equipment or equally effective filtration methods shall be used for vacuuming. The equipment shall be used and emptied in a manner that minimizes the reentry of cadmium into the workplace.

(e) Shoveling, dry or wet sweeping, and brushing may be used only where vacuuming or other methods that minimize the likelihood of cadmium becoming airborne have been tried and found not to be effective.

(f) Compressed air shall not be used to remove cadmium from any surface unless the compressed air is used in conjunction with a ventilation system designed to capture the dust cloud created by the compressed air.

(g) Waste, scrap, debris, bags, containers, personal protective equipment, and clothing contaminated with cadmium and consigned for disposal shall be collected and disposed of in sealed impermeable bags or other closed, impermeable containers. These bags and containers shall be labeled in accordance with subsection (13)(b) of this section.

(12) Medical surveillance.

(a) General.

(i) Scope.

(A) Currently exposed—The employer shall institute a medical surveillance program for all employees who are or

may be exposed at or above the action level and all employees who perform the following tasks, operations, or jobs: Electrical grounding with cadmium-welding; cutting, brazing, burning, grinding, or welding on surfaces that were painted with cadmium-containing paints; electrical work using cadmium-coated conduit; use of cadmium containing paints; cutting and welding cadmium-plated steel; brazing or welding with cadmium alloys; fusing of reinforced steel by cadmium welding; maintaining or retrofitting cadmium-coated equipment; and, wrecking and demolition where cadmium is present. A medical surveillance program will not be required if the employer demonstrates that the employee:

(I) Is not currently exposed by the employer to airborne concentrations of cadmium at or above the action level on 30 or more days per year (twelve consecutive months); and

(II) Is not currently exposed by the employer in those tasks on 30 or more days per year (twelve consecutive months).

(B) Previously exposed—The employer shall also institute a medical surveillance program for all employees who might previously have been exposed to cadmium by the employer prior to the effective date of this section in tasks specified under (a)(i)(A) of this subsection, unless the employer demonstrates that the employee did not in the years prior to the effective date of this section work in those tasks for the employer with exposure to cadmium for an aggregated total of more than 12 months.

(ii) To determine an employee's fitness for using a respirator, the employer shall provide the limited medical examination specified in (f) of this subsection.

(iii) The employer shall assure that all medical examinations and procedures required by this section are performed by or under the supervision of a licensed physician, who has read and is familiar with the health effects WAC 296-62-07441, Appendix A, the regulatory text of this section, the protocol for sample handling and lab selection in WAC 296-62-07451, Appendix F, and the questionnaire of WAC 296-62-07447, Appendix D.

(iv) The employer shall provide the medical surveillance required by this section, including multiple physician review under (m) of this subsection without cost to employees, and at a time and place that is reasonable and convenient to employees.

(v) The employer shall assure that the collecting and handling of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (B₂-M) taken from employees under this section is done in a manner that assures their reliability and that analysis of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (B₂-M) taken from employees under this section is performed in laboratories with demonstrated proficiency to perform the particular analysis. (See WAC 296-62-07451, Appendix F.)

(b) Initial examination.

(i) For employees covered by medical surveillance under (a)(i) of this subsection, the employer shall provide an initial medical examination. The examination shall be provided to those employees within 30 days after initial assignment to a job with exposure to cadmium or no later than 90 days after the effective date of this section, whichever date is later.

(ii) The initial medical examination shall include:

(A) A detailed medical and work history, with emphasis on: Past, present, and anticipated future exposure to cadmium; any history of renal, cardiovascular, respiratory, hematopoietic, reproductive, and/or musculo-skeletal system dysfunction; current usage of medication with potential nephrotoxic side-effects; and smoking history and current status; and

(B) Biological monitoring that includes the following tests:

(I) Cadmium in urine (CdU), standardized to grams of creatinine (g/Cr);

(II) Beta-2 microglobulin in urine (B₂-M), standardized to grams of creatinine (g/Cr), with pH specified, as described in WAC 296-62-07451, Appendix F; and

(III) Cadmium in blood (CdB), standardized to liters of whole blood (lwb).

(iii) Recent examination: An initial examination is not required to be provided if adequate records show that the employee has been examined in accordance with the requirements of (b)(ii) of this subsection within the past 12 months. In that case, such records shall be maintained as part of the employee's medical record and the prior exam shall be treated as if it were an initial examination for the purposes of (c) and (d) of this subsection.

(c) Actions triggered by initial biological monitoring.

(i) If the results of the biological monitoring tests in the initial examination show the employee's CdU level to be at or below 3 µg/g Cr, B₂-M level to be at or below 300 µg/g Cr and CdB level to be at or below 5 µg/lwb, then:

(A) For employees who are subject to medical surveillance under (a)(i)(A) of this subsection because of current or anticipated exposure to cadmium, the employer shall provide the minimum level of periodic medical surveillance in accordance with the requirements in (d)(i) of this subsection; and

(B) For employees who are subject to medical surveillance under (a)(i)(B) of this subsection because of prior but not current exposure, the employer shall provide biological monitoring for CdU, B₂-M, and CdB one year after the initial biological monitoring and then the employer shall comply with the requirements of (d)(vi) of this subsection.

(ii) For all employees who are subject to medical surveillance under (a)(i) of this subsection, if the results of the initial biological monitoring tests show the level of CdU to exceed 3 µg/g Cr, the level of B₂-M to be in excess of 300 µg/g Cr, or the level of CdB to be in excess of 5 µg/lwb, the employer shall:

(A) Within two weeks after receipt of biological monitoring results, reassess the employee's occupational exposure to cadmium as follows:

(I) Reassess the employee's work practices and personal hygiene;

(II) Reevaluate the employee's respirator use, if any, and the respirator program;

(III) Review the hygiene facilities;

(IV) Reevaluate the maintenance and effectiveness of the relevant engineering controls;

(V) Assess the employee's smoking history and status;

(B) Within 30 days after the exposure reassessment, specified in (c)(ii)(A) of this subsection, take reasonable steps to correct any deficiencies found in the reassessment that may be responsible for the employee's excess exposure to cadmium; and

(C) Within 90 days after receipt of biological monitoring results, provide a full medical examination to the employee in accordance with the requirements of (d)(ii) of this subsection. After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. If the physician determines that medical removal is not necessary, then until the employee's CdU level falls to or below 3 µg/g Cr, B₂-M level falls to or below 300 µg/g Cr and CdB level falls to or below 5 µg/lwb, the employer shall:

(I) Provide biological monitoring in accordance with (b)(ii)(B) of this subsection on a semiannual basis; and

(II) Provide annual medical examinations in accordance with (d)(ii) of this subsection.

(iii) For all employees who are subject to medical surveillance under (a)(i) of this subsection, if the results of the initial biological monitoring tests show the level of CdU to be in excess of 15 µg/g Cr, or the level of CdB to be in excess of 15 µg/lwb, or the level of B₂-M to be in excess of 1,500 µg/g Cr, the employer shall comply with the requirements of (c)(ii)(A) and (B) of this subsection. Within 90 days after receipt of biological monitoring results, the employer shall provide a full medical examination to the employee in accordance with the requirements of (d)(ii) of this subsection. After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. However, if the initial biological monitoring results and the biological monitoring results obtained during the medical examination both show that: CdU exceeds 15 µg/g Cr; or CdB exceeds 15 µg/lwb; or B₂-M exceeds 1500 µg/g Cr, and in addition CdU exceeds 3 µg/g Cr or CdB exceeds 5 µg/liter of whole blood, then the physician shall medically remove the employee from exposure to cadmium at or above the action level. If the second set of biological monitoring results obtained during the medical examination does not show that a mandatory removal trigger level has been exceeded, then the employee is not required to be removed by the mandatory provisions of this section. If the employee is not required to be removed by the mandatory provisions of this section or by the physician's determination, then until the employee's CdU level falls to or below 3 µg/g Cr, B₂-M level falls to or below 300 µg/g Cr and CdB level falls to or below 5 µg/lwb, the employer shall:

(A) Periodically reassess the employee's occupational exposure to cadmium;

(B) Provide biological monitoring in accordance with (b)(ii)(B) of this subsection on a quarterly basis; and

(C) Provide semiannual medical examinations in accordance with (d)(ii) of this subsection.

(iv) For all employees to whom medical surveillance is provided, beginning on January 1, 1999, and in lieu of (c)(iii) of this subsection, whenever the results of initial biological monitoring tests show the employee's CdU level to be in excess of 7 µg/g Cr, or B₂-M level to be in excess of 750 µg/g

Cr, or CdB level to be in excess of 10 µg/lwb, the employer shall comply with the requirements of (c)(ii)(A) and (B) of this subsection. Within 90 days after receipt of biological monitoring results, the employer shall provide a full medical examination to the employee in accordance with the requirements of (d)(ii) of this subsection. After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. However, if the initial biological monitoring results and the biological monitoring results obtained during the medical examination both show that: CdU exceeds 7 µg/g Cr; or CdB exceeds 10 µg/lwb; or B₂-M exceeds 750 µg/g Cr, and in addition CdU exceeds 3 µg/g Cr or CdB exceeds 5 µg/liter of whole blood, then the physician shall medically remove the employee from exposure to cadmium at or above the action level. If the second set of biological monitoring results obtained during the medical examination does not show that a mandatory removal trigger level has been exceeded, then the employee is not required to be removed by the mandatory provisions of this section. If the employee is not required to be removed by the mandatory provisions of this section or by the physician's determination, then until the employee's CdU level falls to or below 3 µg/g Cr, B₂-M level falls to or below 300 µg/g Cr and CdB level falls to or below 5 µg/lwb, the employer shall:

(A) Periodically reassess the employee's occupational exposure to cadmium;

(B) Provide biological monitoring in accordance with (b)(ii)(B) of this subsection on a quarterly basis; and

(C) Provide semiannual medical examinations in accordance with (d)(ii) of this subsection.

(d) Periodic medical surveillance.

(i) For each employee who is covered by medical surveillance under (a)(i)(A) of this subsection because of current or anticipated exposure to cadmium, the employer shall provide at least the minimum level of periodic medical surveillance, which consists of periodic medical examinations and periodic biological monitoring. A periodic medical examination shall be provided within one year after the initial examination required by (b) of this subsection and thereafter at least biennially. Biological sampling shall be provided at least annually either as part of a periodic medical examination or separately as periodic biological monitoring.

(ii) The periodic medical examination shall include:

(A) A detailed medical and work history, or update thereof, with emphasis on: Past, present, and anticipated future exposure to cadmium; smoking history and current status; reproductive history; current use of medications with potential nephrotoxic side-effects; any history of renal, cardiovascular, respiratory, hematopoietic, and/or musculoskeletal system dysfunction; and as part of the medical and work history, for employees who wear respirators, questions 3 through 11 and 25 through 32 in WAC 296-62-07447, Appendix D;

(B) A complete physical examination with emphasis on: Blood pressure, the respiratory system, and the urinary system;

(C) A 14 inch by 17 inch, or a reasonably standard sized posterior-anterior chest X ray (after the initial X ray, the fre-

quency of chest X rays is to be determined by the examining physician);

(D) Pulmonary function tests, including forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV1);

(E) Biological monitoring, as required in (b)(ii)(B) of this subsection;

(F) Blood analysis, in addition to the analysis required under (b)(ii)(B) of this subsection, including blood urea nitrogen, complete blood count, and serum creatinine;

(G) Urinalysis, in addition to the analysis required under (b)(ii)(B) of this subsection, including the determination of albumin, glucose, and total and low molecular weight proteins;

(H) For males over 40 years old, prostate palpation, or other at least as effective diagnostic test(s); and

(I) Any additional tests or procedures deemed appropriate by the examining physician.

(iii) Periodic biological monitoring shall be provided in accordance with (b)(ii)(B) of this subsection.

(iv) If the results of periodic biological monitoring or the results of biological monitoring performed as part of the periodic medical examination show the level of the employee's CdU, B₂-M, or CdB to be in excess of the levels specified in (c)(ii) and (iii) of this subsection; or, beginning on January 1, 1999, in excess of the levels specified in (c)(ii) or (iv) of this subsection, the employer shall take the appropriate actions specified in (c)(ii) through (iv) of this subsection, respectively.

(v) For previously exposed employees under (a)(i)(B) of this subsection:

(A) If the employee's levels of CdU did not exceed 3 µg/g Cr, CdB did not exceed 5 µg/lwb, and B₂-M did not exceed 300 µg/g Cr in the initial biological monitoring tests, and if the results of the follow-up biological monitoring required by (c)(i)(B) of this subsection one year after the initial examination confirm the previous results, the employer may discontinue all periodic medical surveillance for that employee.

(B) If the initial biological monitoring results for CdU, CdB, or B₂-M were in excess of the levels specified in (c)(i) of this subsection, but subsequent biological monitoring results required by (c)(ii) through (iv) of this subsection show that the employee's CdU levels no longer exceed 3 µg/g Cr, CdB levels no longer exceed 5 µg/lwb, and B₂-M levels no longer exceed 300 µg/g Cr, the employer shall provide biological monitoring for CdU, CdB, and B₂-M one year after these most recent biological monitoring results. If the results of the follow-up biological monitoring specified in this section, confirm the previous results, the employer may discontinue all periodic medical surveillance for that employee.

(C) However, if the results of the follow-up tests specified in (d)(v)(A) or (B) of this subsection indicate that the level of the employee's CdU, B₂-M, or CdB exceeds these same levels, the employer is required to provide annual medical examinations in accordance with the provisions of (d)(ii) of this subsection until the results of biological monitoring are consistently below these levels or the examining physician determines in a written medical opinion that further

medical surveillance is not required to protect the employee's health.

(vi) A routine, biennial medical examination is not required to be provided in accordance with (c)(i) and (d) of this subsection if adequate medical records show that the employee has been examined in accordance with the requirements of (d)(ii) of this subsection within the past 12 months. In that case, such records shall be maintained by the employer as part of the employee's medical record, and the next routine, periodic medical examination shall be made available to the employee within two years of the previous examination.

(e) Actions triggered by medical examinations. If the results of a medical examination carried out in accordance with this section indicate any laboratory or clinical finding consistent with cadmium toxicity that does not require employer action under (b), (c), or (d) of this subsection, the employer shall take the following steps and continue to take them until the physician determines that they are no longer necessary.

(i) Periodically reassess: The employee's work practices and personal hygiene; the employee's respirator use, if any; the employee's smoking history and status; the respiratory protection program; the hygiene facilities; the maintenance and effectiveness of the relevant engineering controls; and take all reasonable steps to correct the deficiencies found in the reassessment that may be responsible for the employee's excess exposure to cadmium.

(ii) Provide semiannual medical reexaminations to evaluate the abnormal clinical sign(s) of cadmium toxicity until the results are normal or the employee is medically removed; and

(iii) Where the results of tests for total proteins in urine are abnormal, provide a more detailed medical evaluation of the toxic effects of cadmium on the employee's renal system.

(f) Examination for respirator use.

(i) To determine an employee's fitness for respirator use, the employer shall provide a medical examination that includes the elements specified in (f)(i)(A) through (D) of this subsection. This examination shall be provided prior to the employee's being assigned to a job that requires the use of a respirator or no later than 90 days after this section goes into effect, whichever date is later, to any employee without a medical examination within the preceding 12 months that satisfies the requirements of this section.

(A) A detailed medical and work history, or update thereof, with emphasis on: Past exposure to cadmium; smoking history and current status; any history of renal, cardiovascular, respiratory, hematopoietic, and/or musculo-skeletal system dysfunction; a description of the job for which the respirator is required; and questions 3 through 11 and 25 through 32 in WAC 296-62-07447, Appendix D;

(B) A blood pressure test;

(C) Biological monitoring of the employee's levels of CdU, CdB and B₂-M in accordance with the requirements of (b)(ii)(B) of this subsection, unless such results already have been obtained within the twelve months; and

(D) Any other test or procedure that the examining physician deems appropriate.

(ii) After reviewing all the information obtained from the medical examination required in (f)(i) of this subsection, the physician shall determine whether the employee is fit to wear a respirator.

(iii) Whenever an employee has exhibited difficulty in breathing during a respirator fit test or during use of a respirator, the employer, as soon as possible, shall provide the employee with a periodic medical examination in accordance with (d)(ii) of this subsection to determine the employee's fitness to wear a respirator.

(iv) Where the results of the examination required under (f)(i), (ii), or (iii) of this subsection are abnormal, medical limitation or prohibition of respirator use shall be considered. If the employee is allowed to wear a respirator, the employee's ability to continue to do so shall be periodically evaluated by a physician.

(g) Emergency examinations.

(i) In addition to the medical surveillance required in (b) through (f) of this subsection, the employer shall provide a medical examination as soon as possible to any employee who may have been acutely exposed to cadmium because of an emergency.

(ii) The examination shall include the requirements of (d)(ii), of this subsection, with emphasis on the respiratory system, other organ systems considered appropriate by the examining physician, and symptoms of acute overexposure, as identified in Appendix A, WAC 296-62-07441 (2)(b)(i) and (ii) and (4).

(h) Termination of employment examination.

(i) At termination of employment, the employer shall provide a medical examination in accordance with (d)(ii) of this subsection, including a chest X ray where necessary, to any employee to whom at any prior time the employer was required to provide medical surveillance under (a)(i) or (g) of this subsection. However, if the last examination satisfied the requirements of (d)(ii) of this subsection and was less than six months prior to the date of termination, no further examination is required unless otherwise specified in (c) or (e) of this subsection;

(ii) In addition, if the employer has discontinued all periodic medical surveillance under (d)(v) of this subsection, no termination of employment medical examination is required.

(i) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and appendices;

(ii) A description of the affected employee's former, current, and anticipated duties as they relate to the employee's occupational exposure to cadmium;

(iii) The employee's former, current, and anticipated future levels of occupational exposure to cadmium;

(iv) A description of any personal protective equipment, including respirators, used or to be used by the employee, including when and for how long the employee has used that equipment; and

(v) Relevant results of previous biological monitoring and medical examinations.

(j) Physician's written medical opinion.

(i) The employer shall promptly obtain a written, signed, medical opinion from the examining physician for each med-

ical examination performed on each employee. This written opinion shall contain:

(A) The physician's diagnosis for the employee;

(B) The physician's opinion as to whether the employee has any detected medical condition(s) that would place the employee at increased risk of material impairment to health from further exposure to cadmium, including any indications of potential cadmium toxicity;

(C) The results of any biological or other testing or related evaluations that directly assess the employee's absorption of cadmium;

(D) Any recommended removal from, or limitation on the activities or duties of the employee or on the employee's use of personal protective equipment, such as respirators;

(E) A statement that the physician has clearly and carefully explained to the employee the results of the medical examination, including all biological monitoring results and any medical conditions related to cadmium exposure that require further evaluation or treatment, and any limitation on the employee's diet or use of medications.

(ii) The employer shall promptly obtain a copy of the results of any biological monitoring provided by an employer to an employee independently of a medical examination under (b) and (d) of this subsection, and, in lieu of a written medical opinion, an explanation sheet explaining those results.

(iii) The employer shall instruct the physician not to reveal orally or in the written medical opinion given to the employer specific findings or diagnoses unrelated to occupational exposure to cadmium.

(k) Medical removal protection (MRP).

(i) General.

(A) The employer shall temporarily remove an employee from work where there is excess exposure to cadmium on each occasion that medical removal is required under (c), (d), or (f) of this subsection and on each occasion that a physician determines in a written medical opinion that the employee should be removed from such exposure. The physician's determination may be based on biological monitoring results, inability to wear a respirator, evidence of illness, other signs or symptoms of cadmium-related dysfunction or disease, or any other reason deemed medically sufficient by the physician.

(B) The employer shall medically remove an employee in accordance with (k) of this subsection regardless of whether at the time of removal a job is available into which the removed employee may be transferred.

(C) Whenever an employee is medically removed under (k) of this subsection, the employer shall transfer the removed employee to a job where the exposure to cadmium is within the permissible levels specified in subsection (12) of this section as soon as one becomes available.

(D) For any employee who is medically removed under the provisions of (k)(i) of this subsection, the employer shall provide follow-up medical examinations semiannually until, in a written medical opinion, the examining physician determines that either the employee may be returned to his/her former job status or the employee must be permanently removed from excess cadmium exposure.

(E) The employer may not return an employee who has been medically removed for any reason to his/her former job status until a physician determines in a written medical opinion that continued medical removal is no longer necessary to protect the employee's health.

(ii) Where an employee is found unfit to wear a respirator under (f)(ii) of this subsection, the employer shall remove the employee from work where exposure to cadmium is above the PEL.

(iii) Where removal is based upon any reason other than the employee's inability to wear a respirator, the employer shall remove the employee from work where exposure to cadmium is at or above the action level.

(iv) Except as specified in (k)(v) of this subsection, no employee who was removed because his/her level of CdU, CdB and/or B₂-M exceeded the trigger levels in (c) or (d) of this subsection may be returned to work with exposure to cadmium at or above the action level until the employee's levels of CdU fall to or below 3 µg/g Cr, CdB fall to or below 5 µg/lwb, and B₂-M fall to or below 300 µg/g Cr.

(v) However, when in the examining physician's opinion continued exposure to cadmium will not pose an increased risk to the employee's health and there are special circumstances that make continued medical removal an inappropriate remedy, the physician shall fully discuss these matters with the employee, and then in a written determination may return a worker to his/her former job status despite what would otherwise be unacceptably high biological monitoring results. Thereafter and until such time as the employee's biological monitoring results have decreased to levels where he/she could have been returned to his/her former job status, the returned employee shall continue medical surveillance as if he/she were still on medical removal. Until such time, the employee is no longer subject to mandatory medical removal. Subsequent questions regarding the employee's medical removal shall be decided solely by a final medical determination.

(vi) Where an employer, although not required by this section to do so, removes an employee from exposure to cadmium or otherwise places limitations on an employee due to the effects of cadmium exposure on the employee's medical condition, the employer shall provide the same medical removal protection benefits to that employee under (l) of this subsection as would have been provided had the removal been required under (k) of this subsection.

(l) Medical removal protection benefits.

(i) The employer shall provide medical removal protection benefits to an employee for up to a maximum of 18 months each time, and while the employee is temporarily medically removed under (k) of this subsection.

(ii) For purposes of this section, the requirement that the employer provide medical removal protection benefits means that the employer shall maintain the total normal earnings, seniority, and all other employee rights and benefits of the removed employee, including the employee's right to his/her former job status, as if the employee had not been removed from the employee's job or otherwise medically limited.

(iii) Where, after 18 months on medical removal because of elevated biological monitoring results, the employee's monitoring results have not declined to a low enough level to

permit the employee to be returned to his/her former job status:

(A) The employer shall make available to the employee a medical examination pursuant to this section in order to obtain a final medical determination as to whether the employee may be returned to his/her former job status or must be permanently removed from excess cadmium exposure; and

(B) The employer shall assure that the final medical determination indicates whether the employee may be returned to his/her former job status and what steps, if any, should be taken to protect the employee's health.

(iv) The employer may condition the provision of medical removal protection benefits upon the employee's participation in medical surveillance provided in accordance with this section.

(m) Multiple physician review.

(i) If the employer selects the initial physician to conduct any medical examination or consultation provided to an employee under this section, the employee may designate a second physician to:

(A) Review any findings, determinations, or recommendations of the initial physician; and

(B) Conduct such examinations, consultations, and laboratory tests as the second physician deems necessary to facilitate this review.

(ii) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician provided by the employer conducts a medical examination or consultation pursuant to this section. The employer may condition its participation in, and payment for, multiple physician review upon the employee doing the following within fifteen (15) days after receipt of this notice, or receipt of the initial physician's written opinion, whichever is later:

(A) Informing the employer that he or she intends to seek a medical opinion; and

(B) Initiating steps to make an appointment with a second physician.

(iii) If the findings, determinations, or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve any disagreement.

(iv) If the two physicians have been unable to quickly resolve their disagreement, then the employer and the employee, through their respective physicians, shall designate a third physician to:

(A) Review any findings, determinations, or recommendations of the other two physicians; and

(B) Conduct such examinations, consultations, laboratory tests, and discussions with the other two physicians as the third physician deems necessary to resolve the disagreement among them.

(v) The employer shall act consistently with the findings, determinations, and recommendations of the third physician, unless the employer and the employee reach an agreement that is consistent with the recommendations of at least one of the other two physicians.

(n) Alternate physician determination. The employer and an employee or designated employee representative may agree upon the use of any alternate form of physician determination in lieu of the multiple physician review provided by (m) of this subsection, so long as the alternative is expeditious and at least as protective of the employee.

(o) Information the employer must provide the employee.

(i) The employer shall provide a copy of the physician's written medical opinion to the examined employee within five working days after receipt thereof.

(ii) The employer shall provide the employee with a copy of the employee's biological monitoring results and an explanation sheet explaining the results within five working days after receipt thereof.

(iii) Within 30 days after a request by an employee, the employer shall provide the employee with the information the employer is required to provide the examining physician under (i) of this subsection.

(p) Reporting. In addition to other medical events that are required to be reported on the OSHA Form No. 200, the employer shall report any abnormal condition or disorder caused by occupational exposure to cadmium associated with employment as specified in Chapter (V)(E) of the Bureau of Labor Statistics Recordkeeping Guidelines for Occupational Injuries and Illnesses.

(13) Communication of cadmium hazards to employees

(a) General. In communications concerning cadmium hazards, employers shall comply with the requirements of WISHA's Hazard Communication Standard, chapter 296-62 WAC, Part C, including but not limited to the requirements concerning warning signs and labels, material safety data sheets (MSDS), and employee information and training. In addition, employers shall comply with the following requirements:

(b) Warning signs.

(i) Warning signs shall be provided and displayed in regulated areas. In addition, warning signs shall be posted at all approaches to regulated areas so that an employee may read the signs and take necessary protective steps before entering the area.

(ii) Warning signs required by (b)(i) of this subsection shall bear the following information:

Danger, Cadmium, Cancer Hazard, Can Cause Lung and
Kidney Disease, Authorized Personnel Only, Respirators
Required in This Area

(iii) The employer shall assure that signs required by this section are illuminated, cleaned, and maintained as necessary so that the legend is readily visible.

(c) Warning labels.

(i) Shipping and storage containers containing cadmium, cadmium compounds, or cadmium contaminated clothing, equipment, waste, scrap, or debris shall bear appropriate warning labels, as specified in (c)(ii) of this subsection.

(ii) The warning labels shall include at least the following information:

Danger, Contains Cadmium, Cancer Hazard, Avoid Creating
Dust, Can Cause Lung and Kidney Disease

(iii) Where feasible, installed cadmium products shall have a visible label or other indication that cadmium is present.

(d) Employee information and training.

(i) The employer shall institute a training program for all employees who are potentially exposed to cadmium, assure employee participation in the program, and maintain a record of the contents of such program.

(ii) Training shall be provided prior to or at the time of initial assignment to a job involving potential exposure to cadmium and at least annually thereafter.

(iii) The employer shall make the training program understandable to the employee and shall assure that each employee is informed of the following:

(A) The health hazards associated with cadmium exposure, with special attention to the information incorporated in WAC 296-62-07441, Appendix A;

(B) The quantity, location, manner of use, release, and storage of cadmium in the workplace and the specific nature of operations that could result in exposure to cadmium, especially exposures above the PEL;

(C) The engineering controls and work practices associated with the employee's job assignment;

(D) The measures employees can take to protect themselves from exposure to cadmium, including modification of such habits as smoking and personal hygiene, and specific procedures the employer has implemented to protect employees from exposure to cadmium such as appropriate work practices, emergency procedures, and the provision of personal protective equipment;

(E) The purpose, proper selection, fitting, proper use, and limitations of respirators and protective clothing;

(F) The purpose and a description of the medical surveillance program required by subsection (12) of this section;

(G) The contents of this section and its appendices; and

(H) The employee's rights of access to records under chapter 296-62 WAC, Part B.

(iv) Additional access to information and training program and materials.

(A) The employer shall make a copy of this section and its appendices readily available to all affected employees and shall provide a copy without cost if requested.

(B) Upon request, the employer shall provide to the director or authorized representative, all materials relating to the employee information and the training program.

(e) Multiemployer workplace. In a multiemployer workplace, an employer who produces, uses, or stores cadmium in a manner that may expose employees of other employers to cadmium shall notify those employers of the potential hazard in accordance with WAC 296-800-170 of the chemical hazard communication program standard.

(14) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and keep an accurate record of all air monitoring for cadmium in the workplace.

(ii) This record shall include at least the following information:

(A) The monitoring date, shift, duration, air volume, and results in terms of an 8-hour TWA of each sample taken, and if cadmium is not detected, the detection level;

(B) The name, Social Security number, and job classification of all employees monitored and of all other employees whose exposures the monitoring result is intended to represent, including, where applicable, a description of how it was determined that the employee's monitoring result could be taken to represent other employee's exposures;

(C) A description of the sampling and analytical methods used and evidence of their accuracy;

(D) The type of respiratory protective device, if any, worn by the monitored employee and by any other employee whose exposure the monitoring result is intended to represent;

(E) A notation of any other conditions that might have affected the monitoring results;

(F) Any exposure monitoring or objective data that were used and the levels.

(iii) The employer shall maintain this record for at least thirty (30) years, in accordance with ((WAC 296-62-05207)) chapter 296-802 WAC.

(iv) The employer shall also provide a copy of the results of an employee's air monitoring prescribed in subsection (4) of this section to an industry trade association and to the employee's union, if any, or, if either of such associations or unions do not exist, to another comparable organization that is competent to maintain such records and is reasonably accessible to employers and employees in the industry.

(b) Objective data for exemption from requirement for initial monitoring.

(i) For purposes of this section, objective data are information demonstrating that a particular product or material containing cadmium or a specific process, operation, or activity involving cadmium cannot release dust or fumes in concentrations at or above the action level even under the worst-case release conditions. Objective data can be obtained from an industry-wide study or from laboratory product test results from manufacturers of cadmium-containing products or materials. The data the employer uses from an industry-wide survey must be obtained under workplace conditions closely resembling the processes, types of material, control methods, work practices, and environmental conditions in the employer's current operations.

(ii) The employer shall maintain the record for at least 30 years of the objective data relied upon.

(c) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee covered by medical surveillance under (a)(i) of this subsection.

(ii) The record shall include at least the following information about the employee:

(A) Name, Social Security number, and description of duties;

(B) A copy of the physician's written opinions and of the explanation sheets for biological monitoring results;

(C) A copy of the medical history, and the results of any physical examination and all test results that are required to be provided by this section, including biological tests, X rays, pulmonary function tests, etc., or that have been obtained to

further evaluate any condition that might be related to cadmium exposure;

(D) The employee's medical symptoms that might be related to exposure to cadmium; and

(E) A copy of the information provided to the physician as required by subsection (12)(i) of this section.

(iii) The employer shall assure that this record is maintained for the duration of employment plus thirty (30) years, in accordance with ((WAC 296-62-05207)) chapter 296-802 WAC.

(iv) At the employee's request, the employer shall promptly provide a copy of the employee's medical record, or update as appropriate, to a medical doctor or a union specified by the employee.

(d) Training. The employer shall certify that employees have been trained by preparing a certification record which includes the identity of the person trained, the signature of the employer or the person who conducted the training, and the date the training was completed. The certification records shall be prepared at the completion of training and shall be maintained on file for one (1) year beyond the date of training of that employee.

(e) Availability.

(i) Except as otherwise provided for in this section, access to all records required to be maintained by (a) through (d) of this subsection shall be in accordance with the provisions of ((WAC 296-62-052)) chapter 296-802 WAC.

(ii) Within 15 days after a request, the employer shall make an employee's medical records required to be kept by (c) of this subsection available for examination and copying to the subject employee, to designated representatives, to anyone having the specific written consent of the subject employee, and after the employee's death or incapacitation, to the employee's family members.

(f) Transfer of records. Whenever an employer ceases to do business and there is no successor employer or designated organization to receive and retain records for the prescribed period, the employer shall comply with the requirements concerning transfer of records set forth in ((WAC 296-62-05215)) chapter 296-802 WAC.

(15) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to cadmium.

(b) Observation procedures. When observation of monitoring requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with that clothing and equipment and shall assure that the observer uses such clothing and equipment and complies with all other applicable safety and health procedures.

(16) Appendices.

(a) Compliance with the fit testing requirements in WAC 296-62-07201 through 296-62-07248, Appendices A-1, A-2 and A-3 of chapter 296-62 WAC, Part E, are mandatory.

(b) Except where portions of WAC 296-62-07441, 296-62-07443, 296-62-07447, 296-62-07449, and 296-62-07451, Appendices A, B, D, E, and F, respectively, to this section are expressly incorporated in requirements of this section, these

appendices are purely informational and are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-37-575 Recordkeeping requirements. (1) Recording and reporting.

(a) The employer shall comply with the requirements of chapters 296-27, 296-350, and 296-800 WAC.

(b) The employer shall record the occurrence of any diving-related injury or illness which requires any dive team member to be hospitalized for 24 hours or more, specifying the circumstances of the incident and the extent of any injuries or illnesses.

(2) Availability of records.

(a) Upon the request of the director of the department of labor and industries or his duly authorized designees, the employer shall make available for inspection and copying any record or document required by this standard.

(b) Records and documents required by this standard shall be provided upon request to employees, designated representatives, and the assistant director in accordance with (~~WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217~~) **chapter 296-802 WAC**. Safe practices manuals (WAC 296-37-530), depth-time profiles (WAC 296-37-540), recording of dives (WAC 296-37-545), decompression procedure assessment evaluations (WAC 296-37-545), and records of hospitalizations (WAC 296-37-575) shall be provided in the same manner as employee exposure records or analyses using exposure or medical records. Equipment inspections and testing records which pertain to employees (WAC 296-37-570) shall also be provided upon request to employees and their designated representatives.

(c) Records and documents required by this standard shall be retained by the employer for the following period:

(i) Dive team member medical records (physician's reports) (WAC 296-37-525) - five years;

(ii) Safe practices manual (WAC 296-37-530) - current document only;

(iii) Depth-time profile (WAC 296-37-540) - until completion of the recording of dive, or until completion of decompression procedure assessment where there has been an incident of decompression sickness;

(iv) Recording dive (WAC 296-37-545) one year, except five years where there has been an incident of decompression sickness;

(v) Decompression procedure assessment evaluations (WAC 296-37-545) - five years;

(vi) Equipment inspections and testing records (WAC 296-37-570) - current entry or tag, or until equipment is withdrawn from service;

(vii) Records of hospitalizations (WAC 296-37-575) - five years.

(d) After the expiration of the retention period of any record required to be kept for five years, the employer shall forward such records to the National Institute for Occupational Safety and Health, Department of Health and Human Services. The employer shall also comply with any additional

requirements set forth in (~~WAC 296-62-05215~~) **chapter 296-802 WAC**.

(e) In the event the employer ceases to do business:

(i) The successor employer shall receive and retain all dive and employee medical records required by this standard; or

(ii) If there is no successor employer, dive and employee medical records shall be forwarded to the National Institute for Occupational Safety and Health, Department of Health and Human Services.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-62-052	Access to employee exposure and medical records.
WAC 296-62-05201	Purpose.
WAC 296-62-05203	Scope and application.
WAC 296-62-05205	Definitions.
WAC 296-62-05207	Preservation of records.
WAC 296-62-05209	Access to records.
WAC 296-62-05213	Employee information.
WAC 296-62-05215	Transfer of records.
WAC 296-62-05217	Appendices.
WAC 296-62-05219	Effective date.
WAC 296-62-05221	Appendix A—Sample authorization letter for the release of employee medical record information to a designated representative.
WAC 296-62-05223	Appendix B—Availability of NIOSH Registry of Toxic Effects of Chemical Substances (RTECS).

AMENDATORY SECTION (Amending WSR 02-12-098, filed 6/5/02, effective 8/1/02)

WAC 296-62-07314 Medical surveillance. (1) At no cost to the employee, a program of medical surveillance must be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(2) Examinations.

(a) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician must be provided and must include a personal history of the employee and/or his/her family and occupational background, including genetic and environmental factors.

(i) Taking of employees' medical history and background history must be considered to be a routine part of standard medical practice.

(ii) This provision does not require "genetic testing" of any employee.

(iii) This provision does not require the exclusion of otherwise qualified employees from jobs on the basis of genetic factors.

(b) Authorized employees must be provided periodic physical examination, not less often than annually, following the preassignment examination.

(c) In all physical examinations, the examining physician must be requested to consider whether there exist conditions of increased risk, including reduced immunological competence, pregnancy, cigarette smoking, and those undergoing treatment with steroids or cytotoxic agents.

(3) Records.

(a) Employers of employees examined pursuant to this subdivision must maintain complete and accurate records of all such medical examinations. Records must be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, must be forwarded by registered mail to the director.

(b) Records required by this section must be provided upon request to employees, designated representatives, and the director in accordance with (~~WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217~~) chapter 296-802 WAC.

(c) Any employer who requests a physical examination of an employee or prospective employee as required by this section must obtain from the physician a statement of the employee's suitability for employment in the specific exposure.

AMENDATORY SECTION (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

WAC 296-62-07329 Vinyl chloride. (1) Scope and application.

(a) This section includes requirements for the control of employee exposure to vinyl chloride (chloroethene), Chemical Abstracts Service Registry No. 75014.

(b) This section applies to the manufacture, reaction, packaging, repackaging, storage, handling or use of vinyl chloride or polyvinyl chloride, but does not apply to the handling or use of fabricated products made of polyvinyl chloride.

(c) This section applies to the transportation of vinyl chloride or polyvinyl chloride except to the extent that the department of transportation may regulate the hazards covered by this section.

(2) Definitions.

(a) "Action level" means a concentration of vinyl chloride of 0.5 ppm averaged over an 8-hour work day.

(b) "Authorized person" means any person specifically authorized by the employer whose duties require him/her to enter a regulated area or any person entering such an area as a designated representative of employees for the purpose of exercising an opportunity to observe monitoring and measuring procedures.

(c) "Director" means the director of department of labor and industries or his/her designated representative.

(d) "Emergency" means any occurrence such as, but not limited to, equipment failure, or operation of a relief device which is likely to, or does, result in massive release of vinyl chloride.

(e) "Fabricated product" means a product made wholly or partly from polyvinyl chloride, and which does not require further processing at temperatures, and for times, sufficient to cause mass melting of the polyvinyl chloride resulting in the release of vinyl chloride.

(f) "Hazardous operation" means any operation, procedure, or activity where a release of either vinyl chloride liquid or gas might be expected as a consequence of the operation or because of an accident in the operation, which would result in an employee exposure in excess of the permissible exposure limit.

(g) "Polyvinyl chloride" means polyvinyl chloride homopolymer or copolymer before such is converted to a fabricated product.

(h) "Vinyl chloride" means vinyl chloride monomer.

(3) Permissible exposure limit.

(a) No employee may be exposed to vinyl chloride at concentrations greater than 1 ppm averaged over any 8-hour period, and

(b) No employee may be exposed to vinyl chloride at concentrations greater than 5 ppm averaged over any period not exceeding 15 minutes.

(c) No employee may be exposed to vinyl chloride by direct contact with liquid vinyl chloride.

(4) Monitoring.

(a) A program of initial monitoring and measurement shall be undertaken in each establishment to determine if there is any employee exposed, without regard to the use of respirators, in excess of the action level.

(b) Where a determination conducted under subdivision (a) of this subsection shows any employee exposures without regard to the use of respirators, in excess of the action level, a program for determining exposures for each such employee shall be established. Such a program:

(i) Shall be repeated at least monthly where any employee is exposed, without regard to the use of respirators, in excess of the permissible exposure limit.

(ii) Shall be repeated not less than quarterly where any employee is exposed, without regard to the use of respirators, in excess of the action level.

(iii) May be discontinued for any employee only when at least two consecutive monitoring determinations, made not less than 5 working days apart, show exposures for that employee at or below the action level.

(c) Whenever there has been a production, process or control change which may result in an increase in the release of vinyl chloride, or the employer has any other reason to suspect that any employee may be exposed in excess of the action level, a determination of employee exposure under subdivision (a) of this subsection shall be performed.

(d) The method of monitoring and measurement shall have an accuracy (with a confidence level of 95 percent) of not less than plus or minus 50 percent from 0.25 through 0.5 ppm, plus or minus 35 percent from over 0.5 ppm through 1.0

ppm, plus or minus 25 percent over 1.0 ppm, (methods meeting these accuracy requirements are available from the director).

(e) Employees or their designated representatives shall be afforded reasonable opportunity to observe the monitoring and measuring required by this subsection.

(5) Regulated area.

(a) A regulated area shall be established where:

(i) Vinyl chloride or polyvinyl chloride is manufactured, reacted, repackaged, stored, handled or used; and

(ii) Vinyl chloride concentrations are in excess of the permissible exposure limit.

(b) Access to regulated areas shall be limited to authorized persons.

(6) Methods of compliance. Employee exposures to vinyl chloride shall be controlled to at or below the permissible exposure limit provided in subsection (3) of this section by engineering, work practice, and personal protective controls as follows:

(a) Feasible engineering and work practice controls shall immediately be used to reduce exposures to at or below the permissible exposure limit.

(b) Wherever feasible engineering and work practice controls which can be instituted immediately are not sufficient to reduce exposures to at or below the permissible exposure limit, they shall nonetheless be used to reduce exposures to the lowest practicable level, and shall be supplemented by respiratory protection in accordance with subsection (7) of this section. A program shall be established and implemented to reduce exposures to at or below the permissible exposure limit, or to the greatest extent feasible, solely by means of engineering and work practice controls, as soon as feasible.

(c) Written plans for such a program shall be developed and furnished upon request for examination and copying to the director. Such plans shall be updated at least every six months.

(7) Respiratory protection.

(a) General. For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this section.

(b) Respirator program. The employer must establish, implement, and maintain a respiratory protection program as required in chapter 296-62 WAC, Part E (except WAC 296-62-07130(1), 296-62-07131 (4)(b)(i) and (ii), and 296-62-07150 through 296-62-17156).

(c) Respirator selection. Respirators must be selected from the following table.

Atmospheric concentration of Vinyl Chloride	Apparatus
(i) Not over 10 ppm	Any chemical cartridge respirator with a vinyl chloride cartridge which provides a service life of at least 1 hour for concentrations of vinyl chloride up to 10 ppm.

Atmospheric concentration of Vinyl Chloride	Apparatus
(ii) Not over 25 ppm	(A) A powered air-purifying respirator with hood, helmet, full or half facepiece, and a canister which provides a service life of at least 4 hours for concentrations of vinyl chloride up to 25 ppm, or (B) Gas mask, front or back-mounted canister which provides a service life of at least 4 hours for concentrations of vinyl chloride up to 25 ppm.
(iii) Not over 100 ppm	Supplied air respirator demand type, with full facepiece.
(iv) Not over 250 ppm	Type C, supplied air respirator, continuous flow type, with full or half facepiece, helmet or hood.
(v) Not over 3,600 ppm	Combination Type C supplied air respirator, pressure demand type, with full or half facepiece and auxiliary self-contained air supply.
(vi) Unknown, or above 3,600 ppm	Open-circuit, self-contained breathing apparatus, pressure demand type, with full facepiece.

(d) Where air-purifying respirators are used:

(i) Air-purifying canisters or cartridges must be replaced prior to the expiration of their service life or the end of the shift in which they are first used, whichever occurs first, and

(ii) A continuous monitoring and alarm system must be provided when concentrations of vinyl chloride could reasonably exceed the allowable concentrations for the devices in use. Such system shall be used to alert employees when vinyl chloride concentrations exceed the allowable concentrations for the devices in use, and

(iii) Respirators specified for higher concentrations may be used for lower concentration.

(8) Hazardous operations.

(a) Employees engaged in hazardous operations, including entry of vessels to clean polyvinyl chloride residue from vessel walls, shall be provided and required to wear and use:

(i) Respiratory protection in accordance with subsections (3) and (7) of this section; and

(ii) Protective garments to prevent skin contact with liquid vinyl chloride or with polyvinyl chloride residue from vessel walls. The protective garments shall be selected for the operation and its possible exposure conditions.

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(b) Protective garments shall be provided clean and dry for each use.

(c) Emergency situations. A written operational plan for emergency situations shall be developed for each facility storing, handling, or otherwise using vinyl chloride as a liquid or compressed gas. Appropriate portions of the plan shall be implemented in the event of an emergency. The plan shall specifically provide that:

(i) Employees engaged in hazardous operations or correcting situations of existing hazardous releases shall be equipped as required in subdivisions (a) and (b) of this subsection;

(ii) Other employees not so equipped shall evacuate the area and not return until conditions are controlled by the methods required in subsection (6) of this section and the emergency is abated.

(9) Training. Each employee engaged in vinyl chloride or polyvinyl chloride operations shall be provided training in a program relating to the hazards of vinyl chloride and precautions for its safe use.

(a) The program shall include:

(i) The nature of the health hazard from chronic exposure to vinyl chloride including specifically the carcinogenic hazard;

(ii) The specific nature of operations which could result in exposure to vinyl chloride in excess of the permissible limit and necessary protective steps;

(iii) The purpose for, proper use, and limitations of respiratory protective devices;

(iv) The fire hazard and acute toxicity of vinyl chloride, and the necessary protective steps;

(v) The purpose for and a description of the monitoring program;

(vi) The purpose for and a description of, the medical surveillance program;

(vii) Emergency procedures:

(A) Specific information to aid the employee in recognition of conditions which may result in the release of vinyl chloride; and

(B) A review of this standard at the employee's first training and indoctrination program, and annually thereafter.

(b) All materials relating to the program shall be provided upon request to the director.

(10) Medical surveillance. A program of medical surveillance shall be instituted for each employee exposed, without regard to the use of respirators, to vinyl chloride in excess of the action level. The program shall provide each such employee with an opportunity for examinations and tests in accordance with this subsection. All medical examinations and procedures shall be performed by or under the supervision of a licensed physician and shall be provided without cost to the employee.

(a) At the time of initial assignment, or upon institution of medical surveillance;

(i) A general physical examination shall be performed with specific attention to detecting enlargement of liver, spleen or kidneys, or dysfunction in these organs, and for abnormalities in skin, connective tissues and the pulmonary system (see Appendix A).

(ii) A medical history shall be taken, including the following topics:

(A) Alcohol intake,

(B) Past history of hepatitis,

(C) Work history and past exposure to potential hepatotoxic agents, including drugs and chemicals,

(D) Past history of blood transfusions, and

(E) Past history of hospitalizations.

(iii) A serum specimen shall be obtained and determinations made of:

(A) Total bilirubin,

(B) Alkaline phosphatase,

(C) Serum glutamic oxalacetic transaminase (SGOT),

(D) Serum glutamic pyruvic transaminase (SGPT), and

(E) Gamma glutamyl transpeptidase.

(b) Examinations provided in accordance with this subdivision shall be performed at least:

(i) Every 6 months for each employee who has been employed in vinyl chloride or polyvinyl chloride manufacturing for 10 years or longer; and

(ii) Annually for all other employees.

(c) Each employee exposed to an emergency shall be afforded appropriate medical surveillance.

(d) A statement of each employee's suitability for continued exposure to vinyl chloride including use of protective equipment and respirators, shall be obtained from the examining physician promptly after any examination. A copy of the physician's statement shall be provided each employee.

(e) If any employee's health would be materially impaired by continued exposure, such employee shall be withdrawn from possible contact with vinyl chloride.

(f) Laboratory analyses for all biological specimens included in medical examinations shall be performed in laboratories licensed under 42 CFR Part 74.

(g) If the examining physician determines that alternative medical examinations to those required by subdivision (a) of this subsection will provide at least equal assurance of detecting medical conditions pertinent to the exposure to vinyl chloride, the employer may accept such alternative examinations as meeting the requirements of subdivision (a) of this subsection, if the employer obtains a statement from the examining physician setting forth the alternative examinations and the rationale for substitution. This statement shall be available upon request for examination and copying to authorized representatives of the director.

(11) Signs and labels.

(a) Entrances to regulated areas shall be posted with legible signs bearing the legend:

CANCER-SUSPECT AGENT AREA AUTHORIZED PERSONNEL
ONLY

(b) Areas containing hazardous operations or where an emergency currently exists shall be posted with legible signs bearing the legend:

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CANCER-SUSPECT AGENT IN THIS AREA PROTECTIVE EQUIPMENT REQUIRED AUTHORIZED PERSONNEL ONLY

(c) Containers of polyvinyl chloride resin waste from reactors or other waste contaminated with vinyl chloride shall be legibly labeled:

CONTAMINATED WITH VINYL CHLORIDE CANCER-SUSPECT AGENT

(d) Containers of polyvinyl chloride shall be legibly labeled:

POLYVINYL CHLORIDE (OR TRADE NAME) CONTAINS VINYL CHLORIDE VINYL CHLORIDE IS A CANCER-SUSPECT AGENT

(e) Containers of vinyl chloride shall be legibly labeled either:

VINYL CHLORIDE EXTREMELY FLAMMABLE GAS UNDER PRESSURE CANCER-SUSPECT AGENT

(or)

(f) In accordance with 49 CFR Part 173, Subpart H, with the additional legends:

CANCER-SUSPECT AGENT

Applied near the label or placard.

(g) No statement shall appear on or near any required sign, label or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(12) Records.

(a) All records maintained in accordance with this section shall include the name and social security number of each employee where relevant.

(b) Records of required monitoring and measuring and medical records shall be provided upon request to employees, designated representatives, and the director in accordance with ((WAC 296-62-05201 through 296-62-05209; and 296-62-05213 through 296-62-05217)) chapter 296-802 WAC. These records shall be provided upon request to the director. Authorized personnel rosters shall also be provided upon request to the director.

(i) Monitoring and measuring records shall:

(A) State the date of such monitoring and measuring and the concentrations determined and identify the instruments and methods used;

(B) Include any additional information necessary to determine individual employee exposures where such exposures are determined by means other than individual monitoring of employees; and

(C) Be maintained for not less than 30 years.

(ii) Medical records shall be maintained for the duration of the employment of each employee plus 20 years, or 30 years, whichever is longer.

(c) In the event that the employer ceases to do business and there is no successor to receive and retain his/her records for the prescribed period, these records shall be transmitted by registered mail to the director, and each employee individually notified in writing of this transfer. The employer shall

also comply with any additional requirements set forth in ((WAC 296-62-05215)) chapter 296-802 WAC.

(d) Employees or their designated representatives shall be provided access to examine and copy records of required monitoring and measuring.

(e) Former employees shall be provided access to examine and copy required monitoring and measuring records reflecting their own exposures.

(f) Upon written request of any employee, a copy of the medical record of that employee shall be furnished to any physician designated by the employee.

(13) Reports.

(a) Not later than 1 month after the establishment of a regulated area, the following information shall be reported to the director. Any changes to such information shall be reported within 15 days.

(i) The address and location of each establishment which has one or more regulated areas; and

(ii) The number of employees in each regulated area during normal operations, including maintenance.

(b) Emergencies and the facts obtainable at that time, shall be reported within 24 hours to the director. Upon request of the director, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of similar nature.

(c) Within 10 working days following any monitoring and measuring which discloses that any employee has been exposed, without regard to the use of respirators, in excess of the permissible exposure limit, each such employee shall be notified in writing of the results of the exposure measurement and the steps being taken to reduce the exposure to within the permissible exposure limit.

(14) Appendix A supplementary medical information.

When required tests under subsection (10)(a) of this section show abnormalities, the tests should be repeated as soon as practicable, preferably within 3 to 4 weeks. If tests remain abnormal, consideration should be given to withdrawal of the employee from contact with vinyl chloride, while a more comprehensive examination is made.

Additional tests which may be useful:

(A) For kidney dysfunction: Urine examination for albumin, red blood cells, and exfoliative abnormal cells.

(B) Pulmonary system: Forced vital capacity, forced expiratory volume at 1 second, and chest roentgenogram (posterior-anterior, 14 x 17 inches).

(C) Additional serum tests: Lactic acid dehydrogenase, lactic acid dehydrogenase isoenzyme, protein determination, and protein electrophoresis.

(D) For a more comprehensive examination on repeated abnormal serum tests: Hepatitis B antigen, and liver scanning.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-62-07336 Acrylonitrile. (1) Scope and application.

(a) This section applies to all occupational exposure to acrylonitrile (AN), Chemical Abstracts Service Registry No.

000107131, except as provided in (b) and (c) of this subsection.

(b) This section does not apply to exposures which result solely from the processing, use, and handling of the following materials:

(i) ABS resins, SAN resins, nitrile barrier resins, solid nitrile elastomers, and acrylic and modacrylic fibers, when these listed materials are in the form of finished polymers, and products fabricated from such finished polymers;

(ii) Materials made from and/or containing AN for which objective data is reasonably relied upon to demonstrate that the material is not capable of releasing AN in airborne concentrations in excess of 1 ppm as an eight-hour time-weighted average, under the expected conditions of processing, use, and handling which will cause the greatest possible release; and

(iii) Solid materials made from and/or containing AN which will not be heated above 170°F during handling, use, or processing.

(c) An employer relying upon exemption under (1)(b)(ii) shall maintain records of the objective data supporting that exemption, and of the basis of the employer's reliance on the data as provided in subsection (17) of this section.

(2) Definitions, as applicable to this section:

(a) "Acrylonitrile" or "AN" - acrylonitrile monomer, chemical formula $\text{CH}_2=\text{CHCN}$.

(b) "Action level" - a concentration of AN of 1 ppm as an eight-hour time-weighted average.

(c) "Authorized person" - any person specifically authorized by the employer whose duties require the person to enter a regulated area, or any person entering such an area as a designated representative of employees for the purpose of exercising the opportunity to observe monitoring procedures under subsection (18) of this section.

(d) "Decontamination" means treatment of materials and surfaces by water washdown, ventilation, or other means, to assure that the materials will not expose employees to airborne concentrations of AN above 1 ppm as an eight-hour time-weighted average.

(e) "Director" - the director of labor and industries, or his authorized representative.

(f) "Emergency" - any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment, which is likely to, or does, result in unexpected exposure to AN in excess of the ceiling limit.

(g) "Liquid AN" means AN monomer in liquid form, and liquid or semiliquid polymer intermediates, including slurries, suspensions, emulsions, and solutions, produced during the polymerization of AN.

(h) "Polyacrylonitrile" or "PAN" - polyacrylonitrile homopolymers or copolymers, except for materials as exempted under subsection (1)(b) of this section.

(3) Permissible exposure limits.

(a) Inhalation.

(i) Time-weighted average limit (TWA). The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of two parts acrylonitrile per million parts of air (2 ppm), as an eight-hour time-weighted average.

(ii) Ceiling limit. The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of 10 ppm as averaged over any fifteen-minute period during the working day.

(b) Dermal and eye exposure. The employer shall assure that no employee is exposed to skin contact or eye contact with liquid AN or PAN.

(4) Notification of use and emergencies.

(a) Use. Within ten days of the effective date of this standard, or within fifteen days following the introduction of AN into the workplace, every employer shall report, unless he has done so pursuant to the emergency temporary standard, the following information to the director for each such workplace:

(i) The address and location of each workplace in which AN is present;

(ii) A brief description of each process of operation which may result in employee exposure to AN;

(iii) The number of employees engaged in each process or operation who may be exposed to AN and an estimate of the frequency and degree of exposure that occurs; and

(iv) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to AN. Whenever there has been a significant change in the information required by this subsection, the employer shall promptly amend such information previously provided to the director.

(b) Emergencies and remedial action. Emergencies, and the facts obtainable at that time, shall be reported within 24 hours of the initial occurrence to the director. Upon request of the director, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of a similar nature.

(5) Exposure monitoring.

(a) General.

(i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to AN over an eight-hour period.

(ii) For the purposes of this section, employee exposure is that which would occur if the employee were not using a respirator.

(b) Initial monitoring. Each employer who has a place of employment in which AN is present shall monitor each such workplace and work operation to accurately determine the airborne concentrations of AN to which employees may be exposed. Such monitoring may be done on a representative basis, provided that the employer can demonstrate that the determinations are representative of employee exposures.

(c) Frequency.

(i) If the monitoring required by this section reveals employee exposure to be below the action level, the employer may discontinue monitoring for that employee. The employer shall continue these quarterly measurements until at least two consecutive measurements taken at least seven days apart, are below the action level, and thereafter the employer may discontinue monitoring for that employee.

(ii) If the monitoring required by this section reveals employee exposure to be at or above the action level but below the permissible exposure limits, the employer shall

repeat such monitoring for each such employee at least quarterly.

(iii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven days apart, are below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.

(d) Additional monitoring. Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to AN, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to AN, additional monitoring which complies with this subsection shall be conducted.

(e) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(f) Accuracy of measurement. The method of measurement of employee exposures shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of AN at or above the permissible exposure limits, and plus or minus 35 percent for concentrations of AN between the action level and the permissible exposure limits.

(g) Weekly survey of operations involving liquid AN. In addition to monitoring of employee exposures to AN as otherwise required by this subsection, the employer shall survey areas of operations involving liquid AN at least weekly to detect points where AN liquid or vapor are being released into the workplace. The survey shall employ an infra-red gas analyzer calibrated for AN, a multipoint gas chromatographic monitor, or comparable system for detection of AN. A listing of levels detected and areas of AN release, as determined from the survey, shall be posted prominently in the workplace, and shall remain posted until the next survey is completed.

(6) Regulated areas.

(a) The employer shall establish regulated areas where AN concentrations are in excess of the permissible exposure limits.

(b) Regulated areas shall be demarcated and segregated from the rest of the workplace, in any manner that minimizes the number of persons who will be exposed to AN.

(c) Access to regulated areas shall be limited to authorized persons or to persons otherwise authorized by the act or regulations issued pursuant thereto.

(d) The employer shall assure that in the regulated area, food or beverages are not present or consumed, smoking products are not present or used, and cosmetics are not applied, (except that these activities may be conducted in the

lunchrooms, change rooms and showers required under subsections (13)(a)-(13)(c) of this section.

(7) Methods of compliance.

(a) Engineering and work practice controls.

(i) The employer shall institute engineering or work practice controls to reduce and maintain employee exposures to AN, to or below the permissible exposure limits, except to the extent that the employer establishes that such controls are not feasible.

(ii) Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposures to or below the permissible exposure limits, the employer shall nonetheless use them to reduce exposures to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection which complies with the requirements of subsection (8) of this section.

(b) Compliance program.

(i) The employer shall establish and implement a written program to reduce employee exposures to or below the permissible exposure limits solely by means of engineering and work practice controls, as required by subsection (7)(a) of this section.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to AN above the permissible exposure limits;

(B) Engineering plans and other studies used to determine the controls for each process;

(C) A report of the technology considered in meeting the permissible exposure limits;

(D) A detailed schedule for the implementation of engineering or work practice controls; and

(E) Other relevant information.

(iii) The employer shall complete the steps set forth in the compliance program by the dates in the schedule.

(iv) Written plans for such a program shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, or any affected employee or representative.

(v) The plans required by this subsection shall be revised and updated at least every six months to reflect the current status of the program.

(8) Respiratory protection.

(a) General. For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(i) Periods necessary to install or implement feasible engineering and work-practice controls;

(ii) Work operations, such as maintenance and repair activities or reactor cleaning, for which the employer establishes that engineering and work-practice controls are not feasible;

(iii) Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce employee exposure to or below the permissible exposure limits;

(iv) In emergencies.

(b) Respirator program.

The employer must implement a respiratory protection program in accordance with chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).

(c) Respirator selection. The employer must select the appropriate respirator from Table I of this subsection.

TABLE I
RESPIRATORY PROTECTION FOR ACRYLONITRILE (AN)

Concentration of AN or Condition of Use	Respirator Type
(a) Less than or equal to 25 x permissible exposure limits.	(i) Any Type C supplied air respirator.
(b) Less than or equal to 100 x permissible exposure limits.	(i) Any supplied air respirator with full facepiece; or
	(ii) Any self-contained breathing apparatus with full facepiece.
(c) Less than or equal to 250 x permissible exposure limits	(i) Supplied air respirator in positive pressure mode with full facepiece, helmet, hood, or suit.
(d) Greater than 250 x permissible exposure limits.	(i) Supplied air respirator with full facepiece and an auxiliary self-contained air supply, operated in pressure demand mode; or
	(ii) Open circuit self-contained breathing apparatus with full facepiece in positive pressure mode.
(e) Emergency entry into unknown concentration or firefighting	(i) Any self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape.	(i) Any organic vapor gas mask; or
	(ii) Any self-contained breathing.

(9) Emergency situations.

(a) Written plans.

(i) A written plan for emergency situations shall be developed for each workplace where AN is present. Appropriate portions of the plan shall be implemented in the event of an emergency.

(ii) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be

equipped as required in subsection (8) of this section until the emergency is abated.

(b) Alerting employees.

(i) Where there is the possibility of employee exposure to AN in excess of the ceiling limit due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

(ii) Employees not engaged in correcting the emergency shall be evacuated from the area and shall not be permitted to return until the emergency is abated.

(10) Protective clothing and equipment.

(a) Provision and use. Where eye or skin contact with liquid AN or PAN may occur, the employer shall provide at no cost to the employee, and assure that employees wear, appropriate protective clothing or other equipment in accordance with WAC 296-800-160 to protect any area of the body which may come in contact with liquid AN or PAN.

(b) Cleaning and replacement.

(i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this subsection, as needed to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least weekly to each affected employee.

(ii) The employer shall assure that impermeable protective clothing which contacts or is likely to have contacted liquid AN shall be decontaminated before being removed by the employee.

(iii) The employer shall assure that AN- or PAN-contaminated protective clothing and equipment is placed and stored in closable containers which prevent dispersion of the AN or PAN outside the container.

(iv) The employer shall assure that an employee whose nonimpermeable clothing becomes wetted with liquid AN shall immediately remove that clothing and proceed to shower. The clothing shall be decontaminated before it is removed from the regulated area.

(v) The employer shall assure that no employee removes AN- or PAN-contaminated protective equipment or clothing from the change room, except for those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(vi) The employer shall inform any person who launders or cleans AN- or PAN-contaminated protective clothing or equipment of the potentially harmful effects of exposure to AN.

(vii) The employer shall assure that containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with subsection (16)(c)(ii) of this section, and that such labels remain affixed when such containers leave the employer's workplace.

(11) Housekeeping.

(a) All surfaces shall be maintained free of accumulations of liquid AN and of PAN.

(b) For operations involving liquid AN, the employer shall institute a program for detecting leaks and spills of liquid AN, including regular visual inspections.

(c) Where spills of liquid AN are detected, the employer shall assure that surfaces contacted by the liquid AN are decontaminated. Employees not engaged in decontamination

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activities shall leave the area of the spill, and shall not be permitted in the area until decontamination is completed.

(d) Liquids. Where AN is present in a liquid form, or as a resultant vapor, all containers or vessels containing AN shall be enclosed to the maximum extent feasible and tightly covered when not in use, with adequate provision made to avoid any resulting potential explosion hazard.

(e) Surfaces.

(i) Dry sweeping and the use of compressed air for the cleaning of floors and other surfaces where AN and PAN are found is prohibited.

(ii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that AN is not reintroduced into the workplace air; and

(B) Portable vacuum units used to collect AN may not be used for other cleaning purposes and shall be labeled as prescribed by subsection (16)(c)(ii) of this section.

(iii) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(12) Waste disposal. AN and PAN waste, scrap, debris, bags, containers or equipment, shall be disposed of in sealed bags or other closed containers which prevent dispersion of AN outside the container, and labeled as prescribed in subsection (16)(c)(ii) of this section.

(13) Hygiene facilities and practices. Where employees are exposed to airborne concentrations of AN above the permissible exposure limits, or where employees are required to wear protective clothing or equipment pursuant to subsection (11) of this section, or where otherwise found to be appropriate, the facilities required by WAC 296-800-230 shall be provided by the employer for the use of those employees, and the employer shall assure that the employees use the facilities provided. In addition, the following facilities or requirements are mandated.

(a) Change rooms. The employer shall provide clean change rooms in accordance with WAC 296-800-230.

(b) Showers.

(i) The employer shall provide shower facilities in accordance with WAC 296-800-230.

(ii) In addition, the employer shall also assure that employees exposed to liquid AN and PAN shower at the end of the work shift.

(iii) The employer shall assure that, in the event of skin or eye exposure to liquid AN, the affected employee shall shower immediately to minimize the danger of skin absorption.

(c) Lunchrooms.

(i) Whenever food or beverages are consumed in the workplace, the employer shall provide lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees exposed to AN above the permissible exposure limits.

(ii) In addition, the employer shall also assure that employees exposed to AN above the permissible exposure limits wash their hands and face prior to eating.

(14) Medical surveillance.

(a) General.

(i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to AN above the action level. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this subsection.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(b) Initial examinations. At the time of initial assignment, or upon institution of the medical surveillance program, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history and medical history with special attention to skin, respiratory, and gastrointestinal systems, and those nonspecific symptoms, such as headache, nausea, vomiting, dizziness, weakness, or other central nervous system dysfunctions that may be associated with acute or chronic exposure to AN.

(ii) A physical examination giving particular attention to central nervous system, gastrointestinal system, respiratory system, skin and thyroid.

(iii) A 14" x 17" posteroanterior chest X ray.

(iv) Further tests of the intestinal tract, including fecal occult blood screening, and proctosigmoidoscopy, for all workers 40 years of age or older, and for any other affected employees for whom, in the opinion of the physician, such testing is appropriate.

(c) Periodic examinations.

(i) The employer shall provide examinations specified in this subsection at least annually for all employees specified in subsection (14)(a) of this section.

(ii) If an employee has not had the examinations prescribed in subsection (14)(b) of this section within six months of termination of employment, the employer shall make such examination available to the employee upon such termination.

(d) Additional examinations. If the employee for any reason develops signs or symptoms commonly associated with exposure to AN, the employer shall provide appropriate examination and emergency medical treatment.

(e) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level;

(iv) The employee's anticipated or estimated exposure level (for preplacement examinations or in cases of exposure due to an emergency);

(v) A description of any personal protective equipment used or to be used; and

(vi) Information from previous medical examinations of the affected employee, which is not otherwise available to the examining physician.

(f) Physician's written opinion.

(i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical examination and test performed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to AN;

(C) Any recommended limitations upon the employee's exposure to AN or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to AN.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(15) Employee information and training.

(a) Training program.

(i) The employer shall institute a training program for all employees where there is occupational exposure to AN and shall assure their participation in the training program.

(ii) The training program shall be provided at the time of initial assignment, or upon institution of the training program, and at least annually thereafter, and the employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of AN and the specific nature of operations which could result in exposure to AN, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators and protective clothing;

(D) The purpose and a description of the medical surveillance program required by subsection (14) of this section;

(E) The emergency procedures developed, as required by subsection (9) of this section; and

(F) The engineering and work practice controls, their function and the employee's relationship thereto; and

(G) A review of this standard.

(b) Access to training materials.

(i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(16) Signs and labels.

(a) General.

(i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign or label, required by this subsection, which contradicts or detracts from such effects of the required sign or label.

(b) Signs.

(i) The employer shall post signs to clearly indicate all workplaces where AN concentrations exceed the permissible exposure limits. The signs shall bear the following legend:

DANGER
ACRYLONITRILE (AN)
CANCER HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS REQUIRED

(ii) The employer shall assure that signs required by this subsection are illuminated and cleaned as necessary so that the legend is readily visible.

(c) Labels.

(i) The employer shall assure that precautionary labels are affixed to all containers of AN, and to containers of PAN and products fabricated from PAN, except for those materials for which objective data is provided as to the conditions specified in subsection (1)(b) of this section. The employer shall assure that the labels remain affixed when the AN or PAN are sold, distributed or otherwise leave the employer's workplace.

(ii) The employer shall assure that the precautionary labels required by this subsection are readily visible and legible. The labels shall bear the following legend:

DANGER
CONTAINS ACRYLONITRILE (AN)
CANCER HAZARD

(17) Recordkeeping.

(a) Objective data for exempted operations.

(i) Where the processing, use, and handling of products fabricated from PAN are exempted pursuant to subsection (1)(b) of this section, the employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(ii) This record shall include the following information:

(A) The relevant condition in subsection (1)(b) upon which exemption is based;

(B) The source of the objective data;

(C) The testing protocol, results of testing, and/or analysis of the material for the release of AN;

(D) A description of the operation exempted and how the data supports the exemption; and

(E) Other data relevant to the operations, materials, and processing covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(b) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required by subsection (5) of this section.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the sampling

procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used and the data relied upon to establish that the methods used meet the accuracy and precision requirements of subsection (5)(f) of this section;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least 40 years or the duration of employment plus 20 years, whichever is longer.

(c) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by subsection (14) of this section.

(ii) This record shall include:

(A) A copy of the physicians' written opinions;

(B) Any employee medical complaints related to exposure to AN;

(C) A copy of the information provided to the physician as required by subsection (14)(f) of this section; and

(D) A copy of the employee's medical and work history.

(iii) The employer shall assure that this record be maintained for at least forty years or for the duration of employment plus twenty years, whichever is longer.

(d) Availability.

(i) The employer shall assure that all records required to be maintained by this section be made available upon request to the director for examination and copying.

(ii) Records required by subdivisions (a) through (c) of this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with (~~WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217~~) chapter 296-802 WAC. Records required by subdivision (a) of this section shall be provided in the same manner as exposure monitoring records.

(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available, upon request, for examination and copying, to the affected employee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(e) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained pursuant to this section, the employer shall transmit these records to the director.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in (~~WAC 296-62-05215~~) chapter 296-802 WAC.

(18) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to AN conducted pursuant to subsection (5) of this section.

(b) Observation procedures.

(i) Whenever observation of the monitoring of employee exposure to AN requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled:

(A) To receive an explanation of the measurement procedures;

(B) To observe all steps related to the measurement of airborne concentrations of AN performed at the place of exposure; and

(C) To record the results obtained.

(19) Appendices. The information contained in the appendices is not intended, by itself, to create any additional obligation not otherwise imposed, or to detract from any obligation.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-62-07342 1,2-Dibromo-3-chloropropane.

(1) Scope and application.

(a) This section applies to occupational exposure to 1,2-dibromo-3-chloropropane (DBCP).

(b) This section does not apply to:

(i) Exposure to DBCP which results solely from the application and use of DBCP as a pesticide; or

(ii) The storage, transportation, distribution or sale of DBCP in intact containers sealed in such a manner as to prevent exposure to DBCP vapors or liquids, except for the requirements of subsections (11), (16) and (17) of this section.

(2) Definitions applicable to this section:

(a) "Authorized person" - any person specifically authorized by the employer and whose duties require the person to be present in areas where DBCP is present; and any person entering this area as a designated representative of employees exercising an opportunity to observe employee exposure monitoring.

(b) "DBCP" - 1,2-dibromo-3-chloropropane, Chemical Abstracts Service Registry Number 96-12-8, and includes all forms of DBCP.

(c) "Director" - the director of labor and industries, or his authorized representative.

(d) "Emergency" - any occurrence such as, but not limited to equipment failure, rupture of containers, or failure of control equipment which may, or does, result in unexpected release of DBCP.

(3) Permissible exposure limits.

(a) Inhalation.

(i) Time-weighted average limit (TWA). The employer shall assure that no employee is exposed to an airborne concentration in excess of 1 part DBCP per billion part of air (ppb) as an eight-hour time-weighted average.

(ii) Ceiling limit. The employer shall assure that no employee is exposed to an airborne concentration in excess of 5 parts DBCP per billion parts of air (ppb) as averaged over any 15 minutes during the working day.

(b) Dermal and eye exposure. The employer shall assure that no employee is exposed to eye or skin contact with DBCP.

(4) Notification of use. Within ten days of the effective date of this section or within ten days following the introduction of DBCP into the workplace, every employer who has a workplace where DBCP is present shall report the following information to the director for each such workplace:

(a) The address and location of each workplace in which DBCP is present;

(b) A brief description of each process or operation which may result in employee exposure to DBCP;

(c) The number of employees engaged in each process or operation who may be exposed to DBCP and an estimate of the frequency and degree of exposure that occurs;

(d) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to DBCP.

(5) Regulated areas. The employer shall establish, within each place of employment, regulated areas wherever DBCP concentrations are in excess of the permissible exposure limit.

(a) The employer shall limit access to regulated areas to authorized persons.

(b) All employees entering or working in a regulated area shall wear respiratory protection in accordance with Table I.

(6) Exposure monitoring.

(a) General. Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to DBCP over an eight-hour period. (For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.)

(b) Initial. Each employer who has a place of employment in which DBCP is present shall monitor each workplace and work operation to accurately determine the airborne concentrations of DBCP to which employees may be exposed.

(c) Frequency.

(i) If the monitoring required by this section reveals employee exposures to be below the permissible exposure limits, the employer shall repeat these determinations at least quarterly.

(ii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly determinations until at least two consecutive measurements, taken at least seven days apart, are below the permissible exposure limit, thereafter the employer shall monitor at least quarterly.

(d) Additional. Whenever there has been a production process, control or personnel change which may result in any new or additional exposure to DBCP, or whenever the employer has any other reason to suspect a change which may result in new or additional exposure to DBCP, additional monitoring which complies with subsection (6) shall be conducted.

(e) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of results which represent the employee's exposure.

(ii) Whenever the results indicate that employee exposure exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(f) Accuracy of measurement. The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of DBCP at or above the permissible exposure limits.

(7) Methods of compliance.

(a) Priority of compliance methods. The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to DBCP at or below the permissible exposure limit, except to the extent that the employer establishes that such controls are not feasible. Where feasible engineering and work practice controls are not sufficient to reduce employee exposures to within the permissible exposure limit, the employer shall nonetheless use them to reduce exposures to the lowest level achievable by these controls, and shall supplement them by use of respiratory protection.

(b) Compliance program.

(i) The employer shall establish and implement a written program to reduce employee exposure to DBCP to or below the permissible exposure limit solely by means of engineering and work practice controls as required by this section.

(ii) The written program shall include a detailed schedule for development and implementation of the engineering and work practice controls. These plans shall be revised at least every six months to reflect the current status of the program.

(iii) Written plans for these compliance programs shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, and any affected employee or designated representative of employees.

(iv) The employer shall institute and maintain at least the controls described in his most recent written compliance program.

(8) Respiratory protection.

(a) General. For employees who are required to use respirators under this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(i) Period necessary to install or implement feasible engineering and work-practice controls;

(ii) Maintenance and repair activities for which engineering and work-practice controls are not feasible;

(iii) Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce employee exposure to or below the permissible exposure limit;

(iv) Emergencies.

(b) The employer must establish, implement, and maintain a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).

(c) Respirator selection. The employer must select the appropriate respirator from Table I of this subsection.

TABLE I

RESPIRATORY PROTECTION FOR DBCP

Concentration Not Greater Than	Respirator Type
(a) 10 ppb:	(i) Any supplied-air respirator.
	(ii) Any self-contained breathing apparatus.
(b) 50 ppb:	(i) Any supplied-air respirator with full facepiece, helmet or hood.
	(ii) Any self-contained breathing apparatus with full facepiece.
(c) 250 ppb:	(i) A Type C supplied-air respirator operated in pressure-demand or other positive pressure or continuous flow mode.
(d) 500 ppb:	(i) A Type C supplied-air respirator with full facepiece operated in pressure-demand mode with full facepiece.
(e) Greater than 500 ppb or entry into unknown concentrations:	(i) A combination respirator which includes a Type C supplied-air respirator with full facepiece operated in pressure-demand mode and an auxiliary self-contained breathing apparatus.
	(ii) A self-contained breathing apparatus with full facepiece operated in pressure-demand mode.
(f) Fire fighting:	(i) A self-contained breathing apparatus with full facepiece operated in pressure-demand mode.

(9) Reserved.

(10) Emergency situations.

(a) Written plans.

(i) A written plan for emergency situations shall be developed for each workplace in which DBCP is present.

(ii) Appropriate portions of the plan shall be implemented in the event of an emergency.

(b) Employees engaged in correcting conditions shall be equipped as required in subsection (11) of this section until the emergency is abated.

(c) Evacuation. Employees not engaged in correcting the emergency shall be removed and restricted from the area and normal operations in the affected area shall not be resumed until the emergency is abated.

(d) Alerting employees. Where there is a possibility of employee exposure to DBCP due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

(e) Medical surveillance. For any employee exposed to DBCP in an emergency situation, the employer shall provide medical surveillance in accordance with subsection (14) of this section.

(f) Exposure monitoring.

(i) Following an emergency, the employer shall conduct monitoring which complies with subsection (6) of this section.

(ii) In workplaces not normally subject to periodic monitoring, the employer may terminate monitoring when two consecutive measurements indicate exposures below the permissible exposure limit.

(11) Protective clothing and equipment.

(a) Provision and use. Where eye or skin contact with liquid or solid DBCP may occur, employers shall provide at no cost to the employee, and assure that employees wear impermeable protective clothing and equipment in accordance with WAC 296-800-160 to protect the area of the body which may come in contact with DBCP.

(b) Cleaning and replacement.

(i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this subsection to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least daily to each affected employee.

(ii) Removal and storage.

(A) The employer shall assure that employees remove DBCP contaminated work clothing only in change rooms provided in accordance with subsection (13) of this section.

(B) The employer shall assure that employees promptly remove any protective clothing and equipment which becomes contaminated with DBCP-containing liquids and solids. This clothing shall not be reworn until the DBCP has been removed from the clothing or equipment.

(C) The employer shall assure that no employee takes DBCP contaminated protective devices and work clothing out of the change room, except those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(iii) The employer shall assure that DBCP-contaminated protective work clothing and equipment is placed and stored in closed containers which prevent dispersion of DBCP outside the container.

(iv) The employer shall inform any person who launders or cleans DBCP-contaminated protective clothing or equipment of the potentially harmful effects of exposure to DBCP.

(v) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with subsection (16)(c) of this section.

PERMANENT

(vi) The employer shall prohibit the removal of DBCP from protective clothing and equipment by blowing or shaking.

(12) Housekeeping.

(a) Surfaces.

(i) All surfaces shall be maintained free of accumulations of DBCP.

(ii) Dry sweeping and the use of air for the cleaning of floors and other surfaces where DBCP dust or liquids are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that DBCP is not reintroduced into the workplace air; and

(B) Portable vacuum units used to collect DBCP may not be used for other cleaning purposes and shall be labeled as prescribed by subsection (16)(c) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(b) Liquids. Where DBCP is present in a liquid form, or as a resultant vapor, all containers or vessels containing DBCP shall be enclosed to the maximum extent feasible and tightly covered when not in use.

(c) Waste disposal. DBCP waste, scrap, debris, bags, containers or equipment, shall be disposed in sealed bags or other closed containers which prevent dispersion of DBCP outside the container.

(13) Hygiene facilities and practices.

(a) Change rooms. The employer shall provide clean change rooms equipped with storage facilities for street clothes and separate storage facilities for protective clothing and equipment whenever employees are required to wear protective clothing and equipment in accordance with subsections (8), (9) and (11) of this section.

(b) Showers.

(i) The employer shall assure that employees working in the regulated area shower at the end of the work shift.

(ii) The employer shall assure that employees whose skin becomes contaminated with DBCP-containing liquids or solids immediately wash or shower to remove any DBCP from the skin.

(iii) The employer shall provide shower facilities in accordance with WAC 296-800-230.

(c) Lunchrooms. The employer shall provide lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees working in regulated areas.

(d) Lavatories.

(i) The employer shall assure that employees working in the regulated area remove protective clothing and wash their hands and face prior to eating.

(ii) The employer shall provide a sufficient number of lavatory facilities which comply with WAC 296-800-230.

(e) Prohibition of activities in regulated areas. The employer shall assure that, in regulated areas, food or beverages

are not present or consumed, smoking products and implements are not present or used, and cosmetics are not present or applied.

(14) Medical surveillance.

(a) General. The employer shall institute a program of medical surveillance for each employee who is or will be exposed, without regard to the use of respirators, to DBCP. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this subsection. All medical examinations and procedures shall be performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(b) Frequency and content. At the time of initial assignment, annually thereafter, and whenever exposure to DBCP occurs, the employer shall provide a medical examination for employees who work in regulated areas, which includes at least the following:

(i) A complete medical and occupational history with emphasis on reproductive history.

(ii) A complete physical examination with emphasis on the genito-urinary tract, testicle size, and body habitus including the following tests:

(A) Sperm count;

(B) Complete urinalysis (U/A);

(C) Complete blood count; and

(D) Thyroid profile.

(iii) A serum specimen shall be obtained and the following determinations made by radioimmunoassay techniques utilizing National Institutes of Health (NIH) specific antigen or one of equivalent sensitivity:

(A) Serum multiphasic analysis (SMA 12);

(B) Serum follicle stimulating hormone (FSH);

(C) Serum luteinizing hormone (LH); and

(D) Serum estrogen (females).

(iv) Any other tests deemed appropriate by the examining physician.

(c) Additional examinations. If the employee for any reason develops signs or symptoms commonly associated with exposure to DBCP, the employer shall provide the employee with a medical examination which shall include those elements considered appropriate by the examining physician.

(d) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The level of DBCP to which the employee is exposed; and

(iv) A description of any personal protective equipment used or to be used.

(e) Physician's written opinion.

(i) For each examination under this section, the employer shall obtain and provide the employee with a written opinion from the examining physician which shall include:

(A) The results of the medical tests performed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the

employee at an increased risk of material impairment of health from exposure to DBCP;

(C) Any recommended limitations upon the employee's exposure to DBCP or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee was informed by the physician of the results of the medical examination, and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to DBCP.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(f) Emergency situations. If the employee is exposed to DBCP in an emergency situation, the employer shall provide the employee with a sperm count test as soon as practicable, or, if the employee is unable to produce a semen specimen, the hormone tests contained in subsection (14)(b) of this section. The employer shall provide these same tests three months later.

(15) Employee information and training.

(a) Training program.

(i) Within thirty days of the effective date of this standard, the employer shall institute a training program for all employees who may be exposed to DBCP and shall assure their participation in such training program.

(ii) The employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of DBCP and the specific nature of operations which could result in exposure to DBCP as well as any necessary protective steps;

(C) The purpose, proper use, limitations, and other training requirements covering respiratory protection as required in chapter 296-62 WAC, Part E;

(D) The purpose and description of the medical surveillance program required by subsection (14) of this section; and

(E) A review of this standard.

(b) Access to training materials.

(i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(16) Signs and labels.

(a) General.

(i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to or in combination with, signs and labels required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign or label required by this subsection which contradicts or detracts from the required sign or label.

(b) Signs.

(i) The employer shall post signs to clearly indicate all work areas where DBCP may be present. These signs shall bear the legend:

DANGER

1,2-Dibromo-3-chloropropane

(Insert appropriate trade or common names)

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

(ii) Where airborne concentrations of DBCP exceed the permissible exposure limits, the signs shall bear the additional legend:

RESPIRATOR REQUIRED

(c) Labels.

(i) The employer shall assure that precautionary labels are affixed to all containers of DBCP and of products containing DBCP, and that the labels remain affixed when the DBCP or products containing DBCP are sold, distributed, or otherwise leave the employer's workplace. Where DBCP or products containing DBCP are sold, distributed or otherwise leave the employer's workplace bearing appropriate labels required by EPA under the regulations in 40 CFR Part 162, the labels required by this subsection need not be affixed.

(ii) The employer shall assure that the precautionary labels required by this subsection are readily visible and legible. The labels shall bear the following legend:

DANGER

1,2-Dibromo-3-chloropropane

CANCER HAZARD

(17) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required by subsection (6) of this section.

(ii) This record shall include:

(A) The dates, number, duration and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used;

(C) Type of respiratory worn, if any; and

(D) Name, Social Security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least forty years or the duration of employment plus twenty years, whichever is longer.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance required by subsection (14) of this section.

(ii) This record shall include:

(A) The name and Social Security number of the employee;

(B) A copy of the physician's written opinion;

(C) Any employee medical complaints related to exposure to DBCP;

(D) A copy of the information provided the physician as required by subsection (14)(c) of this section; and

(E) A copy of the employee's medical and work history.

(iii) The employer shall maintain this record for at least forty years or the duration of employment plus twenty years, whichever is longer.

(c) Availability.

(i) The employer shall assure that all records required to be maintained by this section be made available upon request to the director for examination and copying.

(ii) Employee exposure monitoring records and employee medical records required by this subsection shall be provided upon request to employees' designated representatives and the assistant director in accordance with ((WAC 296-62-05201 through 296-62-05209; and 296-62-05213 through 296-62-05217)) chapter 296-802 WAC.

(d) Transfer of records.

(i) If the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section for the prescribed period.

(ii) If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall transmit these records by mail to the director.

(iii) At the expiration of the retention period for the records required to be maintained under this section, the employer shall transmit these records by mail to the director.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in ((WAC 296-62-05215)) chapter 296-802 WAC.

(18) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to DBCP conducted under subsection (6) of this section.

(b) Observation procedures.

(i) Whenever observation of the measuring or monitoring of employee exposure to DBCP requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring or measurement, observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the measurement of airborne concentrations of DBCP performed at the place of exposure; and

(C) Record the results obtained.

(19) Appendices. The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-62-07375 Recordkeeping. (1) Objective data for exempted operations.

(a) Where the processing, use, or handling of products made from or containing EtO are exempted from other requirements of WAC 296-62-07355 through 296-62-07389 under WAC 296-62-07355, or where objective data have been relied on in lieu of initial monitoring under WAC 296-62-07361 (2)(b), the employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(b) This record shall include at least the following information:

(i) The product qualifying for exemption;

(ii) The source of the objective data;

(iii) The testing protocol, results of testing, and/or analysis of the material for the release of EtO;

(iv) A description of the operation exempted and how the data support the exemption; and

(v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(c) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(2) Exposure measurements.

(a) The employer shall keep an accurate record of all measurements taken to monitor employee exposure to EtO as prescribed in WAC 296-62-07361.

(b) This record shall include at least the following information:

(i) The date of measurement;

(ii) The operation involving exposure to EtO which is being monitored;

(iii) Sampling and analytical methods used and evidence of their accuracy;

(iv) Number, duration, and results of samples taken;

(v) Type of protective devices worn, if any; and

(vi) Name, Social Security number and exposure of the employees whose exposures are represented.

(c) The employer shall maintain this record for at least thirty years, in accordance with ((WAC 296-62-05207)) chapter 296-802 WAC.

(3) Medical surveillance.

(a) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance by WAC 296-62-07371 (1)(a), in accordance with ((WAC 296-62-05207)) chapter 296-802 WAC.

(b) The record shall include at least the following information:

(i) The name and Social Security number of the employee;

(ii) Physicians' written opinions;

(iii) Any employee medical complaints related to exposure to EtO; and

(iv) A copy of the information provided to the physician as required by WAC 296-62-07371(3).

(c) The employer shall ensure that this record is maintained for the duration of employment plus thirty years, in accordance with ((WAC 296-62-05207)) chapter 296-802 WAC.

(4) Availability.

(a) The employer, upon written request, shall make all records required to be maintained by WAC 296-62-07355 through 296-62-07389 available to the director for examination and copying.

(b) The employer, upon request, shall make any exemption and exposure records required by WAC 296-62-07377 (1) and (2) available for examination and copying to affected employees, former employees, designated representatives and the director, in accordance with ~~((WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217))~~ chapter 296-802 WAC.

(c) The employer, upon request, shall make employee medical records required by subsection (3) of this section available for examination and copying to the subject employee, anyone having the specific written consent of the subject employee, and the director, in accordance with ~~((WAC 296-62-052))~~ chapter 296-802 WAC.

(5) Transfer of records.

(a) The employer shall comply with the requirements concerning transfer of records set forth in ~~((WAC 296-62-05215))~~ chapter 296-802 WAC.

(b) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the director at least ninety days prior to disposal and transmit them to the director.

AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

WAC 296-62-07427 Recordkeeping. (1) Exposure monitoring.

(a) The employer shall establish and keep an accurate record of all air monitoring for cadmium in the workplace.

(b) This record shall include at least the following information:

(i) The monitoring date, duration, and results in terms of an 8-hour TWA of each sample taken;

(ii) The name, Social Security number, and job classification of the employees monitored and of all other employees whose exposures the monitoring is intended to represent;

(iii) A description of the sampling and analytical methods used and evidence of their accuracy;

(iv) The type of respiratory protective device, if any, worn by the monitored employee;

(v) A notation of any other conditions that might have affected the monitoring results.

(c) The employer shall maintain this record for at least thirty years, in accordance with chapter ~~((296-62-WAC, Part B))~~ 296-802 WAC.

(2) Objective data for exemption from requirement for initial monitoring.

(a) For purposes of this section, objective data are information demonstrating that a particular product or material containing cadmium or a specific process, operation, or activity involving cadmium cannot release dust or fumes in concentrations at or above the action level even under the worst-case release conditions. Objective data can be obtained from an industry-wide study or from laboratory product test results

from manufacturers of cadmium-containing products or materials. The data the employer uses from an industry-wide survey must be obtained under workplace conditions closely resembling the processes, types of material, control methods, work practices and environmental conditions in the employer's current operations.

(b) The employer shall establish and maintain a record of the objective data for at least thirty years.

(3) Medical surveillance.

(a) The employer shall establish and maintain an accurate record for each employee covered by medical surveillance under WAC 296-62-07423 (1)(a).

(b) The record shall include at least the following information about the employee:

(i) Name, Social Security number, and description of the duties;

(ii) A copy of the physician's written opinions and an explanation sheet for biological monitoring results;

(iii) A copy of the medical history, and the results of any physical examination and all test results that are required to be provided by this section, including biological tests, X-rays, pulmonary function tests, etc., or that have been obtained to further evaluate any condition that might be related to cadmium exposure;

(iv) The employee's medical symptoms that might be related to exposure to cadmium; and

(v) A copy of the information provided to the physician as required by WAC 296-62-07423 (9)(b) through (e).

(c) The employer shall assure that this record is maintained for the duration of employment plus thirty years, in accordance with chapter ~~((296-62-WAC, Part B))~~ 296-802 WAC.

(4) Training. The employer shall certify that employees have been trained by preparing a certification record which includes the identity of the person trained, the signature of the employer or the person who conducted the training, and the date the training was completed. The certification records shall be prepared at the completion of training and shall be maintained on file for one year beyond the date of training of that employee.

(5) Availability.

(a) Except as otherwise provided for in this section, access to all records required to be maintained by subsections (1) through (4) of this section shall be in accordance with the provisions of chapter ~~((296-62-WAC, Part B))~~ 296-802 WAC.

(b) Within fifteen days after a request, the employer shall make an employee's medical records required to be kept by subsection (3) of this section available for examination and copying to the subject employee, to designated representatives, to anyone having the specific written consent of the subject employee, and after the employee's death or incapacitation, to the employee's family members.

(6) Transfer of records. Whenever an employer ceases to do business and there is no successor employer to receive and retain records for the prescribed period or the employer intends to dispose of any records required to be preserved for at least thirty years, the employer shall comply with the requirements concerning transfer of records set forth in ~~((WAC 296-62-05215))~~ chapter 296-802 WAC.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-62-07460 Butadiene. (1) Scope and application.

(a) This section applies to all occupational exposures to 1,3-Butadiene (BD), Chemical Abstracts Service Registry No. 106-99-0, except as provided in (b) of this subsection.

(b)(i) Except for the recordkeeping provisions in subsection (13)(a) of this section, this section does not apply to the processing, use, or handling of products containing BD or to other work operations and streams in which BD is present where objective data are reasonably relied upon that demonstrate the work operation or the product or the group of products or operations to which it belongs may not reasonably be foreseen to release BD in airborne concentrations at or above the action level or in excess of the STEL under the expected conditions of processing, use, or handling that will cause the greatest possible release or in any plausible accident.

(ii) This section also does not apply to work operations, products or streams where the only exposure to BD is from liquid mixtures containing 0.1% or less of BD by volume or the vapors released from such liquids, unless objective data become available that show that airborne concentrations generated by such mixtures can exceed the action level or STEL under reasonably predictable conditions of processing, use or handling that will cause the greatest possible release.

(iii) Except for labeling requirements and requirements for emergency response, this section does not apply to the storage, transportation, distribution or sale of BD or liquid mixtures in intact containers or in transportation pipelines sealed in such a manner as to fully contain BD vapors or liquids.

(c) Where products or processes containing BD are exempted under (b) of this subsection, the employer shall maintain records of the objective data supporting that exemption and the basis for the employer's reliance on the data, as provided in subsection (13)(a) of this section.

(2) Definitions: For the purpose of this section, the following definitions shall apply:

"Action level" means a concentration of airborne BD of 0.5 ppm calculated as an 8-hour time-weighted average.

"Director" means the director of the department of labor and industries, or authorized representatives.

"Authorized person" means any person specifically designated by the employer, whose duties require entrance into a regulated area, or a person entering such an area as a designated representative of employees to exercise the right to observe monitoring and measuring procedures under subsection (4)(h) of this section, or a person designated under the WISH Act or regulations issued under the WISH Act to enter a regulated area.

"1,3-Butadiene" means an organic compound with chemical formula $\text{CH}_2=\text{CH}-\text{CH}=\text{CH}_2$ that has a molecular weight of approximately 54.15 gm/mole.

"Business day" means any Monday through Friday, except those days designated as federal, state, local or company specific holidays.

"Complete blood count (CBC)" means laboratory tests performed on whole blood specimens and includes the following: White blood cell count (WBC), hematocrit (Hct),

red blood cell count (RBC), hemoglobin (Hgb), differential count of white blood cells, red blood cell morphology, red blood cell indices, and platelet count.

"Day" means any part of a calendar day.

"Emergency situation" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment that may or does result in an uncontrolled significant release of BD.

"Employee exposure" means exposure of a worker to airborne concentrations of BD which would occur if the employee were not using respiratory protective equipment.

"Objective data" means monitoring data, or mathematical modelling or calculations based on composition, chemical and physical properties of a material, stream or product.

"Permissible exposure limits (PELs)" means either the 8-hour time-weighted average (8-hour TWA) exposure or the short-term exposure limit (STEL).

"Physician or other licensed health care professional" is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide one or more of the specific health care services required by (k) of this subsection.

"Regulated area" means any area where airborne concentrations of BD exceed or can reasonably be expected to exceed the 8-hour time-weighted average (8-hour TWA) exposure of 1 ppm or the short-term exposure limit (STEL) of 5 ppm for 15 minutes.

"This section" means this 1,3-butadiene standard.

(3) Permissible exposure limits (PELs).

(a) Time-weighted average (TWA) limit. The employer shall ensure that no employee is exposed to an airborne concentration of BD in excess of one part BD per million parts of air (ppm) measured as an eight (8)-hour time-weighted average.

(b) Short-term exposure limit (STEL). The employer shall ensure that no employee is exposed to an airborne concentration of BD in excess of five parts of BD per million parts of air (5 ppm) as determined over a sampling period of fifteen minutes.

(4) Exposure monitoring.

(a) General.

(i) Determinations of employee exposure shall be made from breathing zone air samples that are representative of the 8-hour TWA and 15-minute short-term exposures of each employee.

(ii) Representative 8-hour TWA employee exposure shall be determined on the basis of one or more samples representing full-shift exposure for each shift and for each job classification in each work area.

(iii) Representative 15-minute short-term employee exposures shall be determined on the basis of one or more samples representing 15-minute exposures associated with operations that are most likely to produce exposures above the STEL for each shift and for each job classification in each work area.

(iv) Except for the initial monitoring required under (b) of this subsection, where the employer can document that exposure levels are equivalent for similar operations on different work shifts, the employer need only determine repre-

sentative employee exposure for that operation from the shift during which the highest exposure is expected.

(b) Initial monitoring.

(i) Each employer who has a workplace or work operation covered by this section, shall perform initial monitoring to determine accurately the airborne concentrations of BD to which employees may be exposed, or shall rely on objective data pursuant to subsection (1)(b)(i) of this section to fulfill this requirement.

(ii) Where the employer has monitored within two years prior to the effective date of this section and the monitoring satisfies all other requirements of this section, the employer may rely on such earlier monitoring results to satisfy the requirements of (b)(i) of this subsection, provided that the conditions under which the initial monitoring was conducted have not changed in a manner that may result in new or additional exposures.

(c) Periodic monitoring and its frequency.

(i) If the initial monitoring required by (b) of this subsection reveals employee exposure to be at or above the action level but at or below both the 8-hour TWA limit and the STEL, the employer shall repeat the representative monitoring required by (a) of this subsection every twelve months.

(ii) If the initial monitoring required by (b) of this subsection reveals employee exposure to be above the 8-hour TWA limit, the employer shall repeat the representative monitoring required by (a)(ii) of this subsection at least every three months until the employer has collected two samples per quarter (each at least 7 days apart) within a two-year period, after which such monitoring must occur at least every six months.

(iii) If the initial monitoring required by (b) of this subsection reveals employee exposure to be above the STEL, the employer shall repeat the representative monitoring required by (a)(iii) of this subsection at least every three months until the employer has collected two samples per quarter (each at least 7 days apart) within a two-year period, after which such monitoring must occur at least every six months.

(iv) The employer may alter the monitoring schedule from every six months to annually for any required representative monitoring for which two consecutive measurements taken at least 7 days apart indicate that employee exposure has decreased to or below the 8-hour TWA, but is at or above the action level.

(d) Termination of monitoring.

(i) If the initial monitoring required by (b) of this subsection reveals employee exposure to be below the action level and at or below the STEL, the employer may discontinue the monitoring for employees whose exposures are represented by the initial monitoring.

(ii) If the periodic monitoring required by (c) of this subsection reveals that employee exposures, as indicated by at least two consecutive measurements taken at least 7 days apart, are below the action level and at or below the STEL, the employer may discontinue the monitoring for those employees who are represented by such monitoring.

(e) Additional monitoring.

(i) The employer shall institute the exposure monitoring required under subsection (4) of this section whenever there has been a change in the production, process, control equip-

ment, personnel or work practices that may result in new or additional exposures to BD or when the employer has any reason to suspect that a change may result in new or additional exposures.

(ii) Whenever spills, leaks, ruptures or other breakdowns occur that may lead to employee exposure above the 8-hour TWA limit or above the STEL, the employer shall monitor (using leak source, such as direct reading instruments, area or personal monitoring), after the cleanup of the spill or repair of the leak, rupture or other breakdown, to ensure that exposures have returned to the level that existed prior to the incident.

(f) Accuracy of monitoring.

Monitoring shall be accurate, at a confidence level of 95 percent, to within plus or minus 25 percent for airborne concentrations of BD at or above the 1 ppm TWA limit and to within plus or minus 35 percent for airborne concentrations of BD at or above the action level of 0.5 ppm and below the 1 ppm TWA limit.

(g) Employee notification of monitoring results.

(i) The employer shall, within 5 business days after the receipt of the results of any monitoring performed under this section, notify the affected employees of these results in writing either individually or by posting of results in an appropriate location that is accessible to affected employees.

(ii) The employer shall, within 15 business days after receipt of any monitoring performed under this section indicating the 8-hour TWA or STEL has been exceeded, provide the affected employees, in writing, with information on the corrective action being taken by the employer to reduce employee exposure to or below the 8-hour TWA or STEL and the schedule for completion of this action.

(h) Observation of monitoring.

(i) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to BD conducted in accordance with this section.

(ii) Observation procedures. When observation of the monitoring of employee exposure to BD requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer at no cost with protective clothing and equipment, and shall ensure that the observer uses this equipment and complies with all other applicable safety and health procedures.

(5) Regulated areas.

(a) The employer shall establish a regulated area wherever occupational exposures to airborne concentrations of BD exceed or can reasonably be expected to exceed the permissible exposure limits, either the 8-hour TWA or the STEL.

(b) Access to regulated areas shall be limited to authorized persons.

(c) Regulated areas shall be demarcated from the rest of the workplace in any manner that minimizes the number of employees exposed to BD within the regulated area.

(d) An employer at a multiemployer worksite who establishes a regulated area shall communicate the access restrictions and locations of these areas to other employers with work operations at that worksite whose employees may have access to these areas.

(6) Methods of compliance.**(a) Engineering controls and work practices.**

(i) The employer shall institute engineering controls and work practices to reduce and maintain employee exposure to or below the PELs, except to the extent that the employer can establish that these controls are not feasible or where subsection (8)(a)(i) of this section applies.

(ii) Wherever the feasible engineering controls and work practices which can be instituted are not sufficient to reduce employee exposure to or below the 8-hour TWA or STEL, the employer shall use them to reduce employee exposure to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection that complies with the requirements of subsection (8) of this section.

(b) Compliance plan.

(i) Where any exposures are over the PELs, the employer shall establish and implement a written plan to reduce employee exposure to or below the PELs primarily by means of engineering and work practice controls, as required by (a) of this subsection, and by the use of respiratory protection where required or permitted under this section. No compliance plan is required if all exposures are under the PELs.

(ii) The written compliance plan shall include a schedule for the development and implementation of the engineering controls and work practice controls including periodic leak detection surveys.

(iii) Copies of the compliance plan required in (b) of this subsection shall be furnished upon request for examination and copying to the director, affected employees and designated employee representatives. Such plans shall be reviewed at least every 12 months, and shall be updated as necessary to reflect significant changes in the status of the employer's compliance program.

(iv) The employer shall not implement a schedule of employee rotation as a means of compliance with the PELs.

(7) Exposure goal program.

(a) For those operations and job classifications where employee exposures are greater than the action level, in addition to compliance with the PELs, the employer shall have an exposure goal program that is intended to limit employee exposures to below the action level during normal operations.

(b) Written plans for the exposure goal program shall be furnished upon request for examination and copying to the director, affected employees and designated employee representatives.

(c) Such plans shall be updated as necessary to reflect significant changes in the status of the exposure goal program.

(d) Respirator use is not required in the exposure goal program.

(e) The exposure goal program shall include the following items unless the employer can demonstrate that the item is not feasible, will have no significant effect in reducing employee exposures, or is not necessary to achieve exposures below the action level:

(i) A leak prevention, detection, and repair program.

(ii) A program for maintaining the effectiveness of local exhaust ventilation systems.

(iii) The use of pump exposure control technology such as, but not limited to, mechanical double-sealed or seal-less pumps.

(iv) Gauging devices designed to limit employee exposure, such as magnetic gauges on rail cars.

(v) Unloading devices designed to limit employee exposure, such as a vapor return system.

(vi) A program to maintain BD concentration below the action level in control rooms by use of engineering controls.

(8) Respiratory protection.

(a) General. For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(i) Periods necessary to install or implement feasible engineering and work-practice controls;

(ii) Nonroutine work operations that are performed infrequently and for which exposures are limited in duration;

(iii) Work operations for which feasible engineering controls and work-practice controls are not yet sufficient to reduce employee exposures to or below the PELs;

(iv) Emergencies.

(b) Respirator program.

(i) The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1), 296-62-07131 (4)(b)(i) and (ii), and 296-62-07150 through 296-62-07156).

(ii) If air-purifying respirators are used, the employer must replace the air-purifying filter elements according to the replacement schedule set for the class of respirators listed in Table 1 of this section, and at the beginning of each work shift.

(iii) Instead of using the replacement schedule listed in Table 1 of this section, the employer may replace cartridges or canisters at 90% of their expiration service life, provided the employer:

(A) Demonstrates that employees will be adequately protected by this procedure;

(B) Uses BD breakthrough data for this purpose that have been derived from tests conducted under worst-case conditions of humidity, temperature, and air-flow rate through the filter element, and the employer also describes the data supporting the cartridge- or canister-change schedule, as well as the basis for using the data in the employer's respirator program.

(iv) A label must be attached to each filter element to indicate the date and time it is first installed on the respirator.

(v) If NIOSH approves an end-of-service-life indicator (ESLI) for an air-purifying filter element, the element may be used until the ESLI shows no further useful service life or until the element is replaced at the beginning of the next work shift, whichever occurs first.

(vi) Regardless of the air-purifying element used, if an employee detects the odor of BD, the employer must replace the air-purifying element immediately.

(c) Respirator selection.

(i) The employer must select appropriate respirators from Table 1 of this section.

Table 1. - Minimum Requirements for Respiratory Protection for Airborne BD

Concentration of Airborne BD (ppm) or condition of use	Minimum required respirator
Less than or equal to 5 ppm (5 times PEL)	(a) Air-purifying half mask or full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 4 hours.
Less than or equal to 10 ppm (10 times PEL)	(a) Air-purifying half mask or full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 3 hours.
Less than or equal to 25 ppm (25 times PEL)	(a) Air-purifying full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 2 hours. (b) Any powered air-purifying respirator equipped with approved BD or organic vapor cartridges. PAPR cartridges shall be replaced every 2 hours. (c) Continuous flow supplied air respirator equipped with a hood or helmet.
Less than or equal to 50 ppm (50 times PEL)	(a) Air-purifying full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 1 hour. (b) Powered air purifying respirator equipped with a tight-fitting facepiece and an approved BD or organic vapor cartridges. PAPR cartridges shall be replaced every 1 hour.

Table 1. - Minimum Requirements for Respiratory Protection for Airborne BD

Concentration of Airborne BD (ppm) or condition of use	Minimum required respirator
Less than or equal to 1,000 ppm (1,000 times PEL)	(a) Supplied air respirator equipped with a half mask or full facepiece and operated in a pressure demand or other positive pressure mode.
Greater than 1,000 ppm	(a) Self-contained breathing unknown concentration, or apparatus equipped with a fire fighting full facepiece and operated in a pressure demand or other positive pressure mode. (b) Any supplied air respirator equipped with a full facepiece and operated in a pressure demand or other positive pressure mode in combination with an auxiliary self-contained breathing apparatus operated in a pressure demand or other positive pressure mode.
Escape from IDLH Conditions	(a) Any positive pressure self-contained breathing apparatus with an appropriate service life. (b) Any air-purifying full facepiece respirator equipped with a front or back mounted BD or organic vapor canister.

Notes: Respirators approved for use in higher concentrations are permitted to be used in lower concentrations. Full facepiece is required when eye irritation is anticipated.

(ii) Air-purifying respirators must have filter elements certified by NIOSH for organic vapor or BD.

(iii) When an employee whose job requires the use of a respirator cannot use a negative-pressure respirator, the employer must provide the employee with a respirator that has less breathing resistance than the negative-pressure respirator, such as a powered air-purifying respirator or supplied-air respirator, when the employee is able to use it and if it provides the employee adequate protection.

(9) Protective clothing and equipment. Where appropriate to prevent eye contact and limit dermal exposure to BD, the employer shall provide protective clothing and equipment at no cost to the employee and shall ensure its use. Eye and face protection shall meet the requirements of WAC 296-800-160.

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(10) Emergency situations. Written plan. A written plan for emergency situations shall be developed, or an existing plan shall be modified, to contain the applicable elements specified in WAC 296-24-567, Employee emergency plans and fire prevention plans, and in WAC 296-62-3112, hazardous waste operations and emergency responses, for each workplace where there is a possibility of an emergency.

(11) Medical screening and surveillance.

(a) Employees covered. The employer shall institute a medical screening and surveillance program as specified in this subsection for:

(i) Each employee with exposure to BD at concentrations at or above the action level on 30 or more days or for employees who have or may have exposure to BD at or above the PELs on 10 or more days a year;

(ii) Employers (including successor owners) shall continue to provide medical screening and surveillance for employees, even after transfer to a non-BD exposed job and regardless of when the employee is transferred, whose work histories suggest exposure to BD:

(A) At or above the PELs on 30 or more days a year for 10 or more years;

(B) At or above the action level on 60 or more days a year for 10 or more years; or

(C) Above 10 ppm on 30 or more days in any past year; and

(iii) Each employee exposed to BD following an emergency situation.

(b) Program administration.

(i) The employer shall ensure that the health questionnaire, physical examination and medical procedures are provided without cost to the employee, without loss of pay, and at a reasonable time and place.

(ii) Physical examinations, health questionnaires, and medical procedures shall be performed or administered by a physician or other licensed health care professional.

(iii) Laboratory tests shall be conducted by an accredited laboratory.

(c) Frequency of medical screening activities. The employer shall make medical screening available on the following schedule:

(i) For each employee covered under (a)(i) and (ii) of this subsection, a health questionnaire and complete blood count (CBC) with differential and platelet count every year, and a physical examination as specified below:

(A) An initial physical examination that meets the requirements of this rule, if twelve months or more have elapsed since the last physical examination conducted as part of a medical screening program for BD exposure;

(B) Before assumption of duties by the employee in a job with BD exposure;

(C) Every 3 years after the initial physical examination;

(D) At the discretion of the physician or other licensed health care professional reviewing the annual health questionnaire and CBC;

(E) At the time of employee reassignment to an area where exposure to BD is below the action level, if the employee's past exposure history does not meet the criteria of (a)(ii) of this subsection for continued coverage in the screen-

ing and surveillance program, and if twelve months or more have elapsed since the last physical examination; and

(F) At termination of employment if twelve months or more have elapsed since the last physical examination.

(ii) Following an emergency situation, medical screening shall be conducted as quickly as possible, but not later than 48 hours after the exposure.

(iii) For each employee who must wear a respirator, physical ability to perform the work and use the respirator must be determined as required by WAC 296-62-071.

(d) Content of medical screening.

(i) Medical screening for employees covered by (a)(i) and (ii) of this subsection shall include:

(A) A baseline health questionnaire that includes a comprehensive occupational and health history and is updated annually. Particular emphasis shall be placed on the hematopoietic and reticuloendothelial systems, including exposure to chemicals, in addition to BD, that may have an adverse effect on these systems, the presence of signs and symptoms that might be related to disorders of these systems, and any other information determined by the examining physician or other licensed health care professional to be necessary to evaluate whether the employee is at increased risk of material impairment of health from BD exposure. Health questionnaires shall consist of the sample forms in Appendix C to this section, or be equivalent to those samples;

(B) A complete physical examination, with special emphasis on the liver, spleen, lymph nodes, and skin;

(C) A CBC; and

(D) Any other test which the examining physician or other licensed health care professional deems necessary to evaluate whether the employee may be at increased risk from exposure to BD.

(ii) Medical screening for employees exposed to BD in an emergency situation shall focus on the acute effects of BD exposure and at a minimum include: A CBC within 48 hours of the exposure and then monthly for three months; and a physical examination if the employee reports irritation of the eyes, nose, throat, lungs, or skin, blurred vision, coughing, drowsiness, nausea, or headache. Continued employee participation in the medical screening and surveillance program, beyond these minimum requirements, shall be at the discretion of the physician or other licensed health care professional.

(e) Additional medical evaluations and referrals.

(i) Where the results of medical screening indicate abnormalities of the hematopoietic or reticuloendothelial systems, for which a nonoccupational cause is not readily apparent, the examining physician or other licensed health care professional shall refer the employee to an appropriate specialist for further evaluation and shall make available to the specialist the results of the medical screening.

(ii) The specialist to whom the employee is referred under this subsection shall determine the appropriate content for the medical evaluation, e.g., examinations, diagnostic tests and procedures, etc.

(f) Information provided to the physician or other licensed health care professional. The employer shall provide the following information to the examining physician or

other licensed health care professional involved in the evaluation:

- (i) A copy of this section including its appendices;
- (ii) A description of the affected employee's duties as they relate to the employee's BD exposure;
- (iii) The employee's actual or representative BD exposure level during employment tenure, including exposure incurred in an emergency situation;
- (iv) A description of pertinent personal protective equipment used or to be used; and
- (v) Information, when available, from previous employment-related medical evaluations of the affected employee which is not otherwise available to the physician or other licensed health care professional or the specialist.

(g) The written medical opinion.

(i) For each medical evaluation required by this section, the employer shall ensure that the physician or other licensed health care professional produces a written opinion and provides a copy to the employer and the employee within 15 business days of the evaluation. The written opinion shall be limited to the following information:

(A) The occupationally pertinent results of the medical evaluation;

(B) A medical opinion concerning whether the employee has any detected medical conditions which would place the employee's health at increased risk of material impairment from exposure to BD;

(C) Any recommended limitations upon the employee's exposure to BD; and

(D) A statement that the employee has been informed of the results of the medical evaluation and any medical conditions resulting from BD exposure that require further explanation or treatment.

(ii) The written medical opinion provided to the employer shall not reveal specific records, findings, and diagnoses that have no bearing on the employee's ability to work with BD.

Note: This provision does not negate the ethical obligation of the physician or other licensed health care professional to transmit any other adverse findings directly to the employee.

(h) Medical surveillance.

(i) The employer shall ensure that information obtained from the medical screening program activities is aggregated (with all personal identifiers removed) and periodically reviewed, to ascertain whether the health of the employee population of that employer is adversely affected by exposure to BD.

(ii) Information learned from medical surveillance activities must be disseminated to covered employees, as defined in (a) of this subsection, in a manner that ensures the confidentiality of individual medical information.

(12) Communication of BD hazards to employees.

(a) Hazard communication. The employer shall communicate the hazards associated with BD exposure in accordance with the requirements of the chemical hazard communication standard, WAC 296-800-170.

(b) Employee information and training.

(i) The employer shall provide all employees exposed to BD with information and training in accordance with the

requirements of the chemical hazard communication standard, WAC 296-800-170.

(ii) The employer shall institute a training program for all employees who are potentially exposed to BD at or above the action level or the STEL, ensure employee participation in the program and maintain a record of the contents of such program.

(iii) Training shall be provided prior to or at the time of initial assignment to a job potentially involving exposure to BD at or above the action level or STEL and at least annually thereafter.

(iv) The training program shall be conducted in a manner that the employee is able to understand. The employer shall ensure that each employee exposed to BD over the action level or STEL is informed of the following:

(A) The health hazards associated with BD exposure, and the purpose and a description of the medical screening and surveillance program required by this section;

(B) The quantity, location, manner of use, release, and storage of BD and the specific operations that could result in exposure to BD, especially exposures above the PEL or STEL;

(C) The engineering controls and work practices associated with the employee's job assignment, and emergency procedures and personal protective equipment;

(D) The measures employees can take to protect themselves from exposure to BD;

(E) The contents of this standard and its appendices; and

(F) The right of each employee exposed to BD at or above the action level or STEL to obtain:

(I) Medical examinations as required by subsection (10) of this section at no cost to the employee;

(II) The employee's medical records required to be maintained by subsection (13)(c) of this section; and

(III) All air monitoring results representing the employee's exposure to BD and required to be kept by subsection (13)(b) of this section.

(c) Access to information and training materials.

(i) The employer shall make a copy of this standard and its appendices readily available without cost to all affected employees and their designated representatives and shall provide a copy if requested.

(ii) The employer shall provide to the director, or the designated employee representatives, upon request, all materials relating to the employee information and the training program.

(13) Recordkeeping.

(a) Objective data for exemption from initial monitoring.

(i) Where the processing, use, or handling of products or streams made from or containing BD are exempted from other requirements of this section under subsection (1)(b) of this section, or where objective data have been relied on in lieu of initial monitoring under subsection (4)(b)(ii) of this section, the employer shall establish and maintain a record of the objective data reasonably relied upon in support of the exemption.

(ii) This record shall include at least the following information:

(A) The product or activity qualifying for exemption;

(B) The source of the objective data;

(C) The testing protocol, results of testing, and analysis of the material for the release of BD;

(D) A description of the operation exempted and how the data support the exemption; and

(E) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(b) Exposure measurements.

(i) The employer shall establish and maintain an accurate record of all measurements taken to monitor employee exposure to BD as prescribed in subsection (4) of this section.

(ii) The record shall include at least the following information:

(A) The date of measurement;

(B) The operation involving exposure to BD which is being monitored;

(C) Sampling and analytical methods used and evidence of their accuracy;

(D) Number, duration, and results of samples taken;

(E) Type of protective devices worn, if any;

(F) Name, Social Security number and exposure of the employees whose exposures are represented; and

(G) The written corrective action and the schedule for completion of this action required by subsection (4)(g)(ii) of this section.

(iii) The employer shall maintain this record for at least 30 years in accordance with ((WAC 296-62-052)) chapter 296-802 WAC.

(c) Medical screening and surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical screening and surveillance under this section.

(ii) The record shall include at least the following information:

(A) The name and Social Security number of the employee;

(B) Physician's or other licensed health care professional's written opinions as described in subsection (11)(e) of this section;

(C) A copy of the information provided to the physician or other licensed health care professional as required by subsection (11)(e) of this section.

(iii) Medical screening and surveillance records shall be maintained for each employee for the duration of employment plus 30 years, in accordance with ((WAC 296-62-052)) chapter 296-802 WAC.

(d) Availability.

(i) The employer, upon written request, shall make all records required to be maintained by this section available for examination and copying to the director.

(ii) Access to records required to be maintained by (a) and (b) of this subsection shall be granted in accordance with ((WAC 296-62-05209)) chapter 296-802 WAC.

(e) Transfer of records.

(i) Whenever the employer ceases to do business, the employer shall transfer records required by this section to the successor employer. The successor employer shall receive and maintain these records. If there is no successor employer, the employer shall notify the director, at least three months

prior to disposal, and transmit them to the director if requested by the director within that period.

(ii) The employer shall transfer medical and exposure records as set forth in ((WAC 296-62-05215)) chapter 296-802 WAC.

(14) Dates.

(a) Effective date. This section shall become effective (day, month), 1997.

(b) Start-up dates.

(i) The initial monitoring required under subsection (4)(b) of this section shall be completed immediately or within sixty days of the introduction of BD into the workplace.

(ii) The requirements of subsections (3) through (13) of this section, including feasible work practice controls but not including engineering controls specified in subsection (6)(a) of this section, shall be complied with immediately.

(iii) Engineering controls specified by subsection (6)(a) of this section shall be implemented by February 4, 1999, and the exposure goal program specified in subsection (7) of this section shall be implemented by February 4, 2000.

(15) Appendices.

Appendices A, B, C, D, and F to this section are informational and are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

Appendix A. Substance Safety Data Sheet For 1,3-Butadiene (Non-Mandatory)

(1) Substance Identification.

(a) Substance: 1,3-Butadiene (CH₂=CH-CH=CH₂).

(b) Synonyms: 1,3-Butadiene (BD); butadiene; biethylen; bi-vinyl; divinyl; butadiene-1,3; buta-1,3-diene; erythrene; NCI-C50602; CAS-106-99-0.

(c) BD can be found as a gas or liquid.

(d) BD is used in production of styrene-butadiene rubber and polybutadiene rubber for the tire industry. Other uses include copolymer latexes for carpet backing and paper coating, as well as resins and polymers for pipes and automobile and appliance parts. It is also used as an intermediate in the production of such chemicals as fungicides.

(e) Appearance and odor: BD is a colorless, noncorrosive, flammable gas with a mild aromatic odor at standard ambient temperature and pressure.

(f) Permissible exposure: Exposure may not exceed 1 part BD per million parts of air averaged over the 8-hour workday, nor may short-term exposure exceed 5 parts of BD per million parts of air averaged over any 15-minute period in the 8-hour workday.

(2) Health Hazard Data.

(a) BD can affect the body if the gas is inhaled or if the liquid form, which is very cold (cryogenic), comes in contact with the eyes or skin.

(b) Effects of overexposure: Breathing very high levels of BD for a short time can cause central nervous system effects, blurred vision, nausea, fatigue, headache, decreased blood pressure and pulse rate, and unconsciousness. There are no recorded cases of accidental exposures at high levels that have caused death in humans, but this could occur. Breathing lower levels of BD may cause irritation of the eyes,

nose, and throat. Skin contact with liquefied BD can cause irritation and frostbite.

(c) Long-term (chronic) exposure: BD has been found to be a potent carcinogen in rodents, inducing neoplastic lesions at multiple target sites in mice and rats. A recent study of BD-exposed workers showed that exposed workers have an increased risk of developing leukemia. The risk of leukemia increases with increased exposure to BD. OSHA has concluded that there is strong evidence that workplace exposure to BD poses an increased risk of death from cancers of the lymphohematopoietic system.

(d) Reporting signs and symptoms: You should inform your supervisor if you develop any of these signs or symptoms and suspect that they are caused by exposure to BD.

(3) Emergency First-Aid Procedures.

In the event of an emergency, follow the emergency plan and procedures designated for your work area. If you have been trained in first-aid procedures, provide the necessary first aid measures. If necessary, call for additional assistance from co-workers and emergency medical personnel.

(a) Eye and Skin Exposures: If there is a potential that liquefied BD can come in contact with eye or skin, face shields and skin protective equipment must be provided and used. If liquefied BD comes in contact with the eye, immediately flush the eyes with large amounts of water, occasionally lifting the lower and the upper lids. Flush repeatedly. Get medical attention immediately. Contact lenses should not be worn when working with this chemical. In the event of skin contact, which can cause frostbite, remove any contaminated clothing and flush the affected area repeatedly with large amounts of tepid water.

(b) Breathing: If a person breathes in large amounts of BD, move the exposed person to fresh air at once. If breathing has stopped, begin cardiopulmonary resuscitation (CPR) if you have been trained in this procedure. Keep the affected person warm and at rest. Get medical attention immediately.

(c) Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, call for help and begin emergency rescue procedures. Use extreme caution so that you do not become a casualty. Understand the plant's emergency rescue procedures and know the locations of rescue equipment before the need arises.

(4) Respirators and Protective Clothing.

(a) Respirators: Good industrial hygiene practices recommend that engineering and work practice controls be used to reduce environmental concentrations to the permissible exposure level. However, there are some exceptions where respirators may be used to control exposure. Respirators may be used when engineering and work practice controls are not technically feasible, when such controls are in the process of being installed, or when these controls fail and need to be supplemented or during brief, nonroutine, intermittent exposure. Respirators may also be used in situations involving nonroutine work operations which are performed infrequently and in which exposures are limited in duration, and in emergency situations. In some instances cartridge respirator use is allowed, but only with strict time constraints. For example, at exposure below 5 ppm BD, a cartridge (or canister) respirator, either full or half face, may be used, but the cartridge must be replaced at least every 4 hours, and it must

be replaced every 3 hours when the exposure is between 5 and 10 ppm.

If the use of respirators is necessary, the only respirators permitted are those that have been approved by the National Institute for Occupational Safety and Health (NIOSH). In addition to respirator selection, a complete respiratory protection program must be instituted which includes regular training, maintenance, fit testing, inspection, cleaning, and evaluation of respirators. If you can smell BD while wearing a respirator, proceed immediately to fresh air, and change cartridge (or canister) before re-entering an area where there is BD exposure. If you experience difficulty in breathing while wearing a respirator, tell your supervisor.

(b) Protective Clothing: Employees should be provided with and required to use impervious clothing, gloves, face shields (eight-inch minimum), and other appropriate protective clothing necessary to prevent the skin from becoming frozen by contact with liquefied BD (or a vessel containing liquid BD).

Employees should be provided with and required to use splash-proof safety goggles where liquefied BD may contact the eyes.

(5) Precautions for Safe Use, Handling, and Storage.

(a) Fire and Explosion Hazards: BD is a flammable gas and can easily form explosive mixtures in air. It has a lower explosive limit of 2%, and an upper explosive limit of 11.5%. It has an autoignition temperature of 420 deg. C (788 deg. F). Its vapor is heavier than air (vapor density, 1.9) and may travel a considerable distance to a source of ignition and flash back. Usually it contains inhibitors to prevent self-polymerization (which is accompanied by evolution of heat) and to prevent formation of explosive peroxides. At elevated temperatures, such as in fire conditions, polymerization may take place. If the polymerization takes place in a container, there is a possibility of violent rupture of the container.

(b) Hazard: Slightly toxic. Slight respiratory irritant. Direct contact of liquefied BD on skin may cause freeze burns and frostbite.

(c) Storage: Protect against physical damage to BD containers. Outside or detached storage of BD containers is preferred. Inside storage should be in a cool, dry, well-ventilated, noncombustible location, away from all possible sources of ignition. Store cylinders vertically and do not stack. Do not store with oxidizing material.

(d) Usual Shipping Containers: Liquefied BD is contained in steel pressure apparatus.

(e) Electrical Equipment: Electrical installations in Class I hazardous locations, as defined in Article 500 of the National Electrical Code, should be in accordance with Article 501 of the Code. If explosion-proof electrical equipment is necessary, it shall be suitable for use in Group B. Group D equipment may be used if such equipment is isolated in accordance with Section 501-5(a) by sealing all conduit 1/2-inch size or larger. See Venting of Deflagrations (NFPA No. 68, 1994), National Electrical Code (NFPA No. 70, 1996), Static Electricity (NFPA No. 77, 1993), Lightning Protection Systems (NFPA No. 780, 1995), and Fire Hazard Properties of Flammable Liquids, Gases and Volatile Solids (NFPA No. 325, 1994).

(f) **Fire Fighting:** Stop flow of gas. Use water to keep fire-exposed containers cool. Fire extinguishers and quick drenching facilities must be readily available, and you should know where they are and how to operate them.

(g) **Spill and Leak:** Persons not wearing protective equipment and clothing should be restricted from areas of spills or leaks until clean-up has been completed. If BD is spilled or leaked, the following steps should be taken:

- (i) Eliminate all ignition sources.
- (ii) Ventilate area of spill or leak.
- (iii) If in liquid form, for small quantities, allow to evaporate in a safe manner.
- (iv) Stop or control the leak if this can be done without risk. If source of leak is a cylinder and the leak cannot be stopped in place, remove the leaking cylinder to a safe place and repair the leak or allow the cylinder to empty.

(h) **Disposal:** This substance, when discarded or disposed of, is a hazardous waste according to Federal regulations (40 CFR part 261). It is listed as hazardous waste number D001 due to its ignitability. The transportation, storage, treatment, and disposal of this waste material must be conducted in compliance with 40 CFR parts 262, 263, 264, 268 and 270. Disposal can occur only in properly permitted facilities. Check state and local regulation of any additional requirements as these may be more restrictive than federal laws and regulation.

(i) You should not keep food, beverages, or smoking materials in areas where there is BD exposure, nor should you eat or drink in such areas.

(j) Ask your supervisor where BD is used in your work area and ask for any additional plant safety and health rules.

(6) Medical Requirements.

Your employer is required to offer you the opportunity to participate in a medical screening and surveillance program if you are exposed to BD at concentrations exceeding the action level (0.5 ppm BD as an 8-hour TWA) on 30 days or more a year, or at or above the 8-hr TWA (1 ppm) or STEL (5 ppm for 15 minutes) on 10 days or more a year. Exposure for any part of a day counts. If you have had exposure to BD in the past, but have been transferred to another job, you may still be eligible to participate in the medical screening and surveillance program.

The WISHA rule specifies the past exposures that would qualify you for participation in the program. These past exposure are work histories that suggest the following:

- (a) That you have been exposed at or above the PELs on 30 days a year for 10 or more years;
- (b) That you have been exposed at or above the action level on 60 days a year for 10 or more years; or
- (c) That you have been exposed above 10 ppm on 30 days in any past year.

Additionally, if you are exposed to BD in an emergency situation, you are eligible for a medical examination within 48 hours. The basic medical screening program includes a health questionnaire, physical examination, and blood test. These medical evaluations must be offered to you at a reasonable time and place, and without cost or loss of pay.

(7) Observation of Monitoring.

Your employer is required to perform measurements that are representative of your exposure to BD and you or your

designated representative are entitled to observe the monitoring procedure. You are entitled to observe the steps taken in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you or your representative must also be provided with, and must wear, the protective clothing and equipment.

(8) Access to Information.

(a) Each year, your employer is required to inform you of the information contained in this appendix. In addition, your employer must instruct you in the proper work practices for using BD, emergency procedures, and the correct use of protective equipment.

(b) Your employer is required to determine whether you are being exposed to BD. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he or she is required to inform you of the actions which are being taken to reduce your exposure to within permissible exposure limits and of the schedule to implement these actions.

(c) Your employer is required to keep records of your exposures and medical examinations. These records must be kept by the employer for at least thirty (30) years.

(d) Your employer is required to release your exposure and medical records to you or your representative upon your request.

Appendix B. Substance Technical Guidelines for 1,3-Butadiene (Non-Mandatory)

(1) Physical and Chemical Data.

(a) Substance identification:

(i) Synonyms: 1,3-Butadiene (BD); butadiene; biethylene; bivinyl; divinyl; butadiene-1,3; buta-1,3-diene; erythrene; NCI-C50620; CAS-106-99-0.

(ii) Formula: $(CH_2) = CH-CH = CH(2)$.

(iii) Molecular weight: 54.1.

(b) Physical data:

(i) Boiling point (760 mm Hg): -4.7 deg. C (23.5 deg. F).

(ii) Specific gravity (water = 1): 0.62 at 20 deg. C (68 deg. F).

(iii) Vapor density (air = 1 at boiling point of BD): 1.87.

(iv) Vapor pressure at 20 deg. C (68 deg. F): 910 mm Hg.

(v) Solubility in water, g/100 g water at 20 deg. C (68 deg. F): 0.05.

(vi) Appearance and odor: Colorless, flammable gas with a mildly aromatic odor. Liquefied BD is a colorless liquid with a mildly aromatic odor.

(2) Fire, Explosion, and Reactivity Hazard Data.

(a) Fire:

(i) Flash point: -76 deg. C (-105 deg. F) for take out; liquefied BD; Not applicable to BD gas.

(ii) Stability: A stabilizer is added to the monomer to inhibit formation of polymer during storage. Forms explosive peroxides in air in absence of inhibitor.

(iii) Flammable limits in air, percent by volume: Lower: 2.0; Upper: 11.5.

(iv) Extinguishing media: Carbon dioxide for small fires, polymer or alcohol foams for large fires.

(v) Special fire fighting procedures: Fight fire from protected location or maximum possible distance. Stop flow of gas before extinguishing fire. Use water spray to keep fire-exposed cylinders cool.

(vi) Unusual fire and explosion hazards: BD vapors are heavier than air and may travel to a source of ignition and flash back. Closed containers may rupture violently when heated.

(vii) For purposes of compliance with the requirements of WAC 296-24-330, BD is classified as a flammable gas. For example, 7,500 ppm, approximately one-fourth of the lower flammable limit, would be considered to pose a potential fire and explosion hazard.

(viii) For purposes of compliance with WAC 296-24-585, BD is classified as a Class B fire hazard.

(ix) For purposes of compliance with WAC 296-24-956 and 296-800-280, locations classified as hazardous due to the presence of BD shall be Class I.

(b) Reactivity:

(i) Conditions contributing to instability: Heat. Peroxides are formed when inhibitor concentration is not maintained at proper level. At elevated temperatures, such as in fire conditions, polymerization may take place.

(ii) Incompatibilities: Contact with strong oxidizing agents may cause fires and explosions. The contacting of crude BD (not BD monomer) with copper and copper alloys may cause formations of explosive copper compounds.

(iii) Hazardous decomposition products: Toxic gases (such as carbon monoxide) may be released in a fire involving BD.

(iv) Special precautions: BD will attack some forms of plastics, rubber, and coatings. BD in storage should be checked for proper inhibitor content, for self-polymerization, and for formation of peroxides when in contact with air and iron. Piping carrying BD may become plugged by formation of rubbery polymer.

(c) Warning Properties:

(i) Odor Threshold: An odor threshold of 0.45 ppm has been reported in The American Industrial Hygiene Association (AIHA) Report, Odor Thresholds for Chemicals with Established Occupational Health Standards. (Ex. 32-28C).

(ii) Eye Irritation Level: Workers exposed to vapors of BD (concentration or purity unspecified) have complained of irritation of eyes, nasal passages, throat, and lungs. Dogs and rabbits exposed experimentally to as much as 6700 ppm for 7 1/2 hours a day for 8 months have developed no histologically demonstrable abnormality of the eyes.

(iii) Evaluation of Warning Properties: Since the mean odor threshold is about half of the 1 ppm PEL, and more than 10-fold below the 5 ppm STEL, most wearers of air purifying respirators should still be able to detect breakthrough before a significant overexposure to BD occurs.

(3) Spill, Leak, and Disposal Procedures.

(a) Persons not wearing protective equipment and clothing should be restricted from areas of spills or leaks until cleanup has been completed. If BD is spilled or leaked, the following steps should be taken:

(i) Eliminate all ignition sources.

(ii) Ventilate areas of spill or leak.

(iii) If in liquid form, for small quantities, allow to evaporate in a safe manner.

(iv) Stop or control the leak if this can be done without risk. If source of leak is a cylinder and the leak cannot be stopped in place, remove the leaking cylinder to a safe place and repair the leak or allow the cylinder to empty.

(b) Disposal: This substance, when discarded or disposed of, is a hazardous waste according to Federal regulations (40 CFR part 261). It is listed by the EPA as hazardous waste number D001 due to its ignitability. The transportation, storage, treatment, and disposal of this waste material must be conducted in compliance with 40 CFR parts 262, 263, 264, 268 and 270. Disposal can occur only in properly permitted facilities. Check state and local regulations for any additional requirements because these may be more restrictive than federal laws and regulations.

(4) Monitoring and Measurement Procedures.

(a) Exposure above the Permissible Exposure Limit (8-hr TWA) or Short-Term Exposure Limit (STEL):

(i) 8-hr TWA exposure evaluation: Measurements taken for the purpose of determining employee exposure under this standard are best taken with consecutive samples covering the full shift. Air samples must be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee).

(ii) STEL exposure evaluation: Measurements must represent 15 minute exposures associated with operations most likely to exceed the STEL in each job and on each shift.

(iii) Monitoring frequencies: Table 1 gives various exposure scenarios and their required monitoring frequencies, as required by the final standard for occupational exposure to butadiene.

Table 1. — Five Exposure Scenarios and Their Associated Monitoring Frequencies

Action Level	8-hr TWA	STEL	Required Monitoring Activity
—*	—	—	No 8-hour TWA or STEL monitoring required.
+*	—	—	No STEL monitoring required. Monitor 8-hr TWA annually.
+	—	—	No STEL monitoring required. Periodic monitoring 8-hour TWA, in accordance with (4)(c)(iii).**
+	+	+	Periodic monitoring 8-hour TWA, in accordance with (4)(c)(iii)**. Periodic monitoring STEL in accordance with (4)(c)(iii).
+	—	+	Periodic monitoring STEL, in accordance with (4)(c)(iii). Monitor 8-hour TWA annually.

Footnote (*) Exposure Scenario, Limit Exceeded: + = Yes, - = No.
Footnote (**) The employer may decrease the frequency of exposure monitoring to annually when at least 2 consecutive measurements taken at least 7 days apart show exposures to be below the 8-hour TWA, but at or above the action level.

(iv) Monitoring techniques: Appendix D describes the validated method of sampling and analysis which has been

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tested by OSHA for use with BD. The employer has the obligation of selecting a monitoring method which meets the accuracy and precision requirements of the standard under his or her unique field conditions. The standard requires that the method of monitoring must be accurate, to a 95 percent confidence level, to plus or minus 25 percent for concentrations of BD at or above 1 ppm, and to plus or minus 35 percent for concentrations below 1 ppm.

(5) Personal Protective Equipment.

(a) Employees should be provided with and required to use impervious clothing, gloves, face shields (eight-inch minimum), and other appropriate protective clothing necessary to prevent the skin from becoming frozen from contact with liquid BD.

(b) Any clothing which becomes wet with liquid BD should be removed immediately and not reworn until the butadiene has evaporated.

(c) Employees should be provided with and required to use splash proof safety goggles where liquid BD may contact the eyes.

(6) Housekeeping and Hygiene Facilities.

For purposes of complying with WAC 296-800-220 and 296-800-230, the following items should be emphasized:

(a) The workplace should be kept clean, orderly, and in a sanitary condition.

(b) Adequate washing facilities with hot and cold water are to be provided and maintained in a sanitary condition.

(7) Additional Precautions.

(a) Store BD in tightly closed containers in a cool, well-ventilated area and take all necessary precautions to avoid any explosion hazard.

(b) Nonsparking tools must be used to open and close metal containers. These containers must be effectively grounded.

(c) Do not incinerate BD cartridges, tanks or other containers.

(d) Employers must advise employees of all areas and operations where exposure to BD might occur.

Appendix C. Medical Screening and Surveillance for 1,3-Butadiene (Nonmandatory)

(1) Basis for Medical Screening and Surveillance Requirements.

(a) Route of Entry Inhalation.

(b) Toxicology.

Inhalation of BD has been linked to an increased risk of cancer, damage to the reproductive organs, and fetotoxicity. Butadiene can be converted via oxidation to epoxybutene and diepoxybutane, two genotoxic metabolites that may play a role in the expression of BD's toxic effects. BD has been tested for carcinogenicity in mice and rats. Both species responded to BD exposure by developing cancer at multiple primary organ sites. Early deaths in mice were caused by malignant lymphomas, primarily lymphocytic type, originating in the thymus.

Mice exposed to BD have developed ovarian or testicular atrophy. Sperm head morphology tests also revealed abnormal sperm in mice exposed to BD; lethal mutations were found in a dominant lethal test. In light of these results in animals, the possibility that BD may adversely affect the

reproductive systems of male and female workers must be considered.

Additionally, anemia has been observed in animals exposed to butadiene. In some cases, this anemia appeared to be a primary response to exposure; in other cases, it may have been secondary to a neoplastic response.

(c) Epidemiology.

Epidemiologic evidence demonstrates that BD exposure poses an increased risk of leukemia. Mild alterations of hematologic parameters have also been observed in synthetic rubber workers exposed to BD.

(2) Potential Adverse Health Effects.

(a) Acute.

Skin contact with liquid BD causes characteristic burns or frostbite. BD in gaseous form can irritate the eyes, nasal passages, throat, and lungs. Blurred vision, coughing, and drowsiness may also occur. Effects are mild at 2,000 ppm and pronounced at 8,000 ppm for exposures occurring over the full workshift.

At very high concentrations in air, BD is an anesthetic, causing narcosis, respiratory paralysis, unconsciousness, and death. Such concentrations are unlikely, however, except in an extreme emergency because BD poses an explosion hazard at these levels.

(b) Chronic.

The principal adverse health effects of concern are BD-induced lymphoma, leukemia and potential reproductive toxicity. Anemia and other changes in the peripheral blood cells may be indicators of excessive exposure to BD.

(c) Reproductive.

Workers may be concerned about the possibility that their BD exposure may be affecting their ability to procreate a healthy child. For workers with high exposures to BD, especially those who have experienced difficulties in conceiving, miscarriages, or stillbirths, appropriate medical and laboratory evaluation of fertility may be necessary to determine if BD is having any adverse effect on the reproductive system or on the health of the fetus.

(3) Medical Screening Components At-A-Glance.

(a) Health Questionnaire.

The most important goal of the health questionnaire is to elicit information from the worker regarding potential signs or symptoms generally related to leukemia or other blood abnormalities. Therefore, physicians or other licensed health care professionals should be aware of the presenting symptoms and signs of lymphohematopoietic disorders and cancers, as well as the procedures necessary to confirm or exclude such diagnoses. Additionally, the health questionnaire will assist with the identification of workers at greatest risk of developing leukemia or adverse reproductive effects from their exposures to BD.

Workers with a history of reproductive difficulties or a personal or family history of immune deficiency syndromes, blood dyscrasias, lymphoma, or leukemia, and those who are or have been exposed to medicinal drugs or chemicals known to affect the hematopoietic or lymphatic systems may be at higher risk from their exposure to BD. After the initial administration, the health questionnaire must be updated annually.

(b) Complete Blood Count (CBC).

The medical screening and surveillance program requires an annual CBC, with differential and platelet count, to be provided for each employee with BD exposure. This test is to be performed on a blood sample obtained by phlebotomy of the venous system or, if technically feasible, from a fingerstick sample of capillary blood. The sample is to be analyzed by an accredited laboratory.

Abnormalities in a CBC may be due to a number of different etiologies. The concern for workers exposed to BD includes, but is not limited to, timely identification of lymphohematopoietic cancers, such as leukemia and non-Hodgkin's lymphoma. Abnormalities of portions of the CBC are identified by comparing an individual's results to those of an established range of normal values for males and females. A substantial change in any individual employee's CBC may also be viewed as "abnormal" for that individual even if all measurements fall within the population-based range of normal values. It is suggested that a flowsheet for laboratory values be included in each employee's medical record so that comparisons and trends in annual CBCs can be easily made.

A determination of the clinical significance of an abnormal CBC shall be the responsibility of the examining physician, other licensed health care professional, or medical specialist to whom the employee is referred. Ideally, an abnormal CBC should be compared to previous CBC measurements for the same employee, when available. Clinical common sense may dictate that a CBC value that is very slightly outside the normal range does not warrant medical concern. A CBC abnormality may also be the result of a temporary physical stressor, such as a transient viral illness, blood donation, or menorrhagia, or laboratory error. In these cases, the CBC should be repeated in a timely fashion, i.e., within 6 weeks, to verify that return to the normal range has occurred. A clinically significant abnormal CBC should result in removal of the employee from further exposure to BD. Transfer of the employee to other work duties in a BD-free environment would be the preferred recommendation.

(c) Physical Examination.

The medical screening and surveillance program requires an initial physical examination for workers exposed to BD; this examination is repeated once every three years. The initial physical examination should assess each worker's baseline general health and rule out clinical signs of medical conditions that may be caused by or aggravated by occupational BD exposure. The physical examination should be directed at identification of signs of lymphohematopoietic disorders, including lymph node enlargement, splenomegaly, and hepatomegaly.

Repeated physical examinations should update objective clinical findings that could be indicative of interim development of a lymphohematopoietic disorder, such as lymphoma, leukemia, or other blood abnormality. Physical examinations may also be provided on an as needed basis in order to follow up on a positive answer on the health questionnaire, or in response to an abnormal CBC. Physical examination of workers who will no longer be working in jobs with BD exposure are intended to rule out lymphohematopoietic disorders.

The need for physical examinations for workers concerned about adverse reproductive effects from their expo-

sure to BD should be identified by the physician or other licensed health care professional and provided accordingly. For these workers, such consultations and examinations may relate to developmental toxicity and reproductive capacity.

Physical examination of workers acutely exposed to significant levels of BD should be especially directed at the respiratory system, eyes, sinuses, skin, nervous system, and any region associated with particular complaints. If the worker has received a severe acute exposure, hospitalization may be required to assure proper medical management. Since this type of exposure may place workers at greater risk of blood abnormalities, a CBC must be obtained within 48 hours and repeated at one, two, and three months.

Appendix D: Sampling and Analytical Method for 1,3-Butadiene (Nonmandatory)

OSHA Method No.: 56.

Matrix: Air.

Target concentration: 1 ppm (2.21 mg/m(3)).

Procedure: Air samples are collected by drawing known volumes of air through sampling tubes containing charcoal adsorbent which has been coated with 4-tert-butylcatechol. The samples are desorbed with carbon disulfide and then analyzed by gas chromatography using a flame ionization detector.

Recommended sampling rate and air volume: 0.05 L/min and 3 L.

Detection limit of the overall procedure: 90 ppb (200 ug/m(3)) (based on 3 L air volume).

Reliable quantitation limit: 155 ppb (343 ug/m(3)) (based on 3 L air volume).

Standard error of estimate at the target concentration: 6.5%.

Special requirements: The sampling tubes must be coated with 4-tert-butylcatechol. Collected samples should be stored in a freezer.

Status of method: A sampling and analytical method has been subjected to the established evaluation procedures of the Organic Methods Evaluation Branch, OSHA Analytical Laboratory, Salt Lake City, Utah 84165.

(1) Background.

This work was undertaken to develop a sampling and analytical procedure for BD at 1 ppm. The current method recommended by OSHA for collecting BD uses activated coconut shell charcoal as the sampling medium (Ref. 5.2). This method was found to be inadequate for use at low BD levels because of sample instability.

The stability of samples has been significantly improved through the use of a specially cleaned charcoal which is coated with 4-tert-butylcatechol (TBC). TBC is a polymerization inhibitor for BD (Ref. 5.3).

(a) Toxic effects.

Symptoms of human exposure to BD include irritation of the eyes, nose and throat. It can also cause coughing, drowsiness and fatigue. Dermatitis and frostbite can result from skin exposure to liquid BD. (Ref. 5.1)

NIOSH recommends that BD be handled in the workplace as a potential occupational carcinogen. This recommendation is based on two inhalation studies that resulted in cancers at multiple sites in rats and in mice. BD has also demonstrated mutagenic activity in the presence of a liver

microsomal activating system. It has also been reported to have adverse reproductive effects. (Ref. 5.1)

(b) Potential workplace exposure.

About 90% of the annual production of BD is used to manufacture styrene-butadiene rubber and Polybutadiene rubber. Other uses include: Polychloroprene rubber, acrylonitrile butadiene-styrene resins, nylon intermediates, styrene-butadiene latexes, butadiene polymers, thermoplastic elastomers, nitrile resins, methyl methacrylate-butadiene styrene resins and chemical intermediates. (Ref. 5.1)

(c) Physical properties (Ref. 5.1).

CAS No.: 106-99-0

Molecular weight: 54.1

Appearance: Colorless gas

Boiling point: -4.41 deg. C (760 mm Hg)

Freezing point: -108.9 deg. C

Vapor pressure: 2 atm (a) 15.3 deg. C; 5 atm (a) 47 deg. C

Explosive limits: 2 to 11.5% (by volume in air)

Odor threshold: 0.45 ppm

Structural formula: $H(2)C:CHCH:CH(2)$

Synonyms: BD; biethylene; bivinyl; butadiene; divinyl; buta-1,3-diene; alpha-gamma-butadiene; erythrene; NCI-C50602; pyrrolylene; vinylyethylene.

(d) Limit defining parameters.

The analyte air concentrations listed throughout this method are based on an air volume of 3 L and a desorption volume of 1 mL. Air concentrations listed in ppm are referenced to 25 deg. C and 760 mm Hg.

(e) Detection limit of the analytical procedure.

The detection limit of the analytical procedure was 304 pg per injection. This was the amount of BD which gave a response relative to the interferences present in a standard.

(f) Detection limit of the overall procedure.

The detection limit of the overall procedure was 0.60 ug per sample (90 ppb or 200 ug/m³). This amount was determined graphically. It was the amount of analyte which, when spiked on the sampling device, would allow recovery approximately equal to the detection limit of the analytical procedure.

(g) Reliable quantitation limit.

The reliable quantitation limit was 1.03 ug per sample (155 ppb or 343 ug/m³). This was the smallest amount of analyte which could be quantitated within the limits of a recovery of at least 75% and a precision (+/- 1.96 SD) of +/- 25% or better.

(h) Sensitivity.(1)

Footnote (1) The reliable quantitation limit and detection limits reported in the method are based upon optimization of the instrument for the smallest possible amount of analyte. When the target concentration of an analyte is exceptionally higher than these limits, they may not be attainable at the routine operation parameters.

The sensitivity of the analytical procedure over a concentration range representing 0.6 to 2 times the target concentration, based on the recommended air volume, was 387 area units per ug/mL. This value was determined from the slope of the calibration curve. The sensitivity may vary with the particular instrument used in the analysis.

(i) Recovery.

The recovery of BD from samples used in storage tests remained above 77% when the samples were stored at ambient temperature and above 94% when the samples were stored at refrigerated temperature. These values were determined from regression lines which were calculated from the storage data. The recovery of the analyte from the collection device must be at least 75% following storage.

(j) Precision (analytical method only).

The pooled coefficient of variation obtained from replicate determinations of analytical standards over the range of 0.6 to 2 times the target concentration was 0.011.

(k) Precision (overall procedure).

The precision at the 95% confidence level for the refrigerated temperature storage test was +/- 12.7%. This value includes an additional +/- 5% for sampling error. The overall procedure must provide results at the target concentrations that are +/- 25% at the 95% confidence level.

(l) Reproducibility.

Samples collected from a controlled test atmosphere and a draft copy of this procedure were given to a chemist unassociated with this evaluation. The average recovery was 97.2% and the standard deviation was 6.2%.

(2) Sampling procedure.

(a) Apparatus. Samples are collected by use of a personal sampling pump that can be calibrated to within +/- 5% of the recommended 0.05 L/min sampling rate with the sampling tube in line.

(b) Samples are collected with laboratory prepared sampling tubes. The sampling tube is constructed of silane-treated glass and is about 5-cm long. The ID is 4 mm and the OD is 6 mm. One end of the tube is tapered so that a glass wool end plug will hold the contents of the tube in place during sampling. The opening in the tapered end of the sampling tube is at least one-half the ID of the tube (2 mm). The other end of the sampling tube is open to its full 4-mm ID to facilitate packing of the tube. Both ends of the tube are fire-polished for safety. The tube is packed with 2 sections of pre-treated charcoal which has been coated with TBC. The tube is packed with a 50-mg backup section, located nearest the tapered end, and with a 100-mg sampling section of charcoal. The two sections of coated adsorbent are separated and retained with small plugs of silanized glass wool. Following packing, the sampling tubes are sealed with two 7/32 inch OD plastic end caps. Instructions for the pretreatment and coating of the charcoal are presented in Section 4.1 of this method.

(c) Reagents.

None required.

(d) Technique.

(i) Properly label the sampling tube before sampling and then remove the plastic end caps.

(ii) Attach the sampling tube to the pump using a section of flexible plastic tubing such that the larger front section of the sampling tube is exposed directly to the atmosphere. Do not place any tubing ahead of the sampling tube. The sampling tube should be attached in the worker's breathing zone in a vertical manner such that it does not impede work performance.

(iii) After sampling for the appropriate time, remove the sampling tube from the pump and then seal the tube with plastic end caps. Wrap the tube lengthwise.

(iv) Include at least one blank for each sampling set. The blank should be handled in the same manner as the samples with the exception that air is not drawn through it.

(v) List any potential interferences on the sample data sheet.

(vi) The samples require no special shipping precautions under normal conditions. The samples should be refrigerated if they are to be exposed to higher than normal ambient temperatures. If the samples are to be stored before they are shipped to the laboratory, they should be kept in a freezer. The samples should be placed in a freezer upon receipt at the laboratory.

(e) Breakthrough.

(Breakthrough was defined as the relative amount of analyte found on the backup section of the tube in relation to the total amount of analyte collected on the sampling tube. Five-percent breakthrough occurred after sampling a test atmosphere containing 2.0 ppm BD for 90 min. at 0.05 L/min. At the end of this time 4.5 L of air had been sampled and 20.1 ug of the analyte was collected. The relative humidity of the sampled air was 80% at 23 deg. C.)

Breakthrough studies have shown that the recommended sampling procedure can be used at air concentrations higher than the target concentration. The sampling time, however, should be reduced to 45 min. if both the expected BD level and the relative humidity of the sampled air are high.

(f) Desorption efficiency.

The average desorption efficiency for BD from TBC coated charcoal over the range from 0.6 to 2 times the target concentration was 96.4%. The efficiency was essentially constant over the range studied.

(g) Recommended air volume and sampling rate.

(h) The recommended air volume is 3 L.

(i) The recommended sampling rate is 0.05 L/min. for 1 hour.

(j) Interferences.

There are no known interferences to the sampling method.

(k) Safety precautions.

(i) Attach the sampling equipment to the worker in such a manner that it will not interfere with work performance or safety.

(ii) Follow all safety practices that apply to the work area being sampled.

(3) Analytical procedure.

(a) Apparatus.

(i) A gas chromatograph (GC), equipped with a flame ionization detector (FID).(2)

Footnote (2) A Hewlett-Packard Model 5840A GC was used for this evaluation. Injections were performed using a Hewlett-Packard Model 7671A automatic sampler.

(ii) A GC column capable of resolving the analytes from any interference.(3)

Footnote (3) A 20-ft x 1/8-inch OD stainless steel GC column containing 20% FFAP on 80/100 mesh Chromabsorb W-AW-DMCS was used for this evaluation.

(iii) Vials, glass 2-mL with Teflon-lined caps.

(iv) Disposable Pasteur-type pipets, volumetric flasks, pipets and syringes for preparing samples and standards, making dilutions and performing injections.

(b) Reagents.

(i) Carbon disulfide.(4)

Footnote (4) Fisher Scientific Company A.C.S. Reagent Grade solvent was used in this evaluation.

The benzene contaminant that was present in the carbon disulfide was used as an internal standard (ISTD) in this evaluation.

(ii) Nitrogen, hydrogen and air, GC grade.

(iii) BD of known high purity.(5)

Footnote (5) Matheson Gas Products, CP Grade 1,3-butadiene was used in this study.

(c) Standard preparation.

(i) Prepare standards by diluting known volumes of BD gas with carbon disulfide. This can be accomplished by injecting the appropriate volume of BD into the headspace above the 1-mL of carbon disulfide contained in sealed 2-mL vial. Shake the vial after the needle is removed from the septum.(6)

Footnote (6) A standard containing 7.71 ug/mL (at ambient temperature and pressure) was prepared by diluting 4 uL of the gas with 1-mL of carbon disulfide.

(ii) The mass of BD gas used to prepare standards can be determined by use of the following equations:

$$MV = (760/BP)(273+t)/(273)(22.41)$$

Where:

MV = ambient molar volume

BP = ambient barometric pressure

T = ambient temperature

$$\text{ug/uL} = 54.09/MV$$

$$\text{ug/standard} = (\text{ug/uL})(\text{uL}) \text{ BD used to prepare the standard}$$

(d) Sample preparation.

(i) Transfer the 100-mg section of the sampling tube to a 2-mL vial. Place the 50-mg section in a separate vial. If the glass wool plugs contain a significant amount of charcoal, place them with the appropriate sampling tube section.

(ii) Add 1-mL of carbon disulfide to each vial.

(iii) Seal the vials with Teflon-lined caps and then allow them to desorb for one hour. Shake the vials by hand vigorously several times during the desorption period.

(iv) If it is not possible to analyze the samples within 4 hours, separate the carbon disulfide from the charcoal, using a disposable Pasteur-type pipet, following the one hour. This separation will improve the stability of desorbed samples.

(v) Save the used sampling tubes to be cleaned and repacked with fresh adsorbent.

(e) Analysis.

(i) GC Conditions.

Column temperature: 95 deg. C

Injector temperature: 180 deg. C

Detector temperature: 275 deg. C

Carrier gas flow rate: 30 mL/min.

Injection volume: 0.80 uL

GC column: 20-ft x 1/8-in OD stainless steel GC column containing 20%

FFAP on 80/100 Chromabsorb W-AW-DMCS.

(ii) Chromatogram. See Section 4.2.

(iii) Use a suitable method, such as electronic or peak heights, to measure detector response.

(iv) Prepare a calibration curve using several standard solutions of different concentrations. Prepare the calibration curve daily. Program the integrator to report the results in ug/mL.

(v) Bracket sample concentrations with standards.

(f) Interferences (analytical).

(i) Any compound with the same general retention time as the analyte and which also gives a detector response is a potential interference. Possible interferences should be reported by the industrial hygienist to the laboratory with submitted samples.

(ii) GC parameters (temperature, column, etc.) may be changed to circumvent interferences.

(iii) A useful means of structure designation is GC/MS. It is recommended that this procedure be used to confirm samples whenever possible.

(g) Calculations.

(i) Results are obtained by use of calibration curves. Calibration curves are prepared by plotting detector response against concentration for each standard. The best line through the data points is determined by curve fitting.

(ii) The concentration, in ug/mL, for a particular sample is determined by comparing its detector response to the calibration curve. If any analyte is found on the backup section, this amount is added to the amount found on the front section. Blank corrections should be performed before adding the results together.

(iii) The BD air concentration can be expressed using the following equation:

$$\text{mg/m}(3) = (A)(B)/(C)(D)$$

Where:

A = ug/mL from Section 3.7.2

B = volume

C = L of air sampled

D = efficiency

(iv) The following equation can be used to convert results in mg/m(3) to ppm:

$$\text{ppm} = (\text{mg/m}(3))(24.46)/54.09$$

Where:

mg/m(3) = result from Section 3.7.3.

24.46 = molar volume of an ideal gas at 760 mm Hg and 25 deg. C.

(h) Safety precautions (analytical).

(i) Avoid skin contact and inhalation of all chemicals.

(ii) Restrict the use of all chemicals to a fume hood whenever possible.

(iii) Wear safety glasses and a lab coat in all laboratory areas.

(4) Additional Information.

(a) A procedure to prepare specially cleaned charcoal coated with TBC.

(i) Apparatus.

(A) Magnetic stirrer and stir bar.

(B) Tube furnace capable of maintaining a temperature of 700 deg. C and equipped with a quartz tube that can hold 30 g of charcoal.(8)

Footnote (8) A Lindberg Type 55035 Tube furnace was used in this evaluation.

(C) A means to purge nitrogen gas through the charcoal inside the quartz tube.

(D) Water bath capable of maintaining a temperature of 60 deg. C.

(E) Miscellaneous laboratory equipment: One-liter vacuum flask, 1-L Erlenmeyer flask, 350-Ml Buchner funnel with a coarse fitted disc, 4-oz brown bottle, rubber stopper, Teflon tape etc.

(ii) Reagents.

(A) Phosphoric acid, 10% by weight, in water.(9)

Footnote (9) Baker Analyzed Reagent grade was diluted with water for use in this evaluation.

(B) 4-tert-Butylcatechol (TBC).(10)

Footnote (10) The Aldrich Chemical Company 99% grade was used in this evaluation.

(C) Specially cleaned coconut shell charcoal, 20/40 mesh.(11)

Footnote (11) Specially cleaned charcoal was obtained from Supelco, Inc. for use in this evaluation. The cleaning process used by Supelco is proprietary.

(D) Nitrogen gas, GC grade.

(iii) Procedure.

Weigh 30g of charcoal into a 500-mL Erlenmeyer flask. Add about 250 mL of 10% phosphoric acid to the flask and then swirl the mixture. Stir the mixture for 1 hour using a magnetic stirrer. Filter the mixture using a fitted Buchner funnel. Wash the charcoal several times with 250-mL portions of deionized water to remove all traces of the acid. Transfer the washed charcoal to the tube furnace quartz tube. Place the quartz tube in the furnace and then connect the nitrogen gas purge to the tube. Fire the charcoal to 700 deg. C. Maintain that temperature for at least 1 hour. After the charcoal has cooled to room temperature, transfer it to a tared beaker. Determine the weight of the charcoal and then add an amount of TBC which is 10% of the charcoal, by weight.

CAUTION-TBC is toxic and should only be handled in a fume hood while wearing gloves.

Carefully mix the contents of the beaker and then transfer the mixture to a 4-oz bottle. Stopper the bottle with a clean rubber stopper which has been wrapped with Teflon tape. Clamp the bottle in a water bath so that the water level is above the charcoal level. Gently heat the bath to 60 deg. C and then maintain that temperature for 1 hour. Cool the charcoal to room temperature and then transfer the coated charcoal to a suitable container.

The coated charcoal is now ready to be packed into sampling tubes. The sampling tubes should be stored in a sealed container to prevent contamination. Sampling tubes should be stored in the dark at room temperature. The sampling tubes should be segregated by coated adsorbent lot number.

(b) Chromatograms.

The chromatograms were obtained using the recommended analytical method. The chart speed was set at 1 cm/min. for the first three min. and then at 0.2 cm/min. for the time remaining in the analysis.

The peak which elutes just before BD is a reaction product between an impurity on the charcoal and TBC. This peak is always present, but it is easily resolved from the analyte.

The peak which elutes immediately before benzene is an oxidation product of TBC.

(5) References.

(a) "Current Intelligence Bulletin 41, 1,3-Butadiene", U.S. Dept. of Health and Human Services, Public Health Service, Center for Disease Control, NIOSH.

(b) "NIOSH Manual of Analytical Methods", 2nd ed.; U.S. Dept. of Health Education and Welfare, National Institute for Occupational Safety and Health: Cincinnati, OH, 1977, Vol. 2, Method No. S91 DHEW (NIOSH) Publ. (U.S.), No. 77-157-B.

(c) Hawley, G.C., Ed. "The Condensed Chemical Dictionary", 8th ed.; Van Nostrand Rienhold Company: New York, 1971; 139.5.4. Chem. Eng. News (June 10, 1985), (63), 22-66.

Appendix E: Reserved.

APPENDIX F, MEDICAL QUESTIONNAIRES, (Non-mandatory)

1,3-Butadiene (BD) Initial Health Questionnaire

DIRECTIONS:

You have been asked to answer the questions on this form because you work with BD (butadiene). These questions are about your work, medical history, and health concerns. Please do your best to answer all of the questions. If you need help, please tell the doctor or health care professional who reviews this form.

This form is a confidential medical record. Only information directly related to your health and safety on the job may be given to your employer. Personal health information will not be given to anyone without your consent.

Date: _____
Name: _____ SSN ___/___/___
Last First MI

Job Title: _____
Company's Name: _____
Supervisor's Name: _____
Supervisor's Phone No.: () _____ - _____

Work History

1. Please list all jobs you have had in the past, starting with the job you have now and moving back in time to your first job. (For more space, write on the back of this page.)

Main Job Duty
Year
Company Name
City, State

Chemicals

- 1.
2.
3.
4.
5.
6.
7.

8.

2. Please describe what you do during a typical work day. Be sure to tell about your work with BD.

3. Please check any of these chemicals that you work with now or have worked with in the past:

- benzene
glues
toluene
inks, dyes
other solvents, grease cutters
insecticides (like DDT, lindane, etc.)
paints, varnishes, thinners, strippers
dusts
carbon tetrachloride ("carbon tet")
arsine
carbon disulfide
lead
cement
petroleum products
nitrites

4. Please check the protective clothing or equipment you use at the job you have now:

- gloves
coveralls
respirator
dust mask
safety glasses, goggles

Please circle your answer.

5. Does your protective clothing or equipment fit you properly? yes no

6. Have you ever made changes in your protective clothing or equipment to make it fit better? yes no

7. Have you been exposed to BD when you were not wearing protective clothing or equipment? yes no

8. Where do you eat, drink and/or smoke when you are at work? (Please check all that apply.)

- Cafeteria/restaurant/snack bar
Break room/employee lounge
Smoking lounge
At my work station

Please circle your answer.

9. Have you been exposed to radiation (like x-rays or nuclear material) at the job you have now or at past jobs? yes no

PERMANENT

10. Do you have any hobbies that expose you to dusts or chemicals (including paints, glues, etc.)? yes no

11. Do you have any second or side jobs? yes no
If yes, what are your duties there?

12. Were you in the military? yes no

If yes, what did you do in the military?

Family Health History

1. In the FAMILY MEMBER column, across from the disease name, write which family member, if any, had the disease.

DISEASE	FAMILY MEMBER
Cancer	
Lymphoma	
Sickle Cell Disease or Trait	
Immune Disease	
Leukemia	
Anemia	

2. Please fill in the following information about family health

- Relative
- Alive?
- Age at Death?
- Cause of Death?
- Father
- Mother
- Brother/Sister
- Brother/Sister
- Brother/Sister

Personal Health History

Birth Date ___/___/___ Age ___ Sex ___ Height ___ Weight ___

Please circle your answer.

- 1. Do you smoke any tobacco products? yes no
- 2. Have you ever had any kind of surgery or operation?
yes no
If yes, what type of surgery:

3. Have you ever been in the hospital for any other reasons? yes no

If yes, please describe the reason

4. Do you have any on-going or current medical problems or conditions? yes no

If yes, please describe:

5. Do you now have or have you ever had any of the following? Please check all that apply to you.

- unexplained fever _____
- anemia ("low blood") _____
- HIV/AIDS _____
- weakness _____
- sickle cell _____
- miscarriage _____
- skin rash _____
- bloody stools _____
- leukemia/lymphoma _____
- neck mass/swelling _____
- wheezing _____
- yellowing of skin _____
- bruising easily _____
- lupus _____
- weight loss _____
- kidney problems _____
- enlarged lymph nodes _____
- liver disease _____
- cancer _____
- infertility _____
- drinking problems _____
- thyroid problems _____
- night sweats _____
- chest pain _____
- still birth _____
- eye redness _____
- lumps you can feel _____
- child with birth defect _____
- autoimmune disease _____
- overly tired _____
- lung problems _____
- rheumatoid arthritis _____
- mononucleosis ("mono") _____
- nagging cough _____

Please circle your answer.

6. Do you have any symptoms or health problems that you think may be related to your work with BD? yes no

If yes, please describe:

PERMANENT

7. Have any of your co-workers had similar symptoms or problems? yes no don't know

If yes, please describe: _____

8. Do you notice any irritation of your eyes, nose, throat, lungs, or skin when working with BD? yes no

9. Do you notice any blurred vision, coughing, drowsiness, nausea, or headache when working with BD? yes no

10. Do you take any medications (including birth control or over-the-counter)? yes no

If yes, please list: _____

11. Are you allergic to any medication, food, or chemicals? yes no

If yes, please list: _____

12. Do you have any health conditions not covered by this questionnaire that you think are affected by your work with BD? yes no

If yes, please explain: _____

13. Did you understand all the questions? yes no

Signature _____

1,3-Butadiene (BD) Health Update Questionnaire

DIRECTIONS:

You have been asked to answer the questions on this form because you work with BD (butadiene). These questions are about your work, medical history, and health concerns. Please do your best to answer all of the questions. If you need help, please tell the doctor or health care professional who reviews this form.

This form is a confidential medical record. Only information directly related to your health and safety on the job may be given to your employer. Personal health information will not be given to anyone without your consent.

Date: _____
Name: _____ SSN ___/___/___
Last First MI

Job Title: _____
Company's Name: _____
Supervisor's Name: _____
Supervisor's Phone No.: () ___-_____

1. Please describe any NEW duties that you have at your job. _____

2. Please describe any additional job duties you have:

Please circle your answer.

3. Are you exposed to any other chemicals in your work since the last time you were evaluated for exposure to BD? yes no

If yes, please list what they are: _____

4. Does your personal protective equipment and clothing fit you properly? yes no

5. Have you made changes in this equipment or clothing to make it fit better? yes no

6. Have you been exposed to BD when you were not wearing protective clothing or equipment? yes no

7. Are you exposed to any NEW chemicals at home or while working on hobbies? yes no

If yes, please list what they are: _____

8. Since your last BD health evaluation, have you started working any new second or side jobs? yes no

If yes, what are your duties there? _____

Personal Health History

1. What is your current weight? _____pounds

2. Have you been diagnosed with any new medical conditions or illness since your last evaluation? yes no

If yes, please tell what they are: _____

3. Since your last evaluation, have you been in the hospital for any illnesses, injuries, or surgery? yes no

If yes, please describe: _____

4. Do you have any of the following? Please place a check for all that apply to you.

- unexplained fever _____
- anemia ("low blood") _____
- HIV/AIDS _____
- weakness _____
- sickle cell _____
- miscarriage _____

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- skin rash _____
- bloody stools _____
- leukemia/lymphoma _____
- neck mass/swelling _____
- wheezing _____
- yellowing of skin _____
- bruising easily _____
- lupus _____
- weight loss _____
- kidney problems _____
- enlarged lymph nodes _____
- liver disease _____
- cancer _____
- infertility _____
- drinking problems _____
- thyroid problems _____
- night sweats _____
- chest pain _____
- still birth _____
- eye redness _____
- lumps you can feel _____
- child with birth defect _____
- autoimmune disease _____
- overly tired _____
- lung problems _____
- rheumatoid arthritis _____
- mononucleosis ("mono") _____
- nagging cough _____

Please circle your answer.

5. Do you have any symptoms or health problems that you think may be related to your work with BD? yes no

If yes, please describe: _____

6. Have any of your co-workers had similar symptoms or problems? yes no don't know

If yes, please describe: _____

7. Do you notice any irritation of your eyes, nose, throat, lungs, or skin when working with BD? yes no

8. Do you notice any blurred vision, coughing, drowsiness, nausea, or headache when working with BD? yes no

9. Have you been taking any NEW medications (including birth control or over-the-counter)? yes no

If yes, please list:

10. Have you developed any new allergies to medications, foods, or chemicals? yes no

If yes, please list:

11. Do you have any health conditions not covered by this questionnaire that you think are affected by your work with BD? yes no

If yes, please explain: _____

12. Do you understand all the questions? yes no

Signature _____

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-62-07470 Methylene chloride. This occupational health standard establishes requirements for employers to control occupational exposure to methylene chloride (MC). Employees exposed to MC are at increased risk of developing cancer, adverse effects on the heart, central nervous system and liver, and skin or eye irritation. Exposure may occur through inhalation, by absorption through the skin, or through contact with the skin. MC is a solvent which is used in many different types of work activities, such as paint stripping, polyurethane foam manufacturing, and cleaning and degreasing. Under the requirements of subsection (4) of this section, each covered employer must make an initial determination of each employee's exposure to MC. If the employer determines that employees are exposed below the action level, the only other provisions of this section that apply are that a record must be made of the determination, the employees must receive information and training under subsection (12) of this section and, where appropriate, employees must be protected from contact with liquid MC under subsection (8) of this section.

The provisions of the MC standard are as follows:

(1) Scope and application. This section applies to all occupational exposures to methylene chloride (MC), Chemical Abstracts Service Registry Number 75-09-2, in general industry, construction and shipyard employment.

(2) Definitions. For the purposes of this section, the following definitions shall apply:

"Action level" means a concentration of airborne MC of 12.5 parts per million (ppm) calculated as an eight (8)-hour time-weighted average (TWA).

"Authorized person" means any person specifically authorized by the employer and required by work duties to be present in regulated areas, or any person entering such an area as a designated representative of employees for the purpose of exercising the right to observe monitoring and measuring procedures under subsection (4) of this section, or any other person authorized by the WISH Act or regulations issued under the act.

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"Director" means the director of the department of labor and industries, or designee.

"Emergency" means any occurrence, such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment, which results, or is likely to result in an uncontrolled release of MC. If an incidental release of MC can be controlled by employees such as maintenance personnel at the time of release and in accordance with the leak/spill provisions required by subsection (6) of this section, it is not considered an emergency as defined by this standard.

"Employee exposure" means exposure to airborne MC which occurs or would occur if the employee were not using respiratory protection.

"Methylene chloride (MC)" means an organic compound with chemical formula, CH₂Cl₂. Its Chemical Abstracts Service Registry Number is 75-09-2. Its molecular weight is 84.9 g/mole.

"Physician or other licensed health care professional" is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide some or all of the health care services required by subsection (10) of this section.

"Regulated area" means an area, demarcated by the employer, where an employee's exposure to airborne concentrations of MC exceeds or can reasonably be expected to exceed either the 8-hour TWA PEL or the STEL.

"Symptom" means central nervous system effects such as headaches, disorientation, dizziness, fatigue, and decreased attention span; skin effects such as chapping, erythema, cracked skin, or skin burns; and cardiac effects such as chest pain or shortness of breath.

"This section" means this methylene chloride standard.

(3) Permissible exposure limits (PELs).

(a) Eight-hour time-weighted average (TWA) PEL. The employer shall ensure that no employee is exposed to an airborne concentration of MC in excess of twenty-five parts of MC per million parts of air (25 ppm) as an 8-hour TWA.

(b) Short-term exposure limit (STEL). The employer shall ensure that no employee is exposed to an airborne concentration of MC in excess of one hundred and twenty-five parts of MC per million parts of air (125 ppm) as determined over a sampling period of fifteen minutes.

(4) Exposure monitoring.

(a) Characterization of employee exposure.

(i) Where MC is present in the workplace, the employer shall determine each employee's exposure by either:

(A) Taking a personal breathing zone air sample of each employee's exposure; or

(B) Taking personal breathing zone air samples that are representative of each employee's exposure.

(ii) Representative samples. The employer may consider personal breathing zone air samples to be representative of employee exposures when they are taken as follows:

(A) 8-hour TWA PEL. The employer has taken one or more personal breathing zone air samples for at least one employee in each job classification in a work area during every work shift, and the employee sampled is expected to have the highest MC exposure.

(B) Short-term exposure limits. The employer has taken one or more personal breathing zone air samples which indicate the highest likely 15-minute exposures during such operations for at least one employee in each job classification in the work area during every work shift, and the employee sampled is expected to have the highest MC exposure.

(C) Exception. Personal breathing zone air samples taken during one work shift may be used to represent employee exposures on other work shifts where the employer can document that the tasks performed and conditions in the workplace are similar across shifts.

(iii) Accuracy of monitoring. The employer shall ensure that the methods used to perform exposure monitoring produce results that are accurate to a confidence level of 95 percent, and are:

(A) Within plus or minus 25 percent for airborne concentrations of MC above the 8-hour TWA PEL or the STEL; or

(B) Within plus or minus 35 percent for airborne concentrations of MC at or above the action level but at or below the 8-hour TWA PEL.

(b) Initial determination. Each employer whose employees are exposed to MC shall perform initial exposure monitoring to determine each affected employee's exposure, except under the following conditions:

(i) Where objective data demonstrate that MC cannot be released in the workplace in airborne concentrations at or above the action level or above the STEL. The objective data shall represent the highest MC exposures likely to occur under reasonably foreseeable conditions of processing, use, or handling. The employer shall document the objective data exemption as specified in subsection (13) of this section;

(ii) Where the employer has performed exposure monitoring within 12 months prior to December 1, and that exposure monitoring meets all other requirements of this section, and was conducted under conditions substantially equivalent to existing conditions; or

(iii) Where employees are exposed to MC on fewer than 30 days per year (e.g., on a construction site), and the employer has measurements by direct reading instruments which give immediate results (such as a detector tube) and which provide sufficient information regarding employee exposures to determine what control measures are necessary to reduce exposures to acceptable levels.

(c) Periodic monitoring. Where the initial determination shows employee exposures at or above the action level or above the STEL, the employer shall establish an exposure monitoring program for periodic monitoring of employee exposure to MC in accordance with Table 1:

Table 1

Six Initial Determination Exposure Scenarios and Their Associated Monitoring Frequencies

Exposure scenario	Required monitoring activity
Below the action level and at or below the STEL.	No 8-hour TWA or STEL monitoring required.

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Exposure scenario	Required monitoring activity
Below the action level and above the STEL.	No 8-hour TWA monitoring required; monitor STEL exposures every three months.
At or above the action level, at or below the TWA, and at or below the STEL.	Monitor 8-hour TWA exposures every six months.
At or above the action level, at or below the TWA, and above the STEL.	Monitor 8-hour TWA exposures every six months and monitor STEL exposures every three months.
Above the TWA and at or below the STEL.	<p>Monitor 8-hour TWA exposures every three months. In addition, without regard to the last sentence of the note to subsection (3) of this section, the following employers must monitor STEL exposures every three months until either the date by which they must achieve the 8-hour TWAs PEL under subsection (3) of this section or the date by which they in fact achieve the 8-hour TWA PEL, whichever comes first:</p> <ul style="list-style-type: none"> • Employers engaged in polyurethane foam manufacturing; • Foam fabrication; • Furniture refinishing; • General aviation aircraft stripping; • Product formulation; • Use of MC-based adhesives for boat building and repair; • Recreational vehicle manufacture, van conversion, or upholstery; and use of MC in construction work for restoration and preservation of buildings, painting and paint removal, cabinet making, or floor refinishing and resurfacing.
Above the TWA and above the STEL.	Monitor both 8-hour TWA exposures and STEL exposures every three months.

(Note to subsection (3)(c) of this section: The employer may decrease the frequency of exposure monitoring to every six months when at least 2 consecutive measurements taken at least 7 days apart show exposures to be at or below the 8-

hour TWA PEL. The employer may discontinue the periodic 8-hour TWA monitoring for employees where at least two consecutive measurements taken at least 7 days apart are below the action level. The employer may discontinue the periodic STEL monitoring for employees where at least two consecutive measurements taken at least 7 days apart are at or below the STEL.)

(d) Additional monitoring.

(i) The employer shall perform exposure monitoring when a change in workplace conditions indicates that employee exposure may have increased. Examples of situations that may require additional monitoring include changes in production, process, control equipment, or work practices, or a leak, rupture, or other breakdown.

(ii) Where exposure monitoring is performed due to a spill, leak, rupture or equipment breakdown, the employer shall clean up the MC and perform the appropriate repairs before monitoring.

(e) Employee notification of monitoring results.

(i) The employer shall, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results in writing, either individually or by posting of results in an appropriate location that is accessible to affected employees.

(ii) Whenever monitoring results indicate that employee exposure is above the 8-hour TWA PEL or the STEL, the employer shall describe in the written notification the corrective action being taken to reduce employee exposure to or below the 8-hour TWA PEL or STEL and the schedule for completion of this action.

(f) Observation of monitoring.

(i) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to MC conducted in accordance with this section.

(ii) Observation procedures. When observation of the monitoring of employee exposure to MC requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide, at no cost to the observer(s), and the observer(s) shall be required to use such clothing and equipment and shall comply with all other applicable safety and health procedures.

(5) Regulated areas.

(a) The employer shall establish a regulated area wherever an employee's exposure to airborne concentrations of MC exceeds or can reasonably be expected to exceed either the 8-hour TWA PEL or the STEL.

(b) The employer shall limit access to regulated areas to authorized persons.

(c) The employer shall supply a respirator, selected in accordance with subsection (7)(c) of this section, to each person who enters a regulated area and shall require each affected employee to use that respirator whenever MC exposures are likely to exceed the 8-hour TWA PEL or STEL.

(Note to subsection (5)(c) of this section: An employer who has implemented all feasible engineering, work practice and administrative controls (as required in subsection (6) of this section), and who has established a regulated area (as required by subsection (5)(a) of this section) where MC exposure can be reliably predicted to exceed the 8-hour TWA

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PEL or the STEL only on certain days (for example, because of work or process schedule) would need to have affected employees use respirators in that regulated area only on those days.)

(d) The employer shall ensure that, within a regulated area, employees do not engage in nonwork activities which may increase dermal or oral MC exposure.

(e) The employer shall ensure that while employees are wearing respirators, they do not engage in activities (such as taking medication or chewing gum or tobacco) which interfere with respirator seal or performance.

(f) The employer shall demarcate regulated areas from the rest of the workplace in any manner that adequately establishes and alerts employees to the boundaries of the area and minimizes the number of authorized employees exposed to MC within the regulated area.

(g) An employer at a multiemployer worksite who establishes a regulated area shall communicate the access restrictions and locations of these areas to all other employers with work operations at that worksite.

(6) Methods of compliance.

(a) Engineering and work practice controls. The employer shall institute and maintain the effectiveness of engineering controls and work practices to reduce employee exposure to or below the PELs except to the extent that the employer can demonstrate that such controls are not feasible.

(b) Wherever the feasible engineering controls and work practices which can be instituted are not sufficient to reduce employee exposure to or below the 8-TWA PEL or STEL, the employer shall use them to reduce employee exposure to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection that complies with the requirements of subsection (7) of this section.

(c) Prohibition of rotation. The employer shall not implement a schedule of employee rotation as a means of compliance with the PELs.

(d) Leak and spill detection.

(i) The employer shall implement procedures to detect leaks of MC in the workplace. In work areas where spills may occur, the employer shall make provisions to contain any spills and to safely dispose of any MC-contaminated waste materials.

(ii) The employer shall ensure that all incidental leaks are repaired and that incidental spills are cleaned promptly by employees who use the appropriate personal protective equipment and are trained in proper methods of cleanup.

(Note to subsection (6)(d)(ii) of this section: See Appendix A of this section for examples of procedures that satisfy this requirement. Employers covered by this standard may also be subject to the hazardous waste and emergency response provisions contained in WAC 296-62-3112.)

(7) Respiratory protection.

(a) General requirements. For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(i) Periods when an employee's exposure to MC exceeds or can reasonably be expected to exceed the 8-hour TWA PEL or the STEL (for example, when an employee is using MC in a regulated area);

(ii) Periods necessary to install or implement feasible engineering and work-practice controls;

(iii) In a few work operations, such as some maintenance operations and repair activities, for which the employer demonstrates that engineering and work practice controls are infeasible;

(iv) Work operations for which feasible engineering and work practice controls are not sufficient to reduce exposures to or below the PELs;

(v) Emergencies.

(b) Respirator program.

(i) The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07131 (4)(b)(i) and (ii)).

(ii) Employers who provide employees with gas masks with organic-vapor canisters for the purpose of emergency escape must replace the canisters after any emergency use and before the gas masks are returned to service.

(c) Respirator selection. The employer must select appropriate atmosphere-supplying respirators from Table 2 of this section.

Table 2.—Minimum Requirements for Respiratory Protection for Airborne Methylene Chloride

Methylene chloride airborne concentration (ppm) or condition of use	Minimum respirator required ¹
Up to 625 ppm (25 X PEL)	(1) Continuous flow supplied-air respirator, hood or helmet.
Up to 1250 ppm (50 X 8 hr TWA PEL)	(1) Full facepiece supplied-air respirator operated in negative pressure (demand) mode. (2) Full facepiece self-contained breathing apparatus (SCBA) operated in negative pressure (demand) mode.
Up to 5000 ppm (200 X 8-TWA PEL)	(1) Continuous flow supplied-air respirator, full facepiece. (2) Pressure demand supplied-air respirator, full facepiece. (3) Positive pressure full facepiece SCBA.
Unknown concentration, or above 5000 ppm (Greater than 200 X 8-TWA PEL)	(1) Positive pressure full facepiece SCBA. (2) Full facepiece pressure demand supplied-air respirator with an auxiliary self-contained air supply.
Fire fighting	Positive pressure full facepiece SCBA.

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Methylene chloride air-borne concentration (ppm) or condition of use	Minimum respirator required ¹
Emergency escape	(1) Any continuous flow or pressure demand SCBA. (2) Gas mask with organic vapor canister.

¹ Respirators assigned for higher airborne concentrations may be used at lower concentrations.

(d) Medical evaluation. Before having an employee use a supplied-air respirator in the negative-pressure mode, or a gas mask with an organic-vapor canister for emergency escape, the employer must:

(i) Have a physician or other licensed health care professional (PLHCP) evaluate the employee's ability to use such respiratory protection;

(ii) Ensure that the PLHCP provides their findings in a written opinion to the employee and the employer.

Note: See WAC 296-62-07150 through 296-62-07156 for medical evaluation requirements for employees using respirators.

(8) Protective work clothing and equipment.

(a) Where needed to prevent MC-induced skin or eye irritation, the employer shall provide clean protective clothing and equipment which is resistant to MC, at no cost to the employee, and shall ensure that each affected employee uses it. Eye and face protection shall meet the requirements of WAC 296-800-160, as applicable.

(b) The employer shall clean, launder, repair and replace all protective clothing and equipment required by this subsection as needed to maintain their effectiveness.

(c) The employer shall be responsible for the safe disposal of such clothing and equipment.

(Note to subsection (8)(c) of this section: See Appendix A for examples of disposal procedures that will satisfy this requirement.)

(9) Hygiene facilities.

(a) If it is reasonably foreseeable that employees' skin may contact solutions containing 0.1 percent or greater MC (for example, through splashes, spills or improper work practices), the employer shall provide conveniently located washing facilities capable of removing the MC, and shall ensure that affected employees use these facilities as needed.

(b) If it is reasonably foreseeable that an employee's eyes may contact solutions containing 0.1 percent or greater MC (for example through splashes, spills or improper work practices), the employer shall provide appropriate eyewash facilities within the immediate work area for emergency use, and shall ensure that affected employees use those facilities when necessary.

(10) Medical surveillance.

(a) Affected employees. The employer shall make medical surveillance available for employees who are or may be exposed to MC as follows:

(i) At or above the action level on 30 or more days per year, or above the 8-hour TWA PEL or the STEL on 10 or more days per year;

(ii) Above the 8-TWA PEL or STEL for any time period where an employee has been identified by a physician or other licensed health care professional as being at risk from cardiac disease or from some other serious MC-related health condition and such employee requests inclusion in the medical surveillance program;

(iii) During an emergency.

(b) Costs. The employer shall provide all required medical surveillance at no cost to affected employees, without loss of pay and at a reasonable time and place.

(c) Medical personnel. The employer shall ensure that all medical surveillance procedures are performed by a physician or other licensed health care professional, as defined in subsection (2) of this section.

(d) Frequency of medical surveillance. The employer shall make medical surveillance available to each affected employee as follows:

(i) Initial surveillance. The employer shall provide initial medical surveillance under the schedule provided by subsection (14)(b)(iii) of this section, or before the time of initial assignment of the employee, whichever is later. The employer need not provide the initial surveillance if medical records show that an affected employee has been provided with medical surveillance that complies with this section within 12 months before December 1.

(ii) Periodic medical surveillance. The employer shall update the medical and work history for each affected employee annually. The employer shall provide periodic physical examinations, including appropriate laboratory surveillance, as follows:

(A) For employees 45 years of age or older, within 12 months of the initial surveillance or any subsequent medical surveillance; and

(B) For employees younger than 45 years of age, within 36 months of the initial surveillance or any subsequent medical surveillance.

(iii) Termination of employment or reassignment. When an employee leaves the employer's workplace, or is reassigned to an area where exposure to MC is consistently at or below the action level and STEL, medical surveillance shall be made available if six months or more have elapsed since the last medical surveillance.

(iv) Additional surveillance. The employer shall provide additional medical surveillance at frequencies other than those listed above when recommended in the written medical opinion. (For example, the physician or other licensed health care professional may determine an examination is warranted in less than 36 months for employees younger than 45 years of age based upon evaluation of the results of the annual medical and work history.)

(e) Content of medical surveillance.

(i) Medical and work history. The comprehensive medical and work history shall emphasize neurological symptoms, skin conditions, history of hematologic or liver disease, signs or symptoms suggestive of heart disease (angina, coronary artery disease), risk factors for cardiac disease, MC exposures, and work practices and personal protective equipment used during such exposures.

(Note to subsection (10)(e)(i) of this section: See Appendix B of this section for an example of a medical and work history format that would satisfy this requirement.)

(ii) Physical examination. Where physical examinations are provided as required above, the physician or other licensed health care professional shall accord particular attention to the lungs, cardiovascular system (including blood pressure and pulse), liver, nervous system, and skin. The physician or other licensed health care professional shall determine the extent and nature of the physical examination based on the health status of the employee and analysis of the medical and work history.

(iii) Laboratory surveillance. The physician or other licensed health care professional shall determine the extent of any required laboratory surveillance based on the employee's observed health status and the medical and work history.

(Note to subsection (10)(e)(iii) of this section: See Appendix B of this section for information regarding medical tests. Laboratory surveillance may include before-and after-shift carboxyhemoglobin determinations, resting ECG, hematocrit, liver function tests and cholesterol levels.)

(iv) Other information or reports. The medical surveillance shall also include any other information or reports the physician or other licensed health care professional determines are necessary to assess the employee's health in relation to MC exposure.

(f) Content of emergency medical surveillance. The employer shall ensure that medical surveillance made available when an employee has been exposed to MC in emergency situations includes, at a minimum:

(i) Appropriate emergency treatment and decontamination of the exposed employee;

(ii) Comprehensive physical examination with special emphasis on the nervous system, cardiovascular system, lungs, liver and skin, including blood pressure and pulse;

(iii) Updated medical and work history, as appropriate for the medical condition of the employee; and

(iv) Laboratory surveillance, as indicated by the employee's health status.

(Note to subsection (10)(f)(iv) of this section: See Appendix B for examples of tests which may be appropriate.)

(g) Additional examinations and referrals. Where the physician or other licensed health care professional determines it is necessary, the scope of the medical examination shall be expanded and the appropriate additional medical surveillance, such as referrals for consultation or examination, shall be provided.

(h) Information provided to the physician or other licensed health care professional. The employer shall provide the following information to a physician or other licensed health care professional who is involved in the diagnosis of MC-induced health effects:

(i) A copy of this section including its applicable appendices;

(ii) A description of the affected employee's past, current and anticipated future duties as they relate to the employee's MC exposure;

(iii) The employee's former or current exposure levels or, for employees not yet occupationally exposed to MC, the employee's anticipated exposure levels and the frequency and

exposure levels anticipated to be associated with emergencies;

(iv) A description of any personal protective equipment, such as respirators, used or to be used; and

(v) Information from previous employment-related medical surveillance of the affected employee which is not otherwise available to the physician or other licensed health care professional.

(i) Written medical opinions.

(i) For each physical examination required by this section, the employer shall ensure that the physician or other licensed health care professional provides to the employer and to the affected employee a written opinion regarding the results of that examination within 15 days of completion of the evaluation of medical and laboratory findings, but not more than 30 days after the examination. The written medical opinion shall be limited to the following information:

(A) The physician's or other licensed health care professional's opinion concerning whether exposure to MC may contribute to or aggravate the employee's existing cardiac, hepatic, neurological (including stroke) or dermal disease or whether the employee has any other medical condition(s) that would place the employee's health at increased risk of material impairment from exposure to MC;

(B) Any recommended limitations upon the employee's exposure to MC, removal from MC exposure, or upon the employee's use of protective clothing or equipment and respirators;

(C) A statement that the employee has been informed by the physician or other licensed health care professional that MC is a potential occupational carcinogen, of risk factors for heart disease, and the potential for exacerbation of underlying heart disease by exposure to MC through its metabolism to carbon monoxide; and

(D) A statement that the employee has been informed by the physician or other licensed health care professional of the results of the medical examination and any medical conditions resulting from MC exposure which require further explanation or treatment.

(ii) The employer shall instruct the physician or other licensed health care professional not to reveal to the employer, orally or in the written opinion, any specific records, findings, and diagnoses that have no bearing on occupational exposure to MC.

(Note to subsection (10)(h)(ii) of this section: The written medical opinion may also include information and opinions generated to comply with other OSHA health standards.)

(j) Medical presumption. For purposes of this subsection (10), the physician or other licensed health care professional shall presume, unless medical evidence indicates to the contrary, that a medical condition is unlikely to require medical removal from MC exposure if the employee is not exposed to MC above the 8-hour TWA PEL. If the physician or other licensed health care professional recommends removal for an employee exposed below the 8-hour TWA PEL, the physician or other licensed health care professional shall cite specific medical evidence, sufficient to rebut the presumption that exposure below the 8-hour TWA PEL is unlikely to require removal, to support the recommendation. If such evidence is cited by the physician or other licensed health care

professional, the employer must remove the employee. If such evidence is not cited by the physician or other licensed health care professional, the employer is not required to remove the employee.

(k) Medical removal protection (MRP).

(i) Temporary medical removal and return of an employee.

(A) Except as provided in (j) of this subsection, when a medical determination recommends removal because the employee's exposure to MC may contribute to or aggravate the employee's existing cardiac, hepatic, neurological (including stroke), or skin disease, the employer must provide medical removal protection benefits to the employee and either:

(I) Transfer the employee to comparable work where methylene chloride exposure is below the action level; or

(II) Remove the employee from MC exposure.

(B) If comparable work is not available and the employer is able to demonstrate that removal and the costs of extending MRP benefits to an additional employee, considering feasibility in relation to the size of the employer's business and the other requirements of this standard, make further reliance on MRP an inappropriate remedy, the employer may retain the additional employee in the existing job until transfer or removal becomes appropriate, provided:

(I) The employer ensures that the employee receives additional medical surveillance, including a physical examination at least every 60 days until transfer or removal occurs; and

(II) The employer or PLHCP informs the employee of the risk to the employee's health from continued MC exposure.

(C) The employer shall maintain in effect any job-related protective measures or limitations, other than removal, for as long as a medical determination recommends them to be necessary.

(ii) End of MRP benefits and return of the employee to former job status.

(A) The employer may cease providing MRP benefits at the earliest of the following:

(I) Six months;

(II) Return of the employee to the employee's former job status following receipt of a medical determination concluding that the employee's exposure to MC no longer will aggravate any cardiac, hepatic, neurological (including stroke), or dermal disease;

(III) Receipt of a medical determination concluding that the employee can never return to MC exposure.

(B) For the purposes of this subsection (10), the requirement that an employer return an employee to the employee's former job status is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.

(l) Medical removal protection benefits.

(i) For purposes of this subsection (10), the term medical removal protection benefits means that, for each removal, an employer must maintain for up to six months the earnings, seniority, and other employment rights and benefits of the

employee as though the employee had not been removed from MC exposure or transferred to a comparable job.

(ii) During the period of time that an employee is removed from exposure to MC, the employer may condition the provision of medical removal protection benefits upon the employee's participation in follow-up medical surveillance made available pursuant to this section.

(iii) If a removed employee files a workers' compensation claim for a MC-related disability, the employer shall continue the MRP benefits required by this section until either the claim is resolved or the 6-month period for payment of MRP benefits has passed, whichever occurs first. To the extent the employee is entitled to indemnity payments for earnings lost during the period of removal, the employer's obligation to provide medical removal protection benefits to the employee shall be reduced by the amount of such indemnity payments.

(iv) The employer's obligation to provide medical removal protection benefits to a removed employee shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal from either a publicly or an employer-funded compensation program, or receives income from employment with another employer made possible by virtue of the employee's removal.

(m) Voluntary removal or restriction of an employee. Where an employer, although not required by this section to do so, removes an employee from exposure to MC or otherwise places any limitation on an employee due to the effects of MC exposure on the employee's medical condition, the employer shall provide medical removal protection benefits to the employee equal to those required by (l) of this subsection.

(n) Multiple health care professional review mechanism.

(i) If the employer selects the initial physician or licensed health care professional (PLHCP) to conduct any medical examination or consultation provided to an employee under (k) of this subsection, the employer shall notify the employee of the right to seek a second medical opinion each time the employer provides the employee with a copy of the written opinion of that PLHCP.

(ii) If the employee does not agree with the opinion of the employer-selected PLHCP, notifies the employer of that fact, and takes steps to make an appointment with a second PLHCP within 15 days of receiving a copy of the written opinion of the initial PLHCP, the employer shall pay for the PLHCP chosen by the employee to perform at least the following:

(A) Review any findings, determinations or recommendations of the initial PLHCP; and

(B) Conduct such examinations, consultations, and laboratory tests as the PLHCP deems necessary to facilitate this review.

(iii) If the findings, determinations or recommendations of the second PLHCP differ from those of the initial PLHCP, then the employer and the employee shall instruct the two health care professionals to resolve the disagreement.

(iv) If the two health care professionals are unable to resolve their disagreement within 15 days, then those two health care professionals shall jointly designate a PLHCP

who is a specialist in the field at issue. The employer shall pay for the specialist to perform at least the following:

(A) Review the findings, determinations, and recommendations of the first two PLHCPs; and

(B) Conduct such examinations, consultations, laboratory tests and discussions with the prior PLHCPs as the specialist deems necessary to resolve the disagreements of the prior health care professionals.

(v) The written opinion of the specialist shall be the definitive medical determination. The employer shall act consistent with the definitive medical determination, unless the employer and employee agree that the written opinion of one of the other two PLHCPs shall be the definitive medical determination.

(vi) The employer and the employee or authorized employee representative may agree upon the use of any expeditious alternate health care professional determination mechanism in lieu of the multiple health care professional review mechanism provided by this section so long as the alternate mechanism otherwise satisfies the requirements contained in this section.

(11) Hazard communication. The employer shall communicate the following hazards associated with MC on labels and in material safety data sheets in accordance with the requirements of the chemical hazard communication standard, WAC 296-800-170: Cancer, cardiac effects (including elevation of carboxyhemoglobin), central nervous system effects, liver effects, and skin and eye irritation.

(12) Employee information and training.

(a) The employer shall provide information and training for each affected employee prior to or at the time of initial assignment to a job involving potential exposure to MC.

(b) The employer shall ensure that information and training is presented in a manner that is understandable to the employees.

(c) In addition to the information required under the chemical hazard communication standard at WAC 296-800-170:

(i) The employer shall inform each affected employee of the requirements of this section and information available in its appendices, as well as how to access or obtain a copy of it in the workplace;

(ii) Wherever an employee's exposure to airborne concentrations of MC exceeds or can reasonably be expected to exceed the action level, the employer shall inform each affected employee of the quantity, location, manner of use, release, and storage of MC and the specific operations in the workplace that could result in exposure to MC, particularly noting where exposures may be above the 8-hour TWA PEL or STEL;

(d) The employer shall train each affected employee as required under the chemical hazard communication standard at WAC 296-800-170, as appropriate.

(e) The employer shall re-train each affected employee as necessary to ensure that each employee exposed above the action level or the STEL maintains the requisite understanding of the principles of safe use and handling of MC in the workplace.

(f) Whenever there are workplace changes, such as modifications of tasks or procedures or the institution of new

tasks or procedures, which increase employee exposure, and where those exposures exceed or can reasonably be expected to exceed the action level, the employer shall update the training as necessary to ensure that each affected employee has the requisite proficiency.

(g) An employer whose employees are exposed to MC at a multiemployer worksite shall notify the other employers with work operations at that site in accordance with the requirements of the chemical hazard communication standard, WAC 296-800-170, as appropriate.

(h) The employer shall provide to the director, upon request, all available materials relating to employee information and training.

(13) Recordkeeping.

(a) Objective data.

(i) Where an employer seeks to demonstrate that initial monitoring is unnecessary through reasonable reliance on objective data showing that any materials in the workplace containing MC will not release MC at levels which exceed the action level or the STEL under foreseeable conditions of exposure, the employer shall establish and maintain an accurate record of the objective data relied upon in support of the exemption.

(ii) This record shall include at least the following information:

(A) The MC-containing material in question;

(B) The source of the objective data;

(C) The testing protocol, results of testing, and/or analysis of the material for the release of MC;

(D) A description of the operation exempted under subsection (4)(b)(i) of this section and how the data support the exemption; and

(E) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(b) Exposure measurements.

(i) The employer shall establish and keep an accurate record of all measurements taken to monitor employee exposure to MC as prescribed in subsection (4) of this section.

(ii) Where the employer has 20 or more employees, this record shall include at least the following information:

(A) The date of measurement for each sample taken;

(B) The operation involving exposure to MC which is being monitored;

(C) Sampling and analytical methods used and evidence of their accuracy;

(D) Number, duration, and results of samples taken;

(E) Type of personal protective equipment, such as respiratory protective devices, worn, if any; and

(F) Name, Social Security number, job classification and exposure of all of the employees represented by monitoring, indicating which employees were actually monitored.

(iii) Where the employer has fewer than 20 employees, the record shall include at least the following information:

(A) The date of measurement for each sample taken;

(B) Number, duration, and results of samples taken; and

(C) Name, Social Security number, job classification and exposure of all of the employees represented by monitoring, indicating which employees were actually monitored.

(iv) The employer shall maintain this record for at least thirty (30) years, in accordance with (~~WAC 296-62-052~~) chapter 296-802 WAC.

(c) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance under subsection (10) of this section.

(ii) The record shall include at least the following information:

(A) The name, Social Security number and description of the duties of the employee;

(B) Written medical opinions; and

(C) Any employee medical conditions related to exposure to MC.

(iii) The employer shall ensure that this record is maintained for the duration of employment plus thirty (30) years, in accordance with (~~WAC 296-62-052~~) chapter 296-802 WAC.

(d) Availability.

(i) The employer, upon written request, shall make all records required to be maintained by this section available to the director for examination and copying in accordance with (~~WAC 296-62-052~~) chapter 296-802 WAC.

(Note to subsection (13)(d)(i) of this section: All records required to be maintained by this section may be kept in the most administratively convenient form (for example, electronic or computer records would satisfy this requirement).)

(ii) The employer, upon request, shall make any employee exposure and objective data records required by this section available for examination and copying by affected employees, former employees, and designated representatives in accordance with (~~WAC 296-62-052~~) chapter 296-802 WAC.

(iii) The employer, upon request, shall make employee medical records required to be kept by this section available for examination and copying by the subject employee and by anyone having the specific written consent of the subject employee in accordance with (~~WAC 296-62-052~~) chapter 296-802 WAC.

(e) Transfer of records. The employer shall comply with the requirements concerning transfer of records set forth in WAC 296-62-05215.

(14) Dates.

(a) Engineering controls required under subsection (6)(a) of this section shall be implemented according to the following schedule:

(i) For employers with fewer than 20 employees, no later than April 10, 2000.

(ii) For employers with fewer than 150 employees engaged in foam fabrication; for employers with fewer than 50 employees engaged in furniture refinishing, general aviation aircraft stripping, and product formulation; for employers with fewer than 50 employees using MC-based adhesives for boat building and repair, recreational vehicle manufacture, van conversion, and upholstery; for employers with fewer than 50 employees using MC in construction work for restoration and preservation of buildings, painting and paint removal, cabinet making and/or floor refinishing and resurfacing, no later than April 10, 2000.

(iii) For employers engaged in polyurethane foam manufacturing with 20 or more employees, no later than October 10, 1999.

(b) Use of respiratory protection whenever an employee's exposure to MC exceeds or can reasonably be expected to exceed the 8-hour TWA PEL, in accordance with subsection (3)(a), (5)(c), (6)(a) and (7)(a) of this section, shall be implemented according to the following schedule:

(i) For employers with fewer than 150 employees engaged in foam fabrication; for employers with fewer than 50 employees engaged in furniture refinishing, general aviation aircraft stripping, and product formulation; for employers with fewer than 50 employees using MC-based adhesives for boat building and repair, recreational vehicle manufacture, van conversion, and upholstery; for employers with fewer than 50 employees using MC in construction work for restoration and preservation of buildings, painting and paint removal, cabinet making and/or floor refinishing and resurfacing, no later than April 10, 2000.

(ii) For employers engaged in polyurethane foam manufacturing with 20 or more employees, no later than October 10, 1999.

(c) Notification of corrective action under subsection (4)(e)(ii) of this section, no later than 90 days before the compliance date applicable to such corrective action.

(d) Transitional dates. The exposure limits for MC specified in WAC 296-62-07515 Table 1, shall remain in effect until the start up dates for the exposure limits specified in subsection (14) of this section, or if the exposure limits in this section are stayed or vacated.

(e) Unless otherwise specified in this subsection (14), all other requirements of this section shall be complied with immediately.

(15) Appendices. The information contained in the appendices does not, by itself, create any additional obligations not otherwise imposed or detract from any existing obligation.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-62-07521 Lead. (1) Scope and application.

(a) This section applies to all occupational exposure to lead, except as provided in subdivision (1)(b).

(b) This section does not apply to the construction industry or to agricultural operations covered by chapter 296-307 WAC.

(2) Definitions as applicable to this part.

(a) "Action level" - employee exposure, without regard to the use of respirators, to an airborne concentration of lead of thirty micrograms per cubic meter of air (30 µg/m³) averaged over an eight-hour period.

(b) "Director" - the director of the department of labor and industries.

(c) "Lead" - metallic lead, all inorganic lead compounds, and organic lead soaps. Excluded from this definition are all other organic lead compounds.

(3) General requirements.

(a) Employers will assess the hazards of lead in the work place and provide information to the employees about the hazards of the lead exposures to which they may be exposed.

(b) Information provided shall include:

(i) Exposure monitoring (including employee notification);

(ii) Written compliance programs;

(iii) Respiratory protection programs;

(iv) Personnel protective equipment and housekeeping;

(v) Medical surveillance and examinations;

(vi) Training requirements;

(vii) Recordkeeping requirements.

(4) Permissible exposure limit (PEL).

(a) The employer shall assure that no employee is exposed to lead at concentrations greater than fifty micrograms per cubic meter of air ($50 \mu\text{g}/\text{m}^3$) averaged over an eight-hour period.

(b) If an employee is exposed to lead for more than eight hours in any work day, the permissible exposure limit, as a time weighted average (TWA) for that day, shall be reduced according to the following formula:

$$\text{Maximum permissible limit (in } \mu\text{g}/\text{m}^3) = 400 + \text{hours worked in the day.}$$

(c) When respirators are used to supplement engineering and work practice controls to comply with the PEL and all the requirements of subsection (7) have been met, employee exposure, for the purpose of determining whether the employer has complied with the PEL, may be considered to be at the level provided by the protection factor of the respirator for those periods the respirator is worn. Those periods may be averaged with exposure levels during periods when respirators are not worn to determine the employee's daily TWA exposure.

(5) Exposure monitoring.

(a) General.

(i) For the purposes of subsection (5), employee exposure is that exposure which would occur if the employee were not using a respirator.

(ii) With the exception of monitoring under subdivision (5)(c), the employer shall collect full shift (for at least seven continuous hours) personal samples including at least one sample for each shift for each job classification in each work area.

(iii) Full shift personal samples shall be representative of the monitored employee's regular, daily exposure to lead.

(b) Initial determination. Each employer who has a workplace or work operation covered by this standard shall determine if any employee may be exposed to lead at or above the action level.

(c) Basis of initial determination.

(i) The employer shall monitor employee exposures and shall base initial determinations on the employee exposure monitoring results and any of the following, relevant considerations:

(A) Any information, observations, or calculations which would indicate employee exposure to lead;

(B) Any previous measurements of airborne lead; and

(C) Any employee complaints of symptoms which may be attributable to exposure to lead.

(ii) Monitoring for the initial determination may be limited to a representative sample of the exposed employees who the employer reasonably believes are exposed to the greatest airborne concentrations of lead in the workplace.

(iii) Measurements of airborne lead made in the preceding twelve months may be used to satisfy the requirement to monitor under item (5)(c)(i) if the sampling and analytical methods used meet the accuracy and confidence levels of subdivision (5)(i) of this section.

(d) Positive initial determination and initial monitoring.

(i) Where a determination conducted under subdivision (5)(b) and (5)(c) of this section shows the possibility of any employee exposure at or above the action level, the employer shall conduct monitoring which is representative of the exposure for each employee in the workplace who is exposed to lead.

(ii) Measurements of airborne lead made in the preceding twelve months may be used to satisfy this requirement if the sampling and analytical methods used meet the accuracy and confidence levels of subdivision (5)(i) of this section.

(e) Negative initial determination. Where a determination, conducted under subdivisions (5)(b) and (5)(c) of this section is made that no employee is exposed to airborne concentrations of lead at or above the action level, the employer shall make a written record of such determination. The record shall include at least the information specified in subdivision (5)(c) of this section and shall also include the date of determination, location within the worksite, and the name and social security number of each employee monitored.

(f) Frequency.

(i) If the initial monitoring reveals employee exposure to be below the action level the measurements need not be repeated except as otherwise provided in subdivision (5)(g) of this section.

(ii) If the initial determination or subsequent monitoring reveals employee exposure to be at or above the action level but below the permissible exposure limit the employer shall repeat monitoring in accordance with this subsection at least every six months. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven days apart, are below the action level at which time the employer may discontinue monitoring for that employee except as otherwise provided in subdivision (5)(g) of this section.

(iii) If the initial monitoring reveals that employee exposure is above the permissible exposure limit the employer shall repeat monitoring quarterly. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven days apart, are below the PEL but at or above the action level at which time the employer shall repeat monitoring for that employee at the frequency specified in item (5)(f)(ii), except as otherwise provided in subdivision (5)(g) of this section.

(g) Additional monitoring. Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to lead, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to lead, additional monitoring in accordance with this subsection shall be conducted.

(h) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure, without regard to respirators, exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action taken or to be taken to reduce exposure to or below the permissible exposure limit.

(i) Accuracy of measurement. The employer shall use a method of monitoring and analysis which has an accuracy (to a confidence level of ninety-five percent) of not less than plus or minus twenty percent for airborne concentrations of lead equal to or greater than 30 µg/m³.

(6) Methods of compliance.

(a) Engineering and work practice controls.

(i) Where any employee is exposed to lead above the permissible exposure limit for more than thirty days per year, the employer shall implement engineering and work practice controls (including administrative controls) to reduce and maintain employee exposure to lead in accordance with the implementation schedule in Table I below, except to the extent that the employer can demonstrate that such controls are not feasible. Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposure to or below the permissible exposure limit, the employer shall nonetheless use them to reduce exposures to the lowest feasible level and shall supplement them by the use of respiratory protection which complies with the requirements of subsection (7) of this section.

(ii) Where any employee is exposed to lead above the permissible exposure limit, but for thirty days or less per year, the employer shall implement engineering controls to reduce exposures to 200 µg/m³, but thereafter may implement any combination of engineering, work practice (including administrative controls), and respiratory controls to reduce and maintain employee exposure to lead to or below 50 µg/m³.

TABLE 1

Industry	Compliance dates: ¹ (50 µg/m ³)
Lead chemicals, secondary copper smelting.	July 19, 1996
Nonferrous foundries	July 19, 1996. ²
Brass and bronze ingot manufacture.	6 years. ³

¹ Calculated by counting from the date the stay on implementation of subsection (6)(a) was lifted by the U.S. Court of Appeals for the District of Columbia, the number of years specified in the 1978 lead standard and subsequent amendments for compliance with the PEL of 50 µg/m³ for exposure to airborne concentrations of lead levels for the particular industry.

² Large nonferrous foundries (20 or more employees) are required to achieve the PEL of 50 µg/m³ by means of engineering and work practice controls. Small nonferrous foundries (fewer than 20 employees) are required to achieve an 8-hour TWA of 75 µg/m³ by such controls.

³ Expressed as the number of years from the date on which the Court lifts the stay on the implementation of subsection (6)(a) for this industry for employers to achieve a lead in air concentration of 75 µg/m³. Compliance with subsection (6) in this industry is determined by a compliance directive that incorporates elements from the settlement agreement between OSHA and representatives of the industry.

(b) Respiratory protection. Where engineering and work practice controls do not reduce employee exposure to or below the 50 µg/m³ permissible exposure limit, the employer shall supplement these controls with respirators in accordance with subsection (7).

(c) Compliance program.

(i) Each employer shall establish and implement a written compliance program to reduce exposures to or below the permissible exposure limit, and interim levels if applicable, solely by means of engineering and work practice controls in accordance with the implementation schedule in subdivision (6)(a).

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation in which lead is emitted; e.g., machinery used, material processed, controls in place, crew size, employee job responsibilities, operating procedures and maintenance practices;

(B) A description of the specific means that will be employed to achieve compliance, including engineering plans and studies used to determine methods selected for controlling exposure to lead;

(C) A report of the technology considered in meeting the permissible exposure limit;

(D) Air monitoring data which documents the source of lead emissions;

(E) A detailed schedule for implementation of the program, including documentation such as copies of purchase orders for equipment, construction contracts, etc.;

(F) A work practice program which includes items required under subsections (8), (9) and (10) of this regulation;

(G) An administrative control schedule required by subdivision (6)(f), if applicable; and

(H) Other relevant information.

(iii) Written programs shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, any affected employee or authorized employee representatives.

(iv) Written programs shall be revised and updated at least every six months to reflect the current status of the program.

(d) Mechanical ventilation.

(i) When ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system in controlling exposure, such as capture velocity, duct velocity, or static pressure shall be made at least every three months. Measurements of the system's effectiveness in controlling exposure shall be made within five days of any change in production, process, or control which might result in a change in employee exposure to lead.

(ii) Recirculation of air. If air from exhaust ventilation is recirculated into the workplace, the employer shall assure that (A) the system has a high efficiency filter with reliable back-up filter; and (B) controls to monitor the concentration

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of lead in the return air and to bypass the recirculation system automatically if it fails are installed, operating, and maintained.

(e) Administrative controls. If administrative controls are used as a means of reducing employees TWA exposure to lead, the employer shall establish and implement a job rotation schedule which includes:

(i) Name or identification number of each affected employee;

(ii) Duration and exposure levels at each job or work station where each affected employee is located; and

(iii) Any other information which may be useful in assessing the reliability of administrative controls to reduce exposure to lead.

(7) Respiratory protection.

(a) General. For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(i) Period necessary to install or implement engineering or work-practice controls;

(ii) Work operations for which engineering and work-practice controls are not sufficient to reduce exposures to or below the permissible exposure limit;

(iii) Periods when an employee requests a respirator.

(b) Respirator program.

(i) The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).

(ii) If an employee has breathing difficulty during fit testing or respirator use, the employer must provide the employee with a medical examination as required by subsection (11)(c)(ii)(C) of this section to determine whether or not the employee can use a respirator while performing the required duty.

(c) Respirator selection.

(i) The employer must select the appropriate respirator or combination of respirators from Table II of this section.

(ii) The employer must provide a powered air-purifying respirator instead of the respirator specified in Table II of this section when an employee chooses to use this type of respirator and that such a respirator provides adequate protection to the employee.

TABLE II

RESPIRATORY PROTECTION FOR LEAD AEROSOLS

Airborne Concentration of Lead or Condition of Use	Required Respirator ¹
Not in excess of 0.5 mg/m ³ (10X PEL).	Half-mask, air-purifying respirator equipped with high efficiency filters. ^{2,3}
Not in excess of 2.5 mg/m ³ (50X PEL).	Full facepiece, air-purifying respirator with high efficiency filters. ³

TABLE II

RESPIRATORY PROTECTION FOR LEAD AEROSOLS

Airborne Concentration of Lead or Condition of Use	Required Respirator ¹
Not in excess of 50 mg/m ³ (1000X PEL).	(1) Any powered, air-purifying respirator with high efficiency filters ³ ; or (2) Half-mask supplied-air respirator operated in positive-pressure mode. ²
Not in excess of 100 mg/m ³ (2000X PEL).	Supplied-air respirators with full facepiece, hood, helmet, or suit, operated in positive pressure mode.
Greater than 100 mg/m ³ , unknown concentration or fire fighting.	Full facepiece, self-contained breathing apparatus operated in positive-pressure mode.

Note: ¹ Respirators specified for high concentrations can be used at lower concentrations of lead.

² Full facepiece is required if the lead aerosols cause eye or skin irritation at the use concentrations.

³ A high efficiency particulate filter means 99.97 percent efficient against 0.3 micron size particles.

(8) Protective work clothing and equipment.

(a) Provision and use. If an employee is exposed to lead above the PEL, without regard to the use of respirators or where the possibility of skin or eye irritation exists, the employer shall provide at no cost to the employee and assure that the employee uses appropriate protective work clothing and equipment such as, but not limited to:

(i) Coveralls or similar full-body work clothing;

(ii) Gloves, hats, and shoes or disposable shoe coverlets; and

(iii) Face shields, vented goggles, or other appropriate protective equipment which complies with WAC 296-800-160.

(b) Cleaning and replacement.

(i) The employer shall provide the protective clothing required in subdivision (8)(a) of this section in a clean and dry condition at least weekly, and daily to employees whose exposure levels without regard to a respirator are over 200 µg/m³ of lead as an eight-hour TWA.

(ii) The employer shall provide for the cleaning, laundering, or disposal of protective clothing and equipment required by subdivision (8)(a) of this section.

(iii) The employer shall repair or replace required protective clothing and equipment as needed to maintain their effectiveness.

(iv) The employer shall assure that all protective clothing is removed at the completion of a work shift only in change rooms provided for that purpose as prescribed in subdivision (10)(b) of this section.

(v) The employer shall assure that contaminated protective clothing which is to be cleaned, laundered, or disposed of, is placed in a closed container in the change-room which prevents dispersion of lead outside the container.

(vi) The employer shall inform in writing any person who cleans or launders protective clothing or equipment of the potentially harmful effects of exposure to lead.

(vii) The employer shall assure that the containers of contaminated protective clothing and equipment required by subdivision (8)(b)(v) are labeled as follows:

CAUTION: CLOTHING CONTAMINATED WITH LEAD.
DO NOT REMOVE DUST BY BLOWING OR SHAKING.
DISPOSE OF LEAD CONTAMINATED WASH WATER IN ACCORDANCE WITH APPLICABLE LOCAL, STATE, OR FEDERAL REGULATIONS.

(viii) The employer shall prohibit the removal of lead from protective clothing or equipment by blowing, shaking, or any other means which disperses lead into the air.

(9) Housekeeping.

(a) Surfaces. All surfaces shall be maintained as free as practicable of accumulations of lead.

(b) Cleaning floors.

(i) Floors and other surfaces where lead accumulates may not be cleaned by the use of compressed air.

(ii) Shoveling, dry or wet sweeping, and brushing may be used only where vacuuming or other equally effective methods have been tried and found not to be effective.

(c) Vacuuming. Where vacuuming methods are selected, the vacuums shall be used and emptied in a manner which minimizes the reentry of lead into the workplace.

(10) Hygiene facilities and practices.

(a) The employer shall assure that in areas where employees are exposed to lead above the PEL, without regard to the use of respirators, food or beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, except in change rooms, lunchrooms, and showers required under subdivision (10)(b) through (10)(d) of this section.

(b) Change rooms.

(i) The employer shall provide clean change rooms for employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators.

(ii) The employer shall assure that change rooms are equipped with separate storage facilities for protective work clothing and equipment and for street clothes which prevent cross-contamination.

(c) Showers.

(i) The employer shall assure that employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators, shower at the end of the work shift.

(ii) The employer shall provide shower facilities in accordance with WAC 296-800-230.

(iii) The employer shall assure that employees who are required to shower pursuant to item (10)(c)(i) do not leave the workplace wearing any clothing or equipment worn during the work shift.

(d) Lunchrooms.

(i) The employer shall provide lunchroom facilities for employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators.

(ii) The employer shall assure that lunchroom facilities have a temperature controlled, positive pressure, filtered air supply, and are readily accessible to employees.

(iii) The employer shall assure that employees who work in areas where their airborne exposure to lead is above the PEL without regard to the use of a respirator wash their hands and face prior to eating, drinking, smoking or applying cosmetics.

(iv) The employer shall assure that employees do not enter lunchroom facilities with protective work clothing or equipment unless surface lead dust has been removed by vacuuming, downdraft booth, or other cleaning method.

(e) Lavatories. The employer shall provide an adequate number of lavatory facilities which comply with WAC 296-800-230.

(11) Medical surveillance.

(a) General.

(i) The employer shall institute a medical surveillance program for all employees who are or may be exposed above the action level for more than thirty days per year.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician.

(iii) The employer shall provide the required medical surveillance including multiple physician review under item (11)(c)(iii) without cost to employees and at a reasonable time and place.

(b) Biological monitoring.

(i) Blood lead and ZPP level sampling and analysis. The employer shall make available biological monitoring in the form of blood sampling and analysis for lead and zinc protoporphyrin levels to each employee covered under item (11)(a)(i) of this section on the following schedule:

(A) At least every six months to each employee covered under item (11)(a)(i) of this section;

(B) At least every two months for each employee whose last blood sampling and analysis indicated a blood lead level at or above 40 µg/100 g of whole blood. This frequency shall continue until two consecutive blood samples and analyses indicate a blood lead level below 40 µg/100 g of whole blood; and

(C) At least monthly during the removal period of each employee removed from exposure to lead due to an elevated blood lead level.

(ii) Follow-up blood sampling tests. Whenever the results of a blood lead level test indicate that an employee's blood lead level exceeds the numerical criterion for medical removal under item (12)(a)(i)(A), the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.

(iii) Accuracy of blood lead level sampling and analysis. Blood lead level sampling and analysis provided pursuant to this section shall have an accuracy (to a confidence level of ninety-five percent) within plus or minus fifteen percent or 6 µg/100 ml, whichever is greater, and shall be conducted by a laboratory licensed by the Center for Disease Control (CDC), United States Department of Health, Education and Welfare or which has received a satisfactory grade in blood lead proficiency testing from CDC in the prior twelve months.

(iv) Employee notification. Within five working days after the receipt of biological monitoring results, the employer shall notify in writing each employee whose blood lead level exceeds 40 $\mu\text{g}/100\text{ g}$: (A) of that employee's blood lead level and (B) that the standard requires temporary medical removal with medical removal protection benefits when an employee's blood lead level exceeds the numerical criterion for medical removal under item (12)(a)(i) of this section.

(c) Medical examinations and consultations.

(i) Frequency. The employer shall make available medical examinations and consultations to each employee covered under item (11)(a)(i) of this section on the following schedule:

(A) At least annually for each employee for whom a blood sampling test conducted at any time during the preceding twelve months indicated a blood lead level at or above 40 $\mu\text{g}/100\text{ g}$;

(B) Prior to assignment for each employee being assigned for the first time to an area in which airborne concentrations of lead are at or above the action level;

(C) As soon as possible, upon notification by an employee either that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice concerning the effects of current or past exposure to lead on the employee's ability to procreate a healthy child, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during use; and

(D) As medically appropriate for each employee either removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited pursuant to a final medical determination.

(ii) Content. Medical examinations made available pursuant to subitems (11)(c)(i)(A) through (B) of this section shall include the following elements:

(A) A detailed work history and a medical history, with particular attention to past lead exposure (occupational and nonoccupational), personal habits (smoking, hygiene), and past gastrointestinal, hematologic, renal, cardiovascular, reproductive and neurological problems;

(B) A thorough physical examination, with particular attention to teeth, gums, hematologic, gastrointestinal, renal, cardiovascular, and neurological systems. Pulmonary status should be evaluated if respiratory protection will be used;

(C) A blood pressure measurement;

(D) A blood sample and analysis which determines:

(I) Blood lead level;

(II) Hemoglobin and hematocrit determinations, red cell indices, and examination of peripheral smear morphology;

(III) Zinc protoporphyrin;

(IV) Blood urea nitrogen; and

(V) Serum creatinine;

(E) A routine urinalysis with microscopic examination; and

(F) Any laboratory or other test which the examining physician deems necessary by sound medical practice.

The content of medical examinations made available pursuant to subitems (11)(c)(i)(C) through (D) of this section shall be determined by an examining physician and, if

requested by an employee, shall include pregnancy testing or laboratory evaluation of male fertility.

(iii) Multiple physician review mechanism.

(A) If the employer selects the initial physician who conducts any medical examination or consultation provided to an employee under this section, the employee may designate a second physician:

(I) To review any findings, determinations or recommendations of the initial physician; and

(II) To conduct such examinations, consultations, and laboratory tests as the second physician deems necessary to facilitate this review.

(B) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician conducts a medical examination or consultation pursuant to this section. The employer may condition its participation in, and payment for, the multiple physician review mechanism upon the employee doing the following within fifteen days after receipt of the foregoing notification, or receipt of the initial physician's written opinion, whichever is later:

(I) The employee informing the employer that he or she intends to seek a second medical opinion, and

(II) The employee initiating steps to make an appointment with a second physician.

(C) If the findings, determinations or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve any disagreement.

(D) If the two physicians have been unable to quickly resolve their disagreement, then the employer and the employee through their respective physicians shall designate a third physician:

(I) To review any findings, determinations or recommendations of the prior physicians; and

(II) To conduct such examinations, consultations, laboratory tests and discussions with the prior physicians as the third physician deems necessary to resolve the disagreement of the prior physicians.

(E) The employer shall act consistent with the findings, determinations and recommendations of the third physician, unless the employer and the employee reach an agreement which is otherwise consistent with the recommendations of at least one of the three physicians.

(iv) Information provided to examining and consulting physicians.

(A) The employer shall provide an initial physician conducting a medical examination or consultation under this section with the following information:

(I) A copy of this regulation for lead including all appendices;

(II) A description of the affected employee's duties as they relate to the employee's exposure;

(III) The employee's exposure level or anticipated exposure level to lead and to any other toxic substance (if applicable);

(IV) A description of any personal protective equipment used or to be used;

(V) Prior blood lead determinations; and

(VI) All prior written medical opinions concerning the employee in the employer's possession or control.

(B) The employer shall provide the foregoing information to a second or third physician conducting a medical examination or consultation under this section upon request either by the second or third physician, or by the employee.

(v) Written medical opinions.

(A) The employer shall obtain and furnish the employee with a copy of a written medical opinion from each examining or consulting physician which contains the following information:

(I) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at increased risk of material impairment of the employee's health from exposure to lead;

(II) Any recommended special protective measures to be provided to the employee, or limitations to be placed upon the employee's exposure to lead;

(III) Any recommended limitation upon the employee's use of respirators, including a determination of whether the employee can wear a powered air purifying respirator if a physician determines that the employee cannot wear a negative pressure respirator; and

(IV) The results of the blood lead determinations.

(B) The employer shall instruct each examining and consulting physician to:

(I) Not reveal either in the written opinion, or in any other means of communication with the employer, findings, including laboratory results, or diagnoses unrelated to an employee's occupational exposure to lead; and

(II) Advise the employee of any medical condition, occupational or nonoccupational, which dictates further medical examination or treatment.

(vi) Alternate physician determination mechanisms. The employer and an employee or authorized employee representative may agree upon the use of any expeditious alternate physician determination mechanism in lieu of the multiple physician review mechanism provided by this subsection so long as the alternate mechanism otherwise satisfies the requirements contained in this subsection.

(d) Chelation.

(i) The employer shall assure that any person whom he retains, employs, supervises or controls does not engage in prophylactic chelation of any employee at any time.

(ii) If therapeutic or diagnostic chelation is to be performed by any person in item (11)(d)(i), the employer shall assure that it be done under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring and that the employee is notified in writing prior to its occurrence.

(12) Medical removal protection.

(a) Temporary medical removal and return of an employee.

(i) Temporary removal due to elevated blood lead levels.

(A) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a periodic and a follow-up blood sampling test conducted pursuant to this section indicate that the employee's blood lead level is at or above 60 $\mu\text{g}/100$ g of whole blood; and

(B) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that the average of the last three blood sampling tests conducted pursuant to this section (or the average of all blood sampling tests conducted over the previous six months, whichever is longer) indicates that the employee's blood lead level is at or above 50 $\mu\text{g}/100$ g of whole blood; provided, however, that an employee need not be removed if the last blood sampling test indicates a blood lead level at or below 40 $\mu\text{g}/100$ g of whole blood.

(ii) Temporary removal due to a final medical determination.

(A) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a final medical determination results in a medical finding, determination, or opinion that the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(B) For the purposes of this section, the phrase "final medical determination" shall mean the outcome of the multiple physician review mechanism or alternate medical determination mechanism used pursuant to the medical surveillance provisions of this section.

(C) Where a final medical determination results in any recommended special protective measures for an employee, or limitations on an employee's exposure to lead, the employer shall implement and act consistent with the recommendation.

(iii) Return of the employee to former job status.

(A) The employer shall return an employee to his or her former job status:

(I) For an employee removed due to a blood lead level at or above 60 $\mu\text{g}/100$ g, or due to an average blood lead level at or above 50 $\mu\text{g}/100$ g, when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 40 $\mu\text{g}/100$ g of whole blood;

(II) For an employee removed due to a final medical determination, when a subsequent final medical determination results in a medical finding, determination, or opinion that the employee no longer has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(B) For the purposes of this section, the requirement that an employer return an employee to his or her former job status is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.

(iv) Removal of other employee special protective measure or limitations. The employer shall remove any limitations placed on an employee or end any special protective measures provided to an employee pursuant to a final medical determination when a subsequent final medical determination indicates that the limitations or special protective measures are no longer necessary.

(v) Employer options pending a final medical determination. Where the multiple physician review mechanism, or alternate medical determination mechanism used pursuant to the medical surveillance provisions of this section, has not

yet resulted in a final medical determination with respect to an employee, the employer shall act as follows:

(A) Removal. The employer may remove the employee from exposure to lead, provide special protective measures to the employee, or place limitations upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status.

(B) Return. The employer may return the employee to his or her former job status, end any special protective measures provided to the employee, and remove any limitations placed upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status, with two exceptions. If:

(I) The initial removal, special protection, or limitation of the employee resulted from a final medical determination which differed from the findings, determinations, or recommendations of the initial physician; or

(II) The employee has been on removal status for the preceding eighteen months due to an elevated blood lead level, then the employer shall await a final medical determination.

(b) Medical removal protection benefits.

(i) Provision of medical removal protection benefits. The employer shall provide to an employee up to eighteen months of medical removal protection benefits on each occasion that an employee is removed from exposure to lead or otherwise limited pursuant to this section.

(ii) Definition of medical removal protection benefits. For the purposes of this section, the requirement that an employer provide medical removal protection benefits means that the employer shall maintain the earnings, seniority and other employment rights and benefits of an employee as though the employee had not been removed from normal exposure to lead or otherwise limited.

(iii) Follow-up medical surveillance during the period of employee removal or limitation. During the period of time that an employee is removed from normal exposure to lead or otherwise limited, the employer may condition the provision of medical removal protection benefits upon the employee's participation in follow-up medical surveillance made available pursuant to this section.

(iv) Workers' compensation claims. If a removed employee files a claim for workers' compensation payments for a lead-related disability, then the employer shall continue to provide medical removal protection benefits pending disposition of the claim. To the extent that an award is made to the employee for earnings lost during the period of removal, the employer's medical removal protection obligation shall be reduced by such amount. The employer shall receive no credit for workers' compensation payments received by the employee for treatment related expenses.

(v) Other credits. The employer's obligation to provide medical removal protection benefits to a removed employee shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program, or receives income from employment with another employer made possible by virtue of the employee's removal.

(vi) Employees whose blood lead levels do not adequately decline within eighteen months of removal. The employer shall take the following measures with respect to any employee removed from exposure to lead due to an elevated blood lead level whose blood lead level has not declined within the past eighteen months of removal so that the employee has been returned to his or her former job status:

(A) The employer shall make available to the employee a medical examination pursuant to this section to obtain a final medical determination with respect to the employee;

(B) The employer shall assure that the final medical determination obtained indicates whether or not the employee may be returned to his or her former job status, and if not, what steps should be taken to protect the employee's health;

(C) Where the final medical determination has not yet been obtained, or once obtained indicates that the employee may not yet be returned to his or her former job status, the employer shall continue to provide medical removal protection benefits to the employee until either the employee is returned to former job status, or a final medical determination is made that the employee is incapable of ever safely returning to his or her former job status.

(D) Where the employer acts pursuant to a final medical determination which permits the return of the employee to his or her former job status despite what would otherwise be an unacceptable blood lead level, later questions concerning removing the employee again shall be decided by a final medical determination. The employer need not automatically remove such an employee pursuant to the blood lead level removal criteria provided by this section.

(vii) Voluntary removal or restriction of an employee. Where an employer, although not required by this section to do so, removes an employee from exposure to lead or otherwise places limitations on an employee due to the effects of lead exposure on the employee's medical condition, the employer shall provide medical removal protection benefits to the employee equal to that required by item (12)(b)(i) of this section.

(13) Employee information and training.

(a) Training program.

(i) Each employer who has a workplace in which there is a potential exposure to airborne lead at any level shall inform employees of the content of Appendices A and B of this regulation.

(ii) The employer shall institute a training program for and assure the participation of all employees who are subject to exposure to lead at or above the action level or for whom the possibility of skin or eye irritation exists.

(iii) The employer shall provide initial training by one hundred eighty days from the effective date for those employees covered by item (13)(a)(ii) on the standard's effective date and prior to the time of initial job assignment for those employees subsequently covered by this subsection.

(iv) The training program shall be repeated at least annually for each employee.

(v) The employer shall assure that each employee is informed of the following:

(A) The content of this standard and its appendices;

(B) The specific nature of the operations which could result in exposure to lead above the action level;

(C) The purpose, proper use, limitations, and other training requirements for respiratory protection as required by chapter 296-62 WAC, Part E;

(D) The purpose and a description of the medical surveillance program, and the medical removal protection program including information concerning the adverse health effects associated with excessive exposure to lead (with particular attention to the adverse reproductive effects on both males and females);

(E) The engineering controls and work practices associated with the employee's job assignment;

(F) The contents of any compliance plan in effect; and

(G) Instructions to employees that chelating agents should not routinely be used to remove lead from their bodies and should not be used at all except under the direction of a licensed physician.

(b) Access to information and training materials.

(i) The employer shall make readily available to all affected employees a copy of this standard and its appendices.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(iii) In addition to the information required by item (13)(a)(v), the employer shall include as part of the training program, and shall distribute to employees, any materials pertaining to the Occupational Safety and Health Act, the regulations issued pursuant to the act, and this lead standard, which are made available to the employer by the director.

(14) Signs.

(a) General.

(i) The employer may use signs required by other statutes, regulations or ordinances in addition to, or in combination with, signs required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign required by this subsection which contradicts or detracts from the meaning of the required sign.

(b) Signs.

(i) The employer shall post the following warning signs in each work area where the PEL is exceeded:

WARNING
LEAD WORK AREA
POISON
NO SMOKING OR EATING

(ii) The employer shall assure that signs required by this subsection are illuminated and cleaned as necessary so that the legend is readily visible.

(15) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required in subsection (5) of this section.

(ii) This record shall include:

(A) The date(s), number, duration, location and results of each of the samples taken, including a description of the sam-

pling procedure used to determine representative employee exposure where applicable;

(B) A description of the sampling and analytical methods used and evidence of their accuracy;

(C) The type of respiratory protective devices worn, if any;

(D) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent; and

(E) The environmental variables that could affect the measurement of employee exposure.

(iii) The employer shall maintain these monitoring records for at least forty years or for the duration of employment plus twenty years, whichever is longer.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by subsection (11) of this section.

(ii) This record shall include:

(A) The name, social security number, and description of the duties of the employee;

(B) A copy of the physician's written opinions;

(C) Results of any airborne exposure monitoring done for that employee and the representative exposure levels supplied to the physician; and

(D) Any employee medical complaints related to exposure to lead.

(iii) The employer shall keep, or assure that the examining physician keeps, the following medical records:

(A) A copy of the medical examination results including medical and work history required under subsection (11) of this section;

(B) A description of the laboratory procedures and a copy of any standards or guidelines used to interpret the test results or references to that information; and

(C) A copy of the results of biological monitoring.

(iv) The employer shall maintain or assure that the physician maintains those medical records for at least forty years, or for the duration of employment plus twenty years, whichever is longer.

(c) Medical removals.

(i) The employer shall establish and maintain an accurate record for each employee removed from current exposure to lead pursuant to subsection (12) of this section.

(ii) Each record shall include:

(A) The name and social security number of the employee;

(B) The date on each occasion that the employee was removed from current exposure to lead as well as the corresponding date on which the employee was returned to his or her former job status;

(C) A brief explanation of how each removal was or is being accomplished; and

(D) A statement with respect to each removal indicating whether or not the reason for the removal was an elevated blood lead level.

(iii) The employer shall maintain each medical removal record for at least the duration of an employee's employment.

(d) Availability.

(i) The employer shall make available upon request all records required to be maintained by subsection (15) of this section to the director for examination and copying.

(ii) Environmental monitoring, medical removal, and medical records required by this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with (~~WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217~~) chapter 296-802 WAC. Medical removal records shall be provided in the same manner as environmental monitoring records.

(iii) Upon request, the employer shall make an employee's medical records required to be maintained by this section available to the affected employee or former employee or to a physician or other individual designated by such affected employee or former employees for examination and copying.

(e) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by subsection (15) of this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records required to be maintained by this section for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the director at least three months prior to the disposal of such records and shall transmit those records to the director if requested within the period.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in (~~WAC 296-62-05215~~) chapter 296-802 WAC.

(16) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to lead conducted pursuant to subsection (5) of this section.

(b) Observation procedures.

(i) Whenever observation of the monitoring of employee exposure to lead requires entry into an area where the use of respirators, protective clothing or equipment is required, the employer shall provide the observer with and assure the use of such respirators, clothing and such equipment, and shall require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the monitoring of lead performed at the place of exposure; and

(C) Record the results obtained or receive copies of the results when returned by the laboratory.

(17) Appendices. The information contained in the appendices to this section is not intended by itself, to create any additional obligations not otherwise imposed by this standard nor detract from any existing obligation.

(a) Appendix A. Substance Data Sheet for Occupational Exposure to Lead.

(i) Substance identification.

(A) Substance. Pure lead (Pb) is a heavy metal at room temperature and pressure and is a basic chemical element. It can combine with various other substances to form numerous lead compounds.

(B) Compounds covered by the standard. The word "lead" when used in this standard means elemental lead, all inorganic lead compounds (except those which are not biologically available due to either solubility or specific chemical interaction), and a class of organic lead compounds called lead soaps. This standard does not apply to other organic lead compounds.

(C) Uses. Exposure to lead occurs in at least 120 different occupations, including primary and secondary lead smelting, lead storage battery manufacturing, lead pigment manufacturing and use, solder manufacturing and use, shipbuilding and ship repairing, auto manufacturing, and printing.

(D) Permissible exposure. The Permissible Exposure Limit (PEL) set by the standard is 50 micrograms of lead per cubic meter of air ($50 \mu\text{g}/\text{m}^3$), averaged over an eight-hour work day.

(E) Action level. The standard establishes an action level of 30 micrograms per cubic meter of air ($30 \mu\text{g}/\text{m}^3$) time weighted average, based on an eight-hour work day. The action level initiates several requirements of the standard, such as exposure monitoring, medical surveillance, and training and education.

(ii) Health hazard data.

(A) Ways in which lead enters your body.

(I) When absorbed into your body in certain doses lead is a toxic substance. The object of the lead standard is to prevent absorption of harmful quantities of lead. The standard is intended to protect you not only from the immediate toxic effects of lead, but also from the serious toxic effects that may not become apparent until years of exposure have passed.

(II) Lead can be absorbed into your body by inhalation (breathing) and ingestion (eating). Lead (except for certain organic lead compounds not covered by the standard, such as tetraethyl lead) is not absorbed through your skin. When lead is scattered in the air as a dust, fume or mist, it can be inhaled and absorbed through your lungs and upper respiratory tract. Inhalation of airborne lead is generally the most important source of occupational lead absorption. You can also absorb lead through your digestive system if lead gets into your mouth and is swallowed. If you handle food, cigarettes, chewing tobacco, or make-up which have lead on them or handle them with hands contaminated with lead, this will contribute to ingestion.

(III) A significant portion of the lead that you inhale or ingest gets into your blood stream. Once in your blood stream lead is circulated throughout your body and stored in various organs and body tissues. Some of this lead is quickly filtered out of your body and excreted, but some remains in your blood and other tissue. As exposure to lead continues, the amount stored in your body will increase if you are absorbing more lead than your body is excreting. Even though you may not be aware of any immediate symptoms of disease, this lead

stored in your tissues can be slowly causing irreversible damage, first to individual cells, then to your organs and whole body systems.

(B) Effects of overexposure to lead.

(I) Short-term (acute) overexposure. Lead is a potent, systemic poison that serves no known useful function once absorbed by your body. Taken in large enough doses, lead can kill you in a matter of days. A condition affecting the brain called acute encephalopathy may arise which develops quickly to seizures, coma, and death from cardiorespiratory arrest. A short-term dose of lead can lead to acute encephalopathy. Short-term occupational exposures of this magnitude are highly unusual, but not impossible. Similar forms of encephalopathy may, however arise from extended, chronic exposure to lower doses of lead. There is no sharp dividing line between rapidly developing acute effects of lead, and chronic effects which take longer to acquire. Lead adversely affects numerous body systems, and causes forms of health impairment and disease which arise after periods of exposure as short as days or as long as several years.

(II) Long-term (chronic) overexposure.

a) Chronic overexposure to lead may result in severe damage to your blood-forming, nervous, urinary and reproductive systems. Some common symptoms of chronic overexposure include loss of appetite, metallic taste in the mouth, anxiety, constipation, nausea, pallor, excessive tiredness, weakness, insomnia, headache, nervous irritability, muscle and joint pain or soreness, fine tremors, numbness, dizziness, hyperactivity and colic. In lead colic there may be severe abdominal pain.

b) Damage to the central nervous system in general and the brain (encephalopathy) in particular is one of the most severe forms of lead poisoning. The most severe, often fatal, form of encephalopathy may be preceded by vomiting, a feeling of dullness progressing to drowsiness and stupor, poor memory, restlessness, irritability, tremor, and convulsions. It may arise suddenly with the onset of seizures, followed by coma, and death. There is a tendency for muscular weakness to develop at the same time. This weakness may progress to paralysis often observed as a characteristic "wrist drop" or "foot drop" and is a manifestation of a disease to the nervous system called peripheral neuropathy.

c) Chronic overexposure to lead also results in kidney disease with few, if any, symptoms appearing until extensive and most likely permanent kidney damage has occurred. Routine laboratory tests reveal the presence of this kidney disease only after about two-thirds of kidney function is lost. When overt symptoms of urinary dysfunction arise, it is often too late to correct or prevent worsening conditions, and progression of kidney dialysis or death is possible.

d) Chronic overexposure to lead impairs the reproductive systems of both men and women. Overexposure to lead may result in decreased sex drive, impotence and sterility in men. Lead can alter the structure of sperm cells raising the risk of birth defects. There is evidence of miscarriage and stillbirth in women whose husbands were exposed to lead or who were exposed to lead themselves. Lead exposure also may result in decreased fertility, and abnormal menstrual cycles in women. The course of pregnancy may be adversely affected by exposure to lead since lead crosses the placental

barrier and poses risks to developing fetuses. Children born of parents either one of whom were exposed to excess lead levels are more likely to have birth defects, mental retardation, behavioral disorders or die during the first year of childhood.

e) Overexposure to lead also disrupts the blood-forming system resulting in decreased hemoglobin (the substance in the blood that carries oxygen to the cells) and ultimately anemia. Anemia is characterized by weakness, pallor and fatigability as a result of decreased oxygen carrying capacity in the blood.

(III) Health protection goals of the standard.

a) Prevention of adverse health effects for most workers from exposure to lead throughout a working lifetime requires that worker blood lead (PbB) levels be maintained at or below forty micrograms per one hundred grams of whole blood (40 $\mu\text{g}/100\text{g}$). The blood lead levels of workers (both male and female workers) who intend to have children should be maintained below 30 $\mu\text{g}/100\text{g}$ to minimize adverse reproductive health effects to the parents and to the developing fetus.

b) The measurement of your blood lead level is the most useful indicator of the amount of lead absorbed by your body. Blood lead levels (PbB) are most often reported in units of milligrams (mg) or micrograms (μg) of lead (1 mg = 1000 μg) per 100 grams (100g), 100 milliliters (100 ml) or deciliter (dl) of blood. These three units are essentially the same. Sometimes PbB's are expressed in the form of mg% or $\mu\text{g}\%$. This is a shorthand notation for 100g, 100ml, or dl.

c) PbB measurements show the amount of lead circulating in your blood stream, but do not give any information about the amount of lead stored in your various tissues. PbB measurements merely show current absorption of lead, not the effect that lead is having on your body or the effects that past lead exposure may have already caused. Past research into lead-related diseases, however, has focused heavily on associations between PbBs and various diseases. As a result, your PbB is an important indicator of the likelihood that you will gradually acquire a lead-related health impairment or disease.

d) Once your blood lead level climbs above 40 $\mu\text{g}/100\text{g}$, your risk of disease increases. There is a wide variability of individual response to lead, thus it is difficult to say that a particular PbB in a given person will cause a particular effect. Studies have associated fatal encephalopathy with PbBs as low as 150 $\mu\text{g}/100\text{g}$. Other studies have shown other forms of disease in some workers with PbBs well below 80 $\mu\text{g}/100\text{g}$. Your PbB is a crucial indicator of the risks to your health, but one other factor is extremely important. This factor is the length of time you have had elevated PbBs. The longer you have an elevated PbB, the greater the risk that large quantities of lead are being gradually stored in your organs and tissues (body burden). The greater your overall body burden, the greater the chances of substantial permanent damage.

e) The best way to prevent all forms of lead-related impairments and diseases—both short-term and long-term—is to maintain your PbB below 40 $\mu\text{g}/100\text{g}$. The provisions of the standard are designed with this end in mind. Your employer has prime responsibility to assure that the provi-

sions of the standard are complied with both by the company and by individual workers. You as a worker, however, also have a responsibility to assist your employer in complying with the standard. You can play a key role in protecting your own health by learning about the lead hazards and their control, learning what the standard requires, following the standard where it governs your own action, and seeing that your employer complies with the provisions governing his actions.

(IV) Reporting signs and symptoms of health problems. You should immediately notify your employer if you develop signs or symptoms associated with lead poisoning or if you desire medical advice concerning the effects of current or past exposure to lead on your ability to have a healthy child. You should also notify your employer if you have difficulty breathing during a respirator fit test or while wearing a respirator. In each of these cases your employer must make available to you appropriate medical examinations or consultations. These must be provided at no cost to you and at a reasonable time and place.

(b) Appendix B. Employee Standard Summary. This appendix summarizes key provisions of the standard that you as a worker should become familiar with. The appendix discusses the entire standard.

(i) Permissible exposure limit (PEL). The standard sets a permissible exposure limit (PEL) of fifty micrograms of lead per cubic meter of air ($50 \mu\text{g}/\text{m}^3$), averaged over an eight-hour workday. This is the highest level of lead in air to which you may be permissibly exposed over an eight-hour workday. Since it is an eight-hour average it permits short exposures above the PEL so long as for each eight-hour workday your average exposure does not exceed the PEL.

(ii) Exposure monitoring.

(A) If lead is present in the work place where you work in any quantity, your employer is required to make an initial determination of whether the action level is exceeded for any employee. The initial determination must include instrument monitoring of the air for the presence of lead and must cover the exposure of a representative number of employees who are reasonably believed to have the highest exposure levels. If your employer has conducted appropriate air sampling for lead in the past year he may use these results. If there have been any employee complaints of symptoms which may be attributable to exposure to lead or if there is any other information or observations which would indicate employee exposure to lead, this must also be considered as part of the initial determination. If this initial determination shows that a reasonable possibility exists that any employee may be exposed, without regard to respirators, over the action level ($30 \mu\text{g}/\text{m}^3$) your employer must set up an air monitoring program to determine the exposure level of every employee exposed to lead at your work place.

(B) In carrying out this air monitoring program, your employer is not required to monitor the exposure of every employee, but he or she must monitor a representative number of employees and job types. Enough sampling must be done to enable each employee's exposure level to be reasonably represented by at least one full shift (at least seven hours) air sample. In addition, these air samples must be taken under conditions which represent each employee's regular, daily exposure to lead.

(C) If you are exposed to lead and air sampling is performed, your employer is required to quickly notify you in writing of air monitoring results which represent your exposure. If the results indicate your exposure exceeds the PEL (without regard to your use of respirators), then your employer must also notify you of this in writing, and provide you with a description of the corrective action that will be taken to reduce your exposure.

(D) Your exposure must be rechecked by monitoring every six months if your exposure is over the action level but below the PEL. Air monitoring must be repeated every three months if you are exposed over the PEL. Your employer may discontinue monitoring for you if two consecutive measurements, taken at least two weeks apart, are below the action level. However, whenever there is a production, process, control, or personnel change at your work place which may result in new or additional exposure to lead, or whenever there is any other reason to suspect a change which may result in new or additional exposure to lead, your employer must perform additional monitoring.

(iii) Methods of compliance. Your employer is required to assure that no employee is exposed to lead in excess of the PEL. The standard establishes a priority of methods to be used to meet the PEL.

(iv) Respiratory protection.

(A) Your employer is required to provide and assure your use of respirators when your exposure to lead is not controlled below the PEL by other means. The employer must pay the cost of the respirator. Whenever you request one, your employer is also required to provide you a respirator even if your air exposure level does not exceed the PEL. You might desire a respirator when, for example, you have received medical advice that your lead absorption should be decreased. Or, you may intend to have children in the near future, and want to reduce the level of lead in your body to minimize adverse reproductive effects. While respirators are the least satisfactory means of controlling your exposure, they are capable of providing significant protection if properly chosen, fitted, worn, cleaned, maintained, and replaced when they stop providing adequate protection.

(B) Your employer is required to select respirators from the seven types listed in Table II of the respiratory protection section of this standard (see subsection (7)(c) of this section). Any respirator chosen must be certified by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 42 CFR part 84. This respirator selection table will enable your employer to choose a type of respirator which will give you a proper amount of protection based on your airborne lead exposure. Your employer may select a type of respirator that provides greater protection than that required by the standard; that is, one recommended for a higher concentration of lead than is present in your work place. For example, a powered air purifying respirator (PAPR) is much more protective than a typical negative-pressure respirator, and may also be more comfortable to wear. A PAPR has a filter, cartridge or canister to clean the air, and a power source which continuously blows filtered air into your breathing zone. Your employer might make a PAPR available to you to ease the burden of having to wear a respirator

for long periods of time. The standard provides that you can obtain a PAPR upon request.

(C) Your employer must also start a respiratory protection program. This program must include written procedures for the proper selection, use, cleaning, storage, and maintenance of respirators.

(D) Your employer must assure that your respirator facepiece fits properly. Proper fit of a respirator facepiece is critical to your protection against air borne lead. Obtaining a proper fit on each employee may require your employer to make available several different types of respirator masks. To ensure that your respirator fits properly and that facepiece leakage is minimal, your employer must give you either a qualitative or quantitative fit test as required in chapter 296-62 WAC, Part E.

(E) You must also receive from your employer proper training in the use of respirators. Your employer is required to teach you how to wear a respirator, to know why it is needed, and to understand its limitations.

(F) The standard provides that if your respirator uses filter elements, you must be given an opportunity to change the filter elements whenever an increase in breathing resistance is detected. You also must be permitted to periodically leave your work area to wash your face and respirator facepiece whenever necessary to prevent skin irritation. If you ever have difficulty breathing during a fit test or while using a respirator, your employer must make a medical examination available to you to determine whether you can safely wear a respirator. The result of this examination may be to give you a positive pressure respirator (which reduces breathing resistance) or to provide alternative means of protection.

(v) Protective work clothing and equipment. If you are exposed to lead above the PEL, or if you are exposed to lead compounds such as lead arsenate or lead azide which can cause skin and eye irritation, your employer must provide you with protective work clothing and equipment appropriate for the hazard. If work clothing is provided, it must be provided in a clean and dry condition at least weekly, and daily if your airborne exposure to lead is greater than $200 \mu\text{g}/\text{m}^3$. Appropriate protective work clothing and equipment can include coveralls or similar full-body work clothing, gloves, hats, shoes or disposable shoe coverlets, and face shields or vented goggles. Your employer is required to provide all such equipment at no cost to you. He or she is responsible for providing repairs and replacement as necessary and also is responsible for the cleaning, laundering or disposal of protective clothing and equipment. Contaminated work clothing or equipment must be removed in change rooms and not worn home or you will extend your exposure and expose your family since lead from your clothing can accumulate in your house, car, etc. Contaminated clothing which is to be cleaned, laundered or disposed of must be placed in closed containers in the change room. At no time may lead be removed from protective clothing or equipment by any means which disperses lead into the work room air.

(vi) Housekeeping. Your employer must establish a housekeeping program sufficient to maintain all surfaces as free as practicable of accumulations of lead dust. Vacuuming is the preferred method of meeting this requirement, and the use of compressed air to clean floors and other surfaces is

absolutely prohibited. Dry or wet sweeping, shoveling, or brushing may not be used except where vacuuming or other equally effective methods have been tried and do not work. Vacuums must be used and emptied in a manner which minimizes the reentry of lead into the work place.

(vii) Hygiene facilities and practices.

(A) The standard requires that change rooms, showers and filtered air lunchrooms be constructed and made available to workers exposed to lead above the PEL. When the PEL is exceeded, the employer must assure that food and beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, except in these facilities. Change rooms, showers and lunchrooms, must be used by workers exposed in excess of the PEL. After showering, no clothing or equipment worn during the shift may be worn home and this includes shoes and underwear. Your own clothing worn during the shift should be carried home and cleaned carefully so that it does not contaminate your home. Lunchrooms may not be entered with protective clothing or equipment unless surface dust has been removed by vacuuming, downdraft booth or other cleaning methods. Finally, workers exposed above the PEL must wash both their hands and faces prior to eating, drinking, smoking or applying cosmetics.

(B) All of the facilities and hygiene practices just discussed are essential to minimize additional sources of lead absorption from inhalation or ingestion of lead that may accumulate on you, your clothes or your possessions. Strict compliance with these provisions can virtually eliminate several sources of lead exposure which significantly contribute to excessive lead absorption.

(viii) Medical surveillance.

(A) The medical surveillance program is part of the standard's comprehensive approach to the prevention of lead-related disease. Its purpose is to supplement the main thrust of the standard which is aimed at minimizing airborne concentrations of lead and sources of ingestion. Only medical surveillance can determine if the other provisions of the standard have effectively protected you as an individual. Compliance with the standard's provision will protect most workers from the adverse effects of lead exposure, but may not be satisfactory to protect individual workers (I) who have high body burdens of lead acquired over past years, (II) who have additional uncontrolled sources of nonoccupational lead exposure, (III) who exhibit unusual variations in lead absorption rates, or (IV) who have specific nonwork related medical conditions which could be aggravated by lead exposure (e.g., renal disease, anemia). In addition, control systems may fail, or hygiene and respirator programs may be inadequate. Periodic medical surveillance of individual workers will help detect those failures. Medical surveillance will also be important to protect your reproductive ability - regardless of whether you are a man or a woman.

(B) All medical surveillance required by the standard must be performed by or under the supervision of a licensed physician. The employer must provide required medical surveillance without cost to employees and at a reasonable time and place. The standard's medical surveillance program has two parts - periodic biological monitoring, and medical examinations.

(C) Your employer's obligation to offer medical surveillance is triggered by the results of the air monitoring program. Medical surveillance must be made available to all employees who are exposed in excess of the action level for more than 30 days a year. The initial phase of the medical surveillance program, which included blood lead level tests and medical examinations, must be completed for all covered employees no later than 180 days from the effective date of this standard. Priority within this first round of medical surveillance must be given to employees whom the employer believes to be at greatest risk from continued exposure (for example, those with the longest prior exposure to lead, or those with the highest current exposure). Thereafter, the employer must periodically make medical surveillance - both biological monitoring and medical examinations - available to all covered employees.

(D) Biological monitoring under the standard consists of blood lead level (PbB) and zinc protoporphyrin tests at least every six months after the initial PbB test. A zinc protoporphyrin (ZPP) test is a very useful blood test which measures an effect of lead on your body. If a worker's PbB exceeds 40 $\mu\text{g}/100\text{g}$, the monitoring frequency must be increased from every six months to at least every two months and not reduced until two consecutive PbBs indicate a blood lead level below 40 $\mu\text{g}/100\text{g}$. Each time your PbB is determined to be over 40 $\mu\text{g}/100\text{g}$, your employer must notify you of this in writing within five working days of the receipt of the test results. The employer must also inform you that the standard requires temporary medical removal with economic protection when your PbB exceeds certain criteria (see Discussion of Medical Removal Protection - subsection (12)). During the first year of the standard, this removal criterion is 80 $\mu\text{g}/100\text{g}$. Anytime your PbB exceeds 80 $\mu\text{g}/100\text{g}$ your employer must make available to you a prompt follow-up PbB test to ascertain your PbB. If the two tests both exceed 80 $\mu\text{g}/100\text{g}$ and you are temporarily removed, then your employer must make successive PbB tests available to you on a monthly basis during the period of your removal.

(E) Medical examinations beyond the initial one must be made available on an annual basis if your blood lead levels exceeds 40 $\mu\text{g}/100\text{g}$ at any time during the preceding year. The initial examination will provide information to establish a baseline to which subsequent data can be compared. An initial medical examination must also be made available (prior to assignment) for each employee being assigned for the first time to an area where the airborne concentration of lead equals or exceeds the action level. In addition, a medical examination or consultation must be made available as soon as possible if you notify your employer that you are experiencing signs or symptoms commonly associated with lead poisoning or that you have difficulty breathing while wearing a respirator or during a respirator fit test. You must also be provided a medical examination or consultation if you notify your employer that you desire medical advice concerning the effects of current or past exposure to lead on your ability to procreate a healthy child.

(F) Finally, appropriate follow-up medical examinations or consultations may also be provided for employees who have been temporarily removed from exposure under the

medical removal protection provisions of the standard (see item (ix) below).

(G) The standard specifies the minimum content of pre-assignment and annual medical examinations. The content of other types of medical examinations and consultations is left up to the sound discretion of the examining physician. Pre-assignment and annual medical examinations must include (I) a detailed work history and medical history, (II) a thorough physical examination, and (III) a series of laboratory tests designed to check your blood chemistry and your kidney function. In addition, at any time upon your request, a laboratory evaluation of male fertility will be made (microscopic examination of a sperm sample), or a pregnancy test will be given.

(H) The standard does not require that you participate in any of the medical procedures, tests, etc., which your employer is required to make available to you. Medical surveillance can, however, play a very important role in protecting your health. You are strongly encouraged, therefore, to participate in a meaningful fashion. Generally, your employer will choose the physician who conducts medical surveillance under the lead standard - unless you and your employer can agree on the choice of a physician or physicians. Some companies and unions have agreed in advance, for example, to use certain independent medical laboratories or panels of physicians. Any of these arrangements are acceptable so long as required medical surveillance is made available to workers.

(I) The standard requires your employer to provide certain information to a physician to aid in his or her examination of you. This information includes (I) the standard and its appendices, (II) a description of your duties as they relate to lead exposure, (III) your exposure level, (IV) a description of personal protective equipment you wear, (V) prior blood level results, and (VI) prior written medical opinions concerning you that the employer has. After a medical examination or consultation the physician must prepare a written report which must contain (I) the physician's opinion as to whether you have any medical conditions which places you at increased risk of material impairment to health from exposure to lead, (II) any recommended special protective measures to be provided to you, (III) any blood lead level determinations, and (IV) any recommended limitation on your use of respirators. This last element must include a determination of whether you can wear a powered air purifying respirator (PAPR) if you are found unable to wear a negative pressure respirator.

(J) The medical surveillance program of the lead standard may at some point in time serve to notify certain workers that they have acquired a disease or other adverse medical condition as a result of occupational lead exposure. If this is true these workers might have legal rights to compensation from public agencies, their employers, firms that supply hazardous products to their employers, or other persons. Some states have laws, including worker compensation laws, that disallow a worker to learn of a job-related health impairment to sue, unless the worker sues within a short period of time after learning of the impairment. (This period of time may be a matter of months or years.) An attorney can be consulted about these possibilities. It should be stressed that WISHA is

in no way trying to either encourage or discourage claims or lawsuits. However, since results of the standard's medical surveillance program can significantly affect the legal remedies of a worker who has acquired a job-related disease or impairment, it is proper for WISHA to make you aware of this.

(K) The medical surveillance section of the standard also contains provisions dealing with chelation. Chelation is the use of certain drugs (administered in pill form or injected into the body) to reduce the amount of lead absorbed in body tissues. Experience accumulated by the medical and scientific communities has largely confirmed the effectiveness of this type of therapy for the treatment of very severe lead poisoning. On the other hand it has also been established that there can be a long list of extremely harmful side effects associated with the use of chelating agents. The medical community has balanced the advantages and disadvantages resulting from the use of chelating agents in various circumstances and has established when the use of these agents is acceptable. The standard includes these accepted limitations due to a history of abuse of chelation therapy by some lead companies. The most widely used chelating agents are calcium disodium EDTA, (Ca Na₂EDTA), Calcium Disodium Versenate (Versenate), and d-penicillamine (penicillamine or Cupramine).

(L) The standard prohibits "prophylactic chelation" of any employee by any person the employer retains, supervises or controls. "Prophylactic chelation" is the routine use of chelating or similarly acting drugs to prevent elevated blood levels in workers who are occupationally exposed to lead, or the use of these drugs to routinely lower blood lead levels to predesignated concentrations believed to be safe. It should be emphasized that where an employer takes a worker who has no symptoms of lead poisoning and has chelation carried out by a physician (either inside or outside of a hospital) solely to reduce the worker's blood lead level, that will generally be considered prophylactic chelation. The use of a hospital and a physician does not mean that prophylactic chelation is not being performed. Routine chelation to prevent increased or reduce current blood lead levels is unacceptable whatever the setting.

(M) The standard allows the use of "therapeutic" or "diagnostic" chelation if administered under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring. Therapeutic chelation responds to severe lead poisoning where there are marked symptoms. Diagnostic chelation, involves giving a patient a dose of the drug then collecting all urine excreted for some period of time as an aid to the diagnosis of lead poisoning.

(N) In cases where the examining physician determines that chelation is appropriate, you must be notified in writing of this fact before such treatment. This will inform you of a potentially harmful treatment, and allow you to obtain a second opinion.

(ix) Medical removal protection.

(A) Excessive lead absorption subjects you to increased risk of disease. Medical removal protection (MRP) is a means of protecting you when for whatever reasons, other methods, such as engineering controls, work practices, and respirators, have failed to provide the protection you need. MRP involves

the temporary removal of a worker from his or her regular job to a place of significantly lower exposure without any loss of earnings, seniority, or other employment rights or benefits. The purpose of this program is to cease further lead absorption and allow your body to naturally excrete lead which has previously been absorbed. Temporary medical removal can result from an elevated blood lead level, or a medical opinion. Up to eighteen months of protection is provided as a result of either form of removal. The vast majority of removed workers, however, will return to their former jobs long before this eighteen month period expires. The standard contains special provisions to deal with the extraordinary but possible case where a long-term worker's blood lead level does not adequately decline during eighteen months of removal.

(B) During the first year of the standard, if your blood lead level is 80 µg/100g or above you must be removed from any exposure where your air lead level without a respirator would be 100 µg/m³ or above. If you are removed from your normal job you may not be returned until your blood lead level declines to at least 60 µg/100g. These criteria for removal and return will change according to the following schedule:

TABLE 1

Effective Date	Removal Blood Level (µg/100g)	Air Lead (µg/m ³)	Return Blood Lead (µg/100g)
9/6/81	At or above 70	50 or above	At or below 50
9/6/82	At or above 60	30 or above	At or below 40
9/6/84	At or above 50 averaged over six months	30 or above	At or below 0

(C) You may also be removed from exposure even if your blood lead levels are below these criteria if a final medical determination indicates that you temporarily need reduced lead exposure for medical reasons. If the physician who is implementing your employer's medical program makes a final written opinion recommending your removal or other special protective measures, your employer must implement the physician's recommendation. If you are removed in this manner, you may only be returned when the physician indicates it is safe for you to do so.

(D) The standard does not give specific instructions dealing with what an employer must do with a removed worker. Your job assignment upon removal is a matter for you, your employer and your union (if any) to work out consistent with existing procedures for job assignments. Each removal must be accomplished in a manner consistent with existing collective bargaining relationships. Your employer is given broad discretion to implement temporary removals so long as no attempt is made to override existing agreements. Similarly, a removed worker is provided no right to veto an employer's choice which satisfies the standard.

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(E) In most cases, employers will likely transfer removed employees to other jobs with sufficiently low lead exposure. Alternatively, a worker's hours may be reduced so that the time weighted average exposure is reduced, or he or she may be temporarily laid off if no other alternative is feasible.

(F) In all of these situations, MRP benefits must be provided during the period of removal - i.e., you continue to receive the same earnings, seniority, and other rights and benefits you would have had if you had not been removed. Earnings include more than just your base wage; it includes overtime, shift differentials, incentives, and other compensation you would have earned if you had not been removed. During the period of removal you must also be provided with appropriate follow-up medical surveillance. If you were removed because your blood lead level was too high, you must be provided with a monthly blood test. If a medical opinion caused your removal, you must be provided medical tests or examinations that the physician believes to be appropriate. If you do not participate in this follow-up medical surveillance, you may lose your eligibility for MRP benefits.

(G) When you are medically eligible to return to your former job, your employer must return you to your "former job status." This means that you are entitled to the position, wages, benefits, etc., you would have had if you had not been removed. If you would still be in your old job if no removal had occurred, that is where you go back. If not, you are returned consistent with whatever job assignment discretion your employer would have had if no removal had occurred. MRP only seeks to maintain your rights, not expand them or diminish them.

(H) If you are removed under MRP and you are also eligible for worker compensation or other compensation for lost wages, your employer's MRP benefits obligation is reduced by the amount that you actually receive from these other sources. This is also true if you obtain other employment during the time you are laid off with MRP benefits.

(I) The standard also covers situations where an employer voluntarily removes a worker from exposure to lead due to the effects of lead on the employee's medical condition, even though the standard does not require removal. In these situations MRP benefits must still be provided as though the standard required removal. Finally, it is important to note that in all cases where removal is required, respirators cannot be used as a substitute. Respirators may be used before removal becomes necessary, but not as an alternative to a transfer to a low exposure job, or to a lay-off with MRP benefits.

(x) Employee information and training.

(A) Your employer is required to provide an information and training program for all employees exposed to lead above the action level or who may suffer skin or eye irritation from lead. This program must inform these employees of the specific hazards associated with their work environment, protective measures which can be taken, the danger of lead to their bodies (including their reproductive systems), and their rights under the standard. In addition, your employer must make readily available to all employees, including those exposed below the action level, a copy of the standard and its appendices and must distribute to all employees any materials pro-

vided to the employer under the Washington Industrial Safety and Health Act (WISHA).

(B) Your employer is required to complete this training for all employees by March 4, 1981. After this date, all new employees must be trained prior to initial assignment to areas where there is possibility of exposure over the action level. This training program must also be provided at least annually thereafter.

(xi) Signs. The standard requires that the following warning sign be posted in work areas where the exposure to lead exceeds the PEL:

WARNING
LEAD WORK AREA
NO SMOKING OR EATING

(xii) Recordkeeping.

(A) Your employer is required to keep all records of exposure monitoring for airborne lead. These records must include the name and job classification of employees measured, details of the sampling and analytic techniques, the results of this sampling and the type of respiratory protection being worn by the person sampled. Your employer is also required to keep all records of biological monitoring and medical examination results. These must include the names of the employees, the physician's written opinion and a copy of the results of the examination. All of the above kinds of records must be kept for 40 years, or for at least 20 years after your termination of employment, whichever is longer.

(B) Recordkeeping is also required if you are temporarily removed from your job under the MRP program. This record must include your name and social security number, the date of your removal and return, how the removal was or is being accomplished, and whether or not the reason for the removal was an elevated blood lead level. Your employer is required to keep each medical removal record only for as long as the duration of an employee's employment.

(C) The standard requires that if you request to see or copy environmental monitoring, blood lead level monitoring, or medical removal records, they must be made available to you or to a representative that you authorize. Your union also has access to these records. Medical records other than PbBs must also be provided to you upon request, to your physician or to any other person whom you may specifically designate. Your union does not have access to your personal medical records unless you authorize their access.

(xiii) Observations of monitoring. When air monitoring for lead is performed at your work place as required by this standard, your employer must allow you or someone you designate to act as an observer of the monitoring. Observers are entitled to an explanation of the measurement procedure, and to record the results obtained. Since results will not normally be available at the time of the monitoring, observers are entitled to record or receive the results of the monitoring when returned by the laboratory. Your employer is required to provide the observer with any personal protective devices required to be worn by employees working in the areas that is being monitored. The employer must require the observer to wear all such equipment and to comply with all other applicable safety and health procedures.

(xiv) Effective date. The standard's effective date is September 6, 1980, and the employer's obligation under the standard begin to come into effect as of that date. The standard was originally adopted as WAC 296-62-07349 and later recodified to WAC 296-62-07521.

(c) Appendix C. Medical Surveillance Guidelines.

(i) Introduction.

(A) The primary purpose of the Washington Industrial Safety and Health Act of 1973 is to assure, so far as possible, safe and healthful working conditions for every working man and woman. The occupational health standard for inorganic lead* was promulgated to protect workers exposed to inorganic lead including metallic lead, all inorganic lead compounds and organic lead soaps.

*The term inorganic lead used throughout the medical surveillance appendices is meant to be synonymous with the definition of lead set forth in the standard.

(B) Under this final standard in effect as of September 6, 1980, occupational exposure to inorganic lead is to be limited to 50 µg/m³ (micrograms per cubic meter) based on an eight-hour time-weighted average (TWA). This level of exposure eventually must be achieved through a combination of engineering, work practice and other administrative controls. Periods of time ranging from one to ten years are provided for different industries to implement these controls which are based on individual industry considerations. Until these controls are in place, respirators must be used to meet the 50 µg/m³ exposure limit.

(C) The standard also provides for a program of biological monitoring and medical surveillance for all employees exposed to levels of inorganic lead above the action level of 30 µg/m³ for more than thirty days per year.

(D) The purpose of this document is to outline the medical surveillance provisions of the standard for inorganic lead, and to provide further information to the physician regarding the examination and evaluation of workers exposed to inorganic lead.

(E) Item (ii) provides a detailed description of the monitoring procedure including the required frequency of blood testing for exposed workers, provisions for medical removal protection (MRP), the recommended right of the employee to a second medical opinion, and notification and recordkeeping requirements of the employer. A discussion of the requirements for respirator use and respirator monitoring and WISHA's position on prophylactic chelation therapy are also included in this section.

(F) Item (iii) discusses the toxic effects and clinical manifestations of lead poisoning and effects of lead intoxication on enzymatic pathways in heme synthesis. The adverse effects on both male and female reproductive capacity and on the fetus are also discussed.

(G) Item (iv) outlines the recommended medical evaluation of the worker exposed to inorganic lead including details of the medical history, physical examination, and recommended laboratory tests, which are based on the toxic effects of lead as discussed in item (ii).

(H) Item (v) provides detailed information concerning the laboratory tests available for the monitoring of exposed workers. Included also is a discussion of the relative value of

each test and the limitations and precautions which are necessary in the interpretation of the laboratory results.

(I) Airborne levels to be achieved without reliance or respirator protection through a combination of engineering and work practice or other administrative controls are illustrated in the following table:

Industry	Permissible Lead Level/Compliance Date		
	200µg/m ³	100µg/m ³	50µg/m ³
Primary Lead Production	1973	06/29/84	06/29/91
Secondary Lead Production	1973	06/29/84	06/29/91
Lead Acid Battery Manufacturing	1973	06/29/83	06/29/91
Automobile Mfg./Solder, Grinding	1973	N/A	03/08/97
Electronics, Gray Iron Foundries, Ink Mfg., Paints and Coatings Mfg., Can Mfg., Wallpaper Mfg., and Printing.	1973	N/A	06/29/91
Lead Chemical Mfg., Non-ferrous Foundries, Leaded Steel Mfg., Battery Breaking in the Collection and Processing of Scrap (when not a part of secondary lead smelter) Secondary Copper Smelter, Brass and Bronze Ingot Production.	1973	N/A	N/A ^{1*}
All Other Industries	1973	N/A	09/08/92

* Feasibility of achieving the PEL by engineering and work practice controls for these industries has yet to be resolved in court, therefore no date has been scheduled.

(ii) Medical surveillance and monitoring requirements for workers exposed to inorganic lead.

(A) Under the occupational health standard for inorganic lead, a program of biological monitoring and medical surveillance is to be made available to all employees exposed to lead above the action level of 30 µg/m³ TWA for more than thirty days each year. This program consists of periodic blood sampling and medical evaluation to be performed on a schedule which is defined by previous laboratory results, worker complaints or concerns, and the clinical assessment of the examining physician.

(B) Under this program, the blood lead level of all employees who are exposed to lead above the action level of 30 µg/m³ is to be determined at least every six months. The frequency is increased to every two months for employees whose last blood lead level was between 40µg/100g whole blood and the level requiring employee medical removal to be discussed below. For employees who are removed from exposure to lead due to an elevated blood lead, a new blood lead level must be measured monthly. Zinc protoporphyrin (ZPP) measurement is required on each occasion that a blood lead level measurement is made.

(C) An annual medical examination and consultation performed under the guidelines discussed in item (iv) is to be made available to each employee for whom a blood test conducted at any time during the preceding twelve months indicated a blood lead level at or above 40 µg/100g. Also, an examination is to be given to all employees prior to their

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assignment to an area in which airborne lead concentrations reach or exceed the action level. In addition, a medical examination must be provided as soon as possible after notification by an employee that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice regarding lead exposure and the ability to procreate a healthy child, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during respirator use. An examination is also to be made available to each employee removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited or specially protected pursuant to medical recommendations.

(D) Results of biological monitoring or the recommendations of an examining physician may necessitate removal of an employee from further lead exposure pursuant to the standard's medical removal program (MRP). The object of the MRP program is to provide temporary medical removals to workers either with substantially elevated blood lead levels or otherwise at risk of sustaining material health impairment from continued substantial exposure to lead. The following guidelines which are summarized in Table 10 were created under the standard for the temporary removal of an exposed employee and his or her subsequent return to work in an exposure area.

TABLE 10

EFFECTIVE DATE

	Sept. 6, 1980	Sept. 6, 1981	Sept. 6, 1982	Sept. 6, 1983	Sept. 6, 1984
A. Blood lead level requiring employee medical removal (level must be confirmed with second follow-up blood lead level within two weeks of first report).	>80 µg/100g.	>70 µg/100g.	>60 µg/100g.	>60 µg/100g.	>60 µg/100g or average of last three blood samples or all blood samples over previous 6 months (whichever is over a longer time period) is 50 µg/100g. or greater unless last sample is 40 µg/100g or less.
B. Frequency which employees exposed is action level of lead (30 µg/m ⁸ TWA) must have blood lead level checked. (ZPP is also required in each occasion that a blood test is obtained):					
1. Last blood lead level less than 40 µg/100g.....	Every 6 months.				
2. Last blood lead level between 40 µg/100g and level requiring medical removal (see A above).....	Every 2 months.				
3. Employees removed from exposure to lead because of an elevated blood lead level.....	Every 1 month.	Every 1 month.	Every 1 month.	Every 1 month.	Every month.

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TABLE 10
EFFECTIVE DATE

	Sept. 6, 1980	Sept. 6, 1981	Sept. 6, 1982	Sept. 6, 1983	Sept. 6, 1984
C. Permissible airborne exposure limit for workers removed from work due to an elevated blood lead level (without regard to respirator protection).	100 µg/m ³ 8 hr TWA	50 µg/m ³ 8 hr TWA	30 µg/m ³ 8 hr TWA	30 µg/m ³ 8 hr TWA	30 µg/m ³ 8 hr TWA
D. Blood lead level confirmed with a second blood analysis, at which employee may return to work. Permissible exposure without regard to respirator protection is listed by industry in Table 1.	60 µg/100g	50 µg/100g	40 µg/100g	40 µg/100g	40 µg/100g

Note: Where medical opinion indicates that an employee is at risk of material impairment from exposure to lead, the physician can remove an employee from exposure exceeding the action level (or less) or recommend special protective measures as deemed appropriate and necessary. Medical monitoring during the medical removal period can be more stringent than noted in the table above if the physician so specifies. Return to work or removal of limitations and special protections is permitted when the physician indicates that the worker is no longer at risk of material impairment.

(E) Under the standard's ultimate worker removal criteria, a worker is to be removed from any work having any eight-hour TWA exposure to lead of 30 µg/m³ or more whenever either of the following circumstances apply. (I) a blood lead level of 60 µg/100g or greater is obtained and confirmed by a second follow-up blood lead level performed within two weeks after the employer receives the results of the first blood sample test, or (II) the average of the previous three blood lead determinations or the average of all blood lead determinations conducted during the previous six months, whichever encompasses the longest time period, equals or exceeds 50 µg/100g, unless the last blood sample indicates a blood lead level at or below 40 µg/100g, in which case the employee need not be removed. Medical removal is to continue until two consecutive blood lead levels are 40 µg/100g or less.

(F) During the first two years that the ultimate removal criteria are being phased in, the return criteria have been set to assure that a worker's blood lead level has substantially declined during the period of removal. From March 1, 1979, to March 1, 1980, the blood lead level requiring employee medical removal is 80 µg/100g. Workers found to have a confirmed blood lead at this level or greater need only be removed from work having a daily eight hour TWA exposure to lead at or above 100 µg/m³. Workers so removed are to be returned to work when their blood lead levels are at or below 60 µg/100g of whole blood. From March 1, 1980, to March 1, 1981, the blood lead level requiring medical removal is 70 µg/100g. During this period workers need only be removed from jobs having a daily eight hour TWA exposure to lead at or above 50 µg/m³ and are to be returned to work when a level of 50 µg/100g is achieved. Beginning March 1, 1981, return depends on the worker's blood lead level declining to 40 µg/100g of whole blood.

(G) As part of the standard, the employer is required to notify in writing each employee whose whole blood lead level exceeds 40 µg/100g. In addition, each such employee is to be informed that the standard requires medical removal

with MRP benefits, discussed below, when an employee's blood lead level exceeds the above defined limits.

(H) In addition to the above blood lead level criteria, temporary worker removal may also take place as a result of medical determinations and recommendations. Written medical opinions must be prepared after each examination pursuant to the standard. If the examining physician includes medical finding, determination or opinion that the employee has a medical condition which places the employee at increased risk of material health impairment from exposure to lead, then the employee must be removed from exposure to lead at or above the action level. Alternatively, if the examining physician recommends special protective measures for an employee (e.g., use of a powered air purifying respirator) or recommends limitations on an employee's exposure to lead, then the employer must implement these recommendations. Recommendations may be more stringent than the specific provisions of the standard. The examining physician, therefore, is given broad flexibility to tailor special protective procedures to the needs of individual employees. This flexibility extends to the evaluation and management of pregnant workers and male and female workers who are planning to conceive children. Based on the history, physical examination, and laboratory studies, the physician might recommend special protective measures or medical removal for an employee who is pregnant or who is planning to conceive a child when, in the physician's judgment, continued exposure to lead at the current job would pose a significant risk. The return of the employee to his or her former job status, or the removal of special protections or limitations, depends upon the examining physician determining that the employee is no longer at increased risk of material impairment or that the special measures are no longer needed.

(I) During the period of any form of special protection or removal, the employer must maintain the worker's earnings, seniority, and other employment rights and benefits (as though the worker has not been removed) for a period of up to eighteen months. This economic protection will maximize meaningful worker participation in the medical surveillance program, and is appropriate as part of the employer's overall

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obligation to provide a safe and healthful work place. The provisions of MRP benefits during the employee's removal period may, however, be conditioned upon participation in medical surveillance.

(J) On rare occasions, an employee's blood lead level may not acceptably decline within eighteen months of removal. This situation will arise only in unusual circumstances, thus the standard relies on an individual medical examination to determine how to protect such an employee. This medical determination is to be based on both laboratory values, including lead levels, zinc protoporphyrin levels, blood counts, and other tests felt to be warranted, as well as the physician's judgment that any symptoms or findings on physical examination are a result of lead toxicity. The medical determination may be that the employee is incapable of ever safely returning to his or her former job status. The medical determination may provide additional removal time past eighteen months for some employees or specify special protective measures to be implemented.

(K) The lead standard provides for a multiple physician review in cases where the employee wishes a second opinion concerning potential lead poisoning or toxicity. If an employee wishes a second opinion, he or she can make an appointment with a physician of his or her choice. This second physician will review the findings, recommendations or determinations of the first physician and conduct any examinations, consultations or tests deemed necessary in an attempt to make a final medical determination. If the first and second physicians do not agree in their assessment they must try to resolve their differences. If they cannot reach an agreement then they must designate a third physician to resolve the dispute.

(L) The employer must provide examining and consulting physicians with the following specific information: A copy of the lead regulations and all appendices, a description of the employee's duties as related to exposure, the exposure level to lead and any other toxic substances (if applicable), a description of personal protective equipment used, blood lead levels, and all prior written medical opinions regarding the employee in the employer's possession or control. The employer must also obtain from the physician and provide the employee with a written medical opinion containing blood lead levels, the physician's opinion as to whether the employee is at risk of material impairment to health, any recommended protective measures for the employee if further exposure is permitted, as well as any recommended limitations upon an employee's use of respirators.

(M) Employers must instruct each physician not to reveal to the employer in writing or in any other way his or her findings, laboratory results, or diagnoses which are felt to be unrelated to occupational lead exposure. They must also instruct each physician to advise the employee of any occupationally or nonoccupationally related medical condition requiring further treatment or evaluation.

(N) The standard provides for the use of respirators when engineering and other primary controls have not been fully implemented. However, the use of respirator protection shall not be used in lieu of temporary medical removal due to elevated blood lead levels or findings that an employee is at risk of material health impairment. This is based on the numerous

inadequacies of respirators including skin rash where the facepiece makes contact with the skin, unacceptable stress to breathing in some workers with underlying cardiopulmonary impairment, difficulty in providing adequate fit, the tendency for respirators to create additional hazards by interfering with vision, hearing, and mobility, and the difficulties of assuring the maximum effectiveness of a complicated work practice program involving respirators. Respirators do, however, serve a useful function where engineering and work practice are inadequate by providing interim or short-term protection, provided they are properly selected for the environment in which the employee will be working, properly fitted to the employee, maintained and cleaned periodically, and worn by the employee when required.

(O) In its final standard on occupational exposure to inorganic lead, WISHA has prohibited prophylactic chelation. Diagnostic and therapeutic chelation are permitted only under the supervision of a licensed physician with appropriate medical monitoring in an acceptable clinical setting. The decision to initiate chelation therapy must be made on an individual basis and take into account the severity of symptoms felt to be a result of lead toxicity along with blood lead levels, ZPP levels and other laboratory tests as appropriate. EDTA and penicillamine, which are the primary chelating agents used in the therapy of occupational lead poisoning, have significant potential side effects and their use must be justified on the basis of expected benefits to the worker.

(P) Unless frank and severe symptoms are present, therapeutic chelation is not recommended given the opportunity to remove a worker from exposure and allow the body to naturally excrete accumulated lead. As a diagnostic aid, the chelation mobilization test using CA-EDTA has limited applicability. According to some investigators, the tests can differentiate between lead-induced and other nephropathies. The test may also provide an estimation of the mobile fraction of the total body lead burden.

(Q) Employers are required to assure that accurate records are maintained on exposure monitoring, medical surveillance, and medical removal for each employee. Exposure monitoring and medical surveillance records must be kept for forty years or the duration of employment plus twenty years, whichever is longer, while medical removal records must be maintained for the duration of employment. All records required under the standard must be made available upon request to representatives of the director of the department of labor and industries. Employers must also make environmental and biological monitoring and medical removal records available to affected employees and to former employees or their authorized employee representatives. Employees or their specifically designated representatives have access to their entire medical surveillance records.

(R) In addition, the standard requires that the employer inform all workers exposed to lead at or above the action level of the provisions of the standard and all its appendices, the purpose and description of medical surveillance and provisions for medical removal protection if temporary removal is required. An understanding of the potential health effects of lead exposure by all exposed employees along with full understanding of their rights under the lead standard is essential for an effective monitoring program.

(iii) Adverse health effects of inorganic lead.

(A) Although the toxicity of lead has been known for 2,000 years, the knowledge of the complex relationship between lead exposure and human response is still being refined. Significant research into the toxic properties of lead continues throughout the world, and it should be anticipated that our understanding of thresholds of effects and margins of safety will be improved in future years. The provisions of the lead standard are founded on two prime medical judgments; first, the prevention of adverse health effects from exposure to lead throughout a working lifetime requires that worker blood lead levels be maintained at or below 40 $\mu\text{g}/100\text{g}$, and second, the blood lead levels of workers, male or female, who intend to parent in the near future should be maintained below 30 $\mu\text{g}/100\text{g}$ to minimize adverse reproduction health effects to the parent and developing fetus. The adverse effects of lead on reproduction are being actively researched and WISHA encourages the physician to remain abreast of recent developments in the area to best advise pregnant workers or workers planning to conceive children.

(B) The spectrum of health effects caused by lead exposure can be subdivided into five developmental states; normal, physiological changes of uncertain significance, pathophysiological changes, overt symptoms (morbidity), and mortality. Within this process there are no sharp distinctions, but rather a continuum of effects. Boundaries between categories overlap due to the wide variation of individual responses and exposures in the working population. WISHA's development of the lead standard focused on pathophysiological changes as well as later stages of disease.

(I) Heme synthesis inhibition.

a) The earliest demonstrated effect of lead involves its ability to inhibit at least two enzymes of the heme synthesis pathway at very low blood levels. Inhibition of delta aminolevulinic acid dehydrase (ALA-D) which catalyzes the conversion of delta-aminolevulinic acid (ALA) to protoporphyrin is observed at a blood lead level below 20 $\mu\text{g}/100\text{g}$ whole blood. At a blood lead level of 40 $\mu\text{g}/100\text{g}$, more than twenty percent of the population would have seventy percent inhibition of ALA-D. There is an exponential increase in ALA excretion at blood lead levels greater than 40 $\mu\text{g}/100\text{g}$.

b) Another enzyme, ferrochelatase, is also inhibited at low blood lead levels. Inhibition of ferrochelatase leads to increased free erythrocyte protoporphyrin (FEP) in the blood which can then bind to zinc to yield zinc protoporphyrin. At a blood lead level of 50 $\mu\text{g}/100\text{g}$ or greater, nearly 100 percent of the population will have an increase FEP. There is also an exponential relationship between blood lead levels greater than 40 $\mu\text{g}/100\text{g}$ and the associated ZPP level, which has led to the development of the ZPP screening test for lead exposure.

c) While the significance of these effects is subject to debate, it is WISHA's position that these enzyme disturbances are early stages of a disease process which may eventually result in the clinical symptoms of lead poisoning. Whether or not the effects do progress to the later stages of clinical disease, disruption of these enzyme processes over a working lifetime is considered to be a material impairment of health.

d) One of the eventual results of lead-induced inhibition of enzymes in the heme synthesis pathway is anemia which can be asymptomatic if mild but associated with a wide array of symptoms including dizziness, fatigue, and tachycardia when more severe. Studies have indicated that lead levels as low as 50 $\mu\text{g}/100\text{g}$ can be associated with a definite decreased hemoglobin, although most cases of lead-induced anemia, as well as shortened red-cell survival times, occur at lead levels exceeding 80 $\mu\text{g}/100\text{g}$. Inhibited hemoglobin synthesis is more common in chronic cases whereas shortened erythrocyte life span is more common in acute cases.

e) In lead-induced anemias, there is usually a reticulocytosis along with the presence of basophilic stippling, and ringed sideroblasts, although none of the above are pathognomonic for lead-induced anemia.

(II) Neurological effects.

a) Inorganic lead had been found to have toxic effects on both the central and peripheral nervous systems. The earliest stage of lead-induced central nervous system effects first manifest themselves in the form of behavioral disturbances and central nervous system symptoms including irritability, restlessness, insomnia and other sleep disturbances, fatigue, vertigo, headache, poor memory, tremor, depression, and apathy. With more severe exposure, symptoms can progress to drowsiness, stupor, hallucinations, delirium, convulsions and coma.

b) The most severe and acute form of lead poisoning which usually follows ingestion or inhalation of large amounts of lead is acute encephalopathy which may arise precipitously with the onset of intractable seizures, coma, cardiorespiratory arrest, and death within 48 hours.

c) While there is disagreement about what exposure levels are needed to produce the earliest symptoms, most experts agree that symptoms definitely can occur at blood lead levels of 60 $\mu\text{g}/100\text{g}$ whole blood and therefore recommend a 40 $\mu\text{g}/100\text{g}$ maximum. The central nervous system effects frequently are not reversible following discontinued exposure or chelation therapy and when improvement does occur, it is almost always only partial.

d) The peripheral neuropathy resulting from lead exposure characteristically involves only motor function with minimal sensory damage and has a marked predilection for the extensor muscles of the most active extremity. The peripheral neuropathy can occur with varying degrees of severity. The earliest and mildest form which can be detected in workers with blood lead levels as low as 50 $\mu\text{g}/100\text{g}$ is manifested by slowing or motor nerve conduction velocity often without clinical symptoms. With progression of the neuropathy there is development of painless extensor muscle weakness usually involving the extensor muscles of the fingers and hand in the most active upper extremity, followed in severe cases by wrist drop, much less commonly, foot drop.

e) In addition to slowing of nerve conduction, electromyographical studies in patients with blood lead levels greater than 50 $\mu\text{g}/100\text{g}$ have demonstrated a decrease in the number of acting motor unit potentials, an increase in the duration of motor unit potentials, and spontaneous pathological activity including fibrillations and fasciculation. Whether these effects occur at levels of 40 $\mu\text{g}/100\text{g}$ is undetermined.

f) While the peripheral neuropathies can occasionally be reversed with therapy, again such recovery is not assured particularly in the more severe neuropathies and often improvement is only partial. The lack of reversibility is felt to be due in part to segmental demyelination.

(III) Gastrointestinal. Lead may also effect the gastrointestinal system producing abdominal colic or diffuse abdominal pain, constipation, obstipation, diarrhea, anorexia, nausea and vomiting. Lead colic rarely develops at blood lead levels below 80 $\mu\text{g}/100\text{g}$.

(IV) Renal.

a) Renal toxicity represents one of the most serious health effects of lead poisoning. In the early stages of disease nuclear inclusion bodies can frequently be identified in proximal renal tubular cells. Renal functions remain normal and the changes in this stage are probably reversible. With more advanced disease there is progressive interstitial fibrosis and impaired renal function. Eventually extensive interstitial fibrosis ensues with sclerotic glomeruli and dilated and atrophied proximal tubules; all represent end stage kidney disease. Azotemia can be progressive, eventually resulting in frank uremia necessitating dialysis. There is occasionally associated hypertension and hyperuricemia with or without gout.

b) Early kidney disease is difficult to detect. The urinalysis is normal in early lead nephropathy and the blood urea nitrogen and serum creatinine increase only when two-thirds of kidney function is lost. Measurement of creatinine clearance can often detect earlier disease as can other methods of measurement of glomerular filtration rate. An abnormal Ca-EDTA mobilization test has been used to differentiate between lead-induced and other nephropathies, but this procedure is not widely accepted. A form of Fanconi syndrome with aminoaciduria, glycosuria, and hyperphosphaturia indicating severe injury to the proximal renal tubules is occasionally seen in children.

(V) Reproductive effects.

a) Exposure to lead can have serious effects on reproductive function in both males and females. In male workers exposed to lead there can be a decrease in sexual drive, impotence, decreased ability to produce healthy sperm, and sterility. Malformed sperm (teratospermia), decreased number of sperm (hypospermia), and sperm with decreased motility (asthenospermia) can occur. Teratospermia has been noted at mean blood lead levels of 53 $\mu\text{g}/100\text{g}$ and hypospermia and asthenospermia at 41 $\mu\text{g}/100\text{g}$. Furthermore, there appears to be a dose-response relationship for teratospermia in lead exposed workers.

b) Women exposed to lead may experience menstrual disturbances including dysmenorrhea, menorrhagia and amenorrhea. Following exposure to lead, women have a higher frequency of sterility, premature births, spontaneous miscarriages, and stillbirths.

c) Germ cells can be affected by lead and cause genetic damage in the egg or sperm cells before conception and result in failure to implant, miscarriage, stillbirth, or birth defects.

d) Infants of mothers with lead poisoning have a higher mortality during the first year and suffer from lowered birth weights, slower growth, and nervous system disorders.

e) Lead can pass through the placental barrier and lead levels in the mother's blood are comparable to concentrations of lead in the umbilical cord at birth. Transplacental passage becomes detectable at 12-14 weeks of gestation and increases until birth.

f) There is little direct data on damage to the fetus from exposure to lead but it is generally assumed that the fetus and newborn would be at least as susceptible to neurological damage as young children. Blood lead levels of 50-60 $\mu\text{g}/100\text{g}$ in children can cause significant neurobehavioral impairments, and there is evidence of hyperactivity at blood levels as low as 25 $\mu\text{g}/100\text{g}$. Given the overall body of literature concerning the adverse health effects of lead in children, WISHA feels that the blood lead level in children should be maintained below 30 $\mu\text{g}/100\text{g}$ with a population mean of 15 $\mu\text{g}/100\text{g}$. Blood lead levels in the fetus and newborn likewise should not exceed 30 $\mu\text{g}/100\text{g}$.

g) Because of lead's ability to pass through the placental barrier and also because of the demonstrated adverse effects of lead on reproductive function in both males and females as well as the risk of genetic damage of lead on both the ovum and sperm, WISHA recommends a 30 $\mu\text{g}/100\text{g}$ maximum permissible blood lead level in both males and females who wish to bear children.

(IV) Other toxic effects.

a) Debate and research continue on the effects of lead on the human body. Hypertension has frequently been noted in occupationally exposed individuals although it is difficult to assess whether this is due to lead's adverse effects on the kidneys or if some other mechanism is involved.

b) Vascular and electrocardiographic changes have been detected but have not been well characterized. Lead is thought to impair thyroid function and interfere with the pituitary-adrenal axis, but again these effects have not been well defined.

(iv) Medical evaluation.

(A) The most important principle in evaluating a worker for any occupational disease including lead poisoning is a high index of suspicion on the part of the examining physician. As discussed in Section (ii), lead can affect numerous organ systems and produce a wide array of signs and symptoms, most of which are nonspecific and subtle in nature at least in the early stages of disease. Unless serious concern for lead toxicity is present, many of the early clues to diagnosis may easily be overlooked.

(B) The crucial initial step in the medical evaluation is recognizing that a worker's employment can result in exposure to lead. The worker will frequently be able to define exposures to lead and lead-containing materials but often will not volunteer this information unless specifically asked. In other situations the worker may not know of any exposures to lead but the suspicion might be raised on the part of the physician because of the industry or occupation of the worker. Potential occupational exposure to lead and its compounds occur in at least 120 occupations, including lead smelting, the manufacture of lead storage batteries, the manufacture of lead pigments and products containing pigments, solder manufacture, shipbuilding and ship repair, auto manufacturing, construction, and painting.

(C) Once the possibility for lead exposure is raised, the focus can then be directed toward eliciting information from the medical history, physical exam, and finally from laboratory data to evaluate the worker for potential lead toxicity.

(D) A complete and detailed work history is important in the initial evaluation. A listing of all previous employment with information on work processes, exposure to fumes or dust, known exposures to lead or other toxic substances, respiratory protection used, and previous medical surveillance should all be included in the worker's record. Where exposure to lead is suspected, information concerning on-the-job personal hygiene, smoking or eating habits in work areas, laundry procedures, and use of any protective clothing or respiratory protection equipment should be noted. A complete work history is essential in the medical evaluation of a worker with suspected lead toxicity, especially when long-term effects such as neurotoxicity and nephrotoxicity are considered.

(E) The medical history is also of fundamental importance and should include a listing of all past and current medical conditions, current medications including proprietary drug intake, previous surgeries and hospitalizations, allergies, smoking history, alcohol consumption, and also nonoccupational lead exposures such as hobbies (hunting, riflery). Also known childhood exposures should be elicited. Any previous history of hematological, neurological, gastrointestinal, renal, psychological, gynecological, genetic, or reproductive problems should be specifically noted.

(F) A careful and complete review of systems must be performed to assess both recognized complaints and subtle or slowly acquired symptoms which the worker might not appreciate as being significant. The review of symptoms should include the following:

- General - weight loss, fatigue, decreased appetite.
- Head, Eyes, Ears, Nose, Throat (HEENT) - headaches, visual disturbance or decreased visual acuity, hearing deficits or tinnitus, pigmentation of the oral mucosa, or metallic taste in mouth.
- Cardiopulmonary - shortness of breath, cough, chest pains, palpitations, or orthopnea.
- Gastrointestinal - nausea, vomiting, heartburn, abdominal pain, constipation or diarrhea.
- Neurologic - irritability, insomnia, weakness (fatigue), dizziness, loss of memory, confusion, hallucinations, incoordination, ataxia, decreased strength in hands or feet, disturbance in gait, difficulty in climbing stairs, or seizures.
- Hematologic - pallor, easy fatigability, abnormal blood loss, melena.

Reproductive (male or female and spouse where relevant)

- history of infertility, impotence, loss of libido, abnormal menstrual periods, history of miscarriages, stillbirths, or children with birth defects.

Musculoskeletal

- muscle and joint pains.

(G) The physical examination should emphasize the neurological, gastrointestinal, and cardiovascular systems. The worker's weight and blood pressure should be recorded and the oral mucosa checked for pigmentation characteristic of a possible Burtonian or lead line on the gingiva. It should be noted, however, that the lead line may not be present even in severe lead poisoning if good oral hygiene is practiced.

(H) The presence of pallor on skin examination may indicate an anemia, which if severe might also be associated with a tachycardia. If an anemia is suspected, an active search for blood loss should be undertaken including potential blood loss through the gastrointestinal tract.

(I) A complete neurological examination should include an adequate mental status evaluation including a search for behavioral and psychological disturbances, memory testing, evaluation for irritability, insomnia, hallucinations, and mental clouding. Gait and coordination should be examined along with close observation for tremor. A detailed evaluation of peripheral nerve function including careful sensory and motor function testing is warranted. Strength testing particularly of extensor muscle groups of all extremities is of fundamental importance.

(J) Cranial nerve evaluation should also be included in the routine examination.

(K) The abdominal examination should include auscultation for bowel sounds and abnormal bruits and palpation for organomegaly, masses, and diffuse abdominal tenderness.

(L) Cardiovascular examination should evaluate possible early signs of congestive heart failure. Pulmonary status should be addressed particularly if respirator protection is contemplated.

(M) As part of the medical evaluation, the lead standard requires the following laboratory studies.

(I) Blood lead level.

(II) Hemoglobin and hematocrit determinations, red cell indices, and examination of the peripheral blood smear to evaluate red blood cell morphology.

(III) Blood urea nitrogen.

(IV) Serum creatinine.

(V) Routine urinalysis with microscopic examination.

(VI) A zinc protoporphyrin level.

(N) In addition to the above, the physician is authorized to order any further laboratory or other tests which he or she deems necessary in accordance with sound medical practice. The evaluation must also include pregnancy testing or laboratory evaluation of male fertility if requested by the employee.

(O) Additional tests which are probably not warranted on a routine basis but may be appropriate when blood lead and ZPP levels are equivocal include delta aminolevulinic acid and coproporphyrin concentrations in the urine, and dark-

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field illumination for detection of basophilic stippling in red blood cells.

(P) If an anemia is detected further studies including a careful examination of the peripheral smear, reticulocyte count, stool for occult blood, serum iron, total iron binding capacity, bilirubin, and, if appropriate vitamin B12 and folate may be of value in attempting to identify the cause of the anemia.

(Q) If a peripheral neuropathy is suspected, nerve conduction studies are warranted both for diagnosis and as a basis to monitor any therapy.

(R) If renal disease is questioned, a 24-hour urine collection for creatinine clearance, protein, and electrolytes may be indicated. Elevated uric acid levels may result from lead-induced renal disease and a serum uric acid level might be performed.

(S) An electrocardiogram and chest X ray may be obtained as deemed appropriate.

(T) Sophisticated and highly specialized testing should not be done routinely and where indicated should be under the direction of a specialist.

(v) Laboratory evaluation.

(A) The blood level at present remains the single most important test to monitor lead exposure and is the test used in the medical surveillance program under the lead standard to guide employee medical removal. The ZPP has several advantages over the blood lead level. Because of its relatively recent development and the lack of extensive data concerning its interpretation, the ZPP currently remains an ancillary test.

(B) This section will discuss the blood lead level and ZPP in detail and will outline their relative advantages and disadvantages. Other blood tests currently available to evaluate lead exposure will also be reviewed.

(C) The blood lead level is a good index of current or recent lead absorption when there is no anemia present and when the worker has not taken any chelating agents. However, blood lead levels along with urinary lead levels do not necessarily indicate the total body burden of lead and are not adequate measures of past exposure. One reason for this is that lead has a high affinity for bone and up to 90 percent of the body's total lead is deposited there. A very important component of the total lead body burden is lead in soft tissue (liver, kidneys, and brain). This fraction of the lead body burden, the biologically active lead, is not entirely reflected by blood lead levels since it is a function of the dynamics of lead absorption, distribution, deposition in bone and excretion. Following discontinuation of exposure to lead, the excess body burden is only slowly mobilized from bone and other relatively stable stores and excreted. Consequently, a high blood lead level may only represent recent heavy exposure to lead without a significant total body excess and likewise a low blood lead level does not exclude an elevated total body burden of lead.

(D) Also due to its correlation with recent exposures, the blood lead level may vary considerably over short time intervals.

(E) To minimize laboratory error and erroneous results due to contamination, blood specimens must be carefully collected after thorough cleaning of the skin with appropriate methods using lead-free containers and analyzed by a reliable

laboratory. Under the standard, samples must be analyzed in laboratories which are approved by the Center for Disease Control (CDC) or which have received satisfactory grades in proficiency testing by the CDC in the previous year. Analysis is to be made using atomic absorption spectrophotometry anodic stripping; voltammetry or any method which meets the accuracy requirements set forth by the standard.

(F) The determination of lead in urine is generally considered a less reliable monitoring technique than analysis of whole blood primarily due to individual variability in urinary excretion capacity as well as the technical difficulty of obtaining accurate 24 hour urine collections. In addition, workers with renal insufficiency, whether due to lead or some other cause, may have decreased lead clearance and consequently urine lead levels may underestimate the true lead burden. Therefore, urine lead levels should not be used as a routine test.

(G) The zinc protoporphyrin test, unlike the blood lead determination, measures an adverse metabolic effect of lead and as such is a better indicator of lead toxicity than the level of blood lead itself. The level of ZPP reflects lead absorption over the preceding three to four months, and therefore is a better indicator of lead body burden. The ZPP requires more time than the blood lead to read significantly elevated levels; the return to normal after discontinuing lead exposure is also slower. Furthermore, the ZPP test is simpler, faster, and less expensive to perform and no contamination is possible. Many investigators believe it is the most reliable means of monitoring chronic lead absorption.

(H) Zinc protoporphyrin results from the inhibition of the enzyme ferrochelatase which catalyzes the insertion of an iron molecule into the protoporphyrin molecule, which then becomes heme. If iron is not inserted into the molecule then zinc, having a greater affinity for protoporphyrin, takes place in the iron, forming ZPP.

(I) An elevation in the level of circulating ZPP may occur at blood lead levels as low as 20-30 $\mu\text{g}/100\text{g}$ in some workers. Once the blood lead level has reached 40 $\mu\text{g}/100\text{g}$ there is more marked rise in the ZPP value from its normal range of less than 100 $\mu\text{g}/100\text{ml}$. Increases in blood lead levels beyond 40 $\mu\text{g}/100\text{g}$ are associated with exponential increases in ZPP.

(J) Whereas blood lead levels fluctuate over short time spans, ZPP levels remain relatively stable. ZPP is measured directly in red blood cells and is present for the cell's entire 120 day lifespan. Therefore, the ZPP level in blood reflects the average ZPP production over the previous three to four months and consequently the average lead exposure during that time interval.

(K) It is recommended that a hematocrit be determined whenever a confirmed ZPP of 50 $\mu\text{g}/100\text{ml}$ whole blood is obtained to rule out a significant underlying anemia. If the ZPP is in excess of 100 $\mu\text{g}/100\text{ml}$ and not associated with abnormal elevations in blood lead levels, the laboratory should be checked to be sure the blood leads were determined using atomic absorption spectrophotometry, anodic stripping voltammetry or any method which meets the accuracy requirements set forth by the standard, by a CDC approved laboratory which is experienced in lead level determinations. Repeat periodic blood lead studies should be obtained in all

individuals with elevated ZPP levels to be certain that an associated elevated blood lead level has not been missed due to transient fluctuations in blood leads.

(L) ZPP has characteristic fluorescence spectrum with a peak at 594nm which is detectable with a hematofluorimeter. The hematofluorimeter is accurate and portable and can provide on-site, instantaneous results for workers who can be frequently tested via a finger prick.

(M) However, careful attention must be given to calibration and quality control procedures. Limited data on blood lead -ZPP correlations and the ZPP levels which are associated with the adverse health effects discussed in item (ii) are the major limitations of the test. Also it is difficult to correlate ZPP levels with environmental exposure and there is some variation of response with age and sex. Nevertheless, the ZPP promises to be an important diagnostic test for the early detection of lead toxicity and its value will increase as more data is collected regarding its relationship to other manifestations of lead poisoning.

(N) Levels of delta-aminolevulinic acid (ALA) in the urine are also used as a measure of lead exposure. Increasing concentrations of ALA are believed to result from the inhibition of the enzyme delta-aminolevulinic acid dehydrase (ALA-D). Although the test is relatively easy to perform, inexpensive, and rapid, the disadvantages include variability in results, the necessity to collect a complete 24 hour urine sample which has a specific gravity greater than 1.010, and also the fact that ALA decomposes in the presence of light.

(O) The pattern of porphyrin excretion in the urine can also be helpful in identifying lead intoxication. With lead poisoning, the urine concentrations of coproporphyrins I and II, porphobilinogen and uroporphyrin I rise. The most important increase, however, is that of coproporphyrin III; levels may exceed 5,000 $\mu\text{g}/\text{l}$ in the urine in lead poisoned individuals, but its correlation with blood lead levels and ZPP are not as good as those of ALA. Increases in urinary porphyrins are not diagnostic of lead toxicity and may be seen in porphyria, some liver diseases, and in patients with high reticulocyte counts.

(vi) Summary.

(A) The WISHA standard for inorganic lead places significant emphasis on the medical surveillance of all workers exposed to levels of inorganic lead above the action level of 30 $\mu\text{g}/\text{m}^3$ TWA. The physician has a fundamental role in this surveillance program, and in the operation of the medical removal protection program.

(B) Even with adequate worker education on the adverse health effects of lead and appropriate training in work practices, personal hygiene and other control measures, the physician has a primary responsibility for evaluating potential lead toxicity in the worker. It is only through a careful and detailed medical and work history, a complete physical examination and appropriate laboratory testing that an accurate assessment can be made. Many of the adverse health effects of lead toxicity are either irreversible or only partially reversible and therefore early detection of disease is very important.

(C) This document outlines the medical monitoring program as defined by the occupational safety and health standard for inorganic lead. It reviews the adverse health effects of lead poisoning and describes the important elements of the

history and physical examinations as they relate to these adverse effects.

(D) It is hoped that this review and discussion will give the physician a better understanding of the WISHA standard with the ultimate goal of protecting the health and well-being of the worker exposed to lead under his or her care.

(d) Appendix D. Recommendations to employers concerning high-risk tasks (nonmandatory).

The department advises employers that the following tasks have a high risk for lead overexposure (this list is not complete; other tasks also can result in lead over-exposure):

- Any open flame operation involving lead-containing solder in a manner producing molten solder, including the manufacture or repair of motor vehicle radiators;
- Sanding, cutting or grinding of lead-containing solder;
- Breaking, recycling or manufacture of lead-containing batteries;
- Casting objects using lead, brass, or lead-containing alloys;
- Where lead-containing coatings or paints are present:
 - abrasive blasting
 - welding
 - cutting
 - torch burning
 - manual demolition of structures
 - manual scraping
 - manual sanding
 - heat gun applications
 - power tool cleaning
 - rivet busting
 - clean-up activities where dry expendable abrasives are used
 - abrasive blasting enclosure movement and removal;
- Spray-painting with lead-containing paint;
- Using lead-containing mortar;
- Lead burning;
- Operation or cleaning of shooting facilities where lead bullets are used;
- Formulation or processing of lead-containing pigments or paints;
- Cutting, burning, or melting of lead-containing materials.

The department recommends that annual blood lead testing be offered to all employees potentially overexposed to lead, including those performing the tasks listed above, regardless of air lead levels. Research has shown that air lead levels often do not accurately predict workers' lead overexposure. The blood lead testing will provide the most information if performed during a period of peak lead exposure.

Employers should be aware that the United States Public Health Service has set a goal of eliminating occupational exposures which result in whole blood lead levels of 25 $\mu\text{g}/\text{dl}$ or greater. This goal should guide whether employees' blood lead levels indicate lead overexposure.

If blood lead levels are elevated in an employee performing a task associated with lead overexposure, employers should assess the maintenance and effectiveness of exposure controls, hygiene facilities, respiratory protection program, the employee's work practices and personal hygiene, and the

employee's respirator use, if any. If a deficiency exists in any of these areas, the employer should correct the problem.

AMENDATORY SECTION (Amending WSR 02-12-098, filed 6/5/02, effective 8/1/02)

WAC 296-62-07540 Formaldehyde. (1) Scope and application. This standard applies to all occupational exposures to formaldehyde, i.e., from formaldehyde gas, its solutions, and materials that release formaldehyde.

(2) Definitions. For purposes of this standard, the following definitions shall apply:

(a) "Action level" means a concentration of 0.5 part formaldehyde per million parts of air (0.5 ppm) calculated as an 8-hour time-weighted average (TWA) concentration.

(b) "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 and the National Institute for Occupational Safety and Health, the provision of WAC 296-800-370 shall apply.

(c) "Authorized person" means any person required by work duties to be present in regulated work areas, or authorized to do so by the employer, by this section of the standard, or by the WISHA Act.

(d) "Director" means the director of the department of labor and industries, or his/her designated representative.

(e) "Emergency" is any occurrence, such as but not limited to equipment failure, rupture of containers, or failure of control equipment that results in an uncontrolled release of a significant amount of formaldehyde.

(f) "Employee exposure" means the exposure to airborne formaldehyde which would occur without corrections for protection provided by any respirator that is in use.

(g) "Formaldehyde" means the chemical substance, HCHO, Chemical Abstracts Service Registry No. 50-00-0.

(3) Permissible exposure limit (PEL).

(a) TWA: The employer shall assure that no employee is exposed to an airborne concentration of formaldehyde which exceeds 0.75 part formaldehyde per million parts of air as an 8-hour TWA.

(b) Short term exposure limit (STEL): The employer shall assure that no employee is exposed to an airborne concentration of formaldehyde which exceeds two parts formaldehyde per million parts of air (2 ppm) as a fifteen-minute STEL.

(4) Exposure monitoring.

(a) General.

(i) Each employer who has a workplace covered by this standard shall monitor employees to determine their exposure to formaldehyde.

(ii) Exception. Where the employer documents, using objective data, that the presence of formaldehyde or formaldehyde-releasing products in the workplace cannot result in airborne concentrations of formaldehyde that would cause any employee to be exposed at or above the action level or the STEL under foreseeable conditions of use, the employer will

not be required to measure employee exposure to formaldehyde.

(iii) When an employee's exposure is determined from representative sampling, the measurements used shall be representative of the employee's full shift or short-term exposure to formaldehyde, as appropriate.

(iv) Representative samples for each job classification in each work area shall be taken for each shift unless the employer can document with objective data that exposure levels for a given job classification are equivalent for different workshifts.

(b) Initial monitoring. The employer shall identify all employees who may be exposed at or above the action level or at or above the STEL and accurately determine the exposure of each employee so identified.

(i) Unless the employer chooses to measure the exposure of each employee potentially exposed to formaldehyde, the employer shall develop a representative sampling strategy and measure sufficient exposures within each job classification for each workshift to correctly characterize and not underestimate the exposure of any employee within each exposure group.

(ii) The initial monitoring process shall be repeated each time there is a change in production, equipment, process, personnel, or control measures which may result in new or additional exposure to formaldehyde.

(iii) If the employer receives reports or signs or symptoms of respiratory or dermal conditions associated with formaldehyde exposure, the employer shall promptly monitor the affected employee's exposure.

(c) Periodic monitoring.

(i) The employer shall periodically measure and accurately determine exposure to formaldehyde for employees shown by the initial monitoring to be exposed at or above the action level or at or above the STEL.

(ii) If the last monitoring results reveal employee exposure at or above the action level, the employer shall repeat monitoring of the employees at least every six months.

(iii) If the last monitoring results reveal employee exposure at or above the STEL, the employer shall repeat monitoring of the employees at least once a year under worst conditions.

(d) Termination of monitoring. The employer may discontinue periodic monitoring for employees if results from two consecutive sampling periods taken at least seven days apart show that employee exposure is below the action level and the STEL. The results must be statistically representative and consistent with the employer's knowledge of the job and work operation.

(e) Accuracy of monitoring. Monitoring shall be accurate, at the ninety-five percent confidence level, to within plus or minus twenty-five percent for airborne concentrations of formaldehyde at the TWA and the STEL and to within plus or minus thirty-five percent for airborne concentrations of formaldehyde at the action level.

(f) Employee notification of monitoring results. Within fifteen days of receiving the results of exposure monitoring conducted under this standard, the employer shall notify the affected employees of these results. Notification shall be in writing, either by distributing copies of the results to the

employees or by posting the results. If the employee exposure is over either PEL, the employer shall develop and implement a written plan to reduce employee exposure to or below both PELs, and give written notice to employees. The written notice shall contain a description of the corrective action being taken by the employer to decrease exposure.

(g) Observation of monitoring.

(i) The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to formaldehyde required by this standard.

(ii) When observation of the monitoring of employee exposure to formaldehyde requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the clothing and equipment to the observer, require the observer to use such clothing and equipment, and assure that the observer complies with all other applicable safety and health procedures.

(5) Regulated areas.

(a) The employer shall establish regulated areas where the concentration of airborne formaldehyde exceeds either the TWA or the STEL and post all entrances and accessways with signs bearing the following information:

DANGER
FORMALDEHYDE
IRRITANT AND POTENTIAL CANCER HAZARD
AUTHORIZED PERSONNEL ONLY

(b) The employer shall limit access to regulated areas to authorized persons who have been trained to recognize the hazards of formaldehyde.

(c) An employer at a multiemployer worksite who establishes a regulated area shall communicate the access restrictions and locations of these areas to other employers with work operations at that worksite.

(6) Methods of compliance.

(a) Engineering controls and work practices. The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to formaldehyde at or below the TWA and the STEL.

(b) Exception. Whenever the employer has established that feasible engineering and work practice controls cannot reduce employee exposure to or below either of the PELs, the employer shall apply these controls to reduce employee exposures to the extent feasible and shall supplement them with respirators which satisfy this standard.

(7) Respiratory protection.

(a) General. For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(i) Periods necessary to install or implement feasible engineering and work-practice controls;

(ii) Work operations, such as maintenance and repair activities or vessel cleaning, for which the employer establishes that engineering and work-practice controls are not feasible;

(iii) Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce exposure to or below the PELs;

(iv) Emergencies.

(b) Respirator program.

(i) The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1), 296-62-07131(4), and 296-62-07150 through 296-62-07156).

(ii) If air-purifying chemical-cartridge respirators are used, the employer must:

(A) Replace the cartridge after three hours of use or at the end of the workshift, whichever occurs first, unless the cartridge contains a NIOSH-certified end-of-service-life indicator (ESLI) to show when breakthrough occurs.

(B) Unless the canister contains a NIOSH-certified ESLI to show when breakthrough occurs, replace canisters used in atmospheres up to 7.5 ppm (10 x PEL) every four hours and industrial-sized canisters used in atmospheres up to 75 ppm (100 x PEL) every two hours, or at the end of the workshift, whichever occurs first.

(c) Respirator selection.

(i) The employer must select appropriate respirators from Table 1 of this section.

TABLE 1
MINIMUM REQUIREMENTS FOR RESPIRATORY PROTECTION
AGAINST FORMALDEHYDE

Condition of use or formaldehyde concentration (ppm)	Minimum respirator required ¹
Up to 7.5 ppm (10 x PEL)	Full facepiece with cartridges or canisters specifically approved for protection against formaldehyde ² .
Up to 75 ppm (100 x PEL) . . .	Full-face mask with chin style or chest or back mounted type industrial size canister specifically approved for protection against formaldehyde. Type C supplied-air respirator pressure demand or continuous flow type, with full facepiece, hood, or helmet.
Above 75 ppm or unknown (emergencies) (100 x PEL)	Self-contained breathing apparatus (SCBA) with positive-pressure full facepiece. Combination supplied-air, full facepiece positive-pressure respirator with auxiliary self-contained air supply.
Fire fighting	SCBA with positive-pressure in full facepiece.

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TABLE 1
MINIMUM REQUIREMENTS FOR RESPIRATORY PROTECTION
AGAINST FORMALDEHYDE

Escape.	SCBA in demand or pressure demand mode. Full-face mask with chin style or front or back mounted type industrial size canister specifically approved for protection against formaldehyde.
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¹ Respirators specified for use at higher concentrations may be used at lower concentrations.

² A half-mask respirator with cartridges specifically approved for protection against formaldehyde can be substituted for the full facepiece respirator providing that effective gas-proof goggles are provided and used in combination with the half-mask respirator.

(ii) The employer must provide a powered air-purifying respirator adequate to protect against formaldehyde exposure to any employee who has difficulty using a negative-pressure respirator.

(8) Protective equipment and clothing. Employers shall comply with the provisions of WAC 296-800-160. When protective equipment or clothing is provided under these provisions, the employer shall provide these protective devices at no cost to the employee and assure that the employee wears them.

(a) Selection. The employer shall select protective clothing and equipment based upon the form of formaldehyde to be encountered, the conditions of use, and the hazard to be prevented.

(i) All contact of the eyes and skin with liquids containing one percent or more formaldehyde shall be prevented by the use of chemical protective clothing made of material impervious to formaldehyde and the use of other personal protective equipment, such as goggles and face shields, as appropriate to the operation.

(ii) Contact with irritating or sensitizing materials shall be prevented to the extent necessary to eliminate the hazard.

(iii) Where a face shield is worn, chemical safety goggles are also required if there is a danger of formaldehyde reaching the area of the eye.

(iv) Full body protection shall be worn for entry into areas where concentrations exceed 100 ppm and for emergency reentry into areas of unknown concentration.

(b) Maintenance of protective equipment and clothing.

(i) The employer shall assure that protective equipment and clothing that has become contaminated with formaldehyde is cleaned or laundered before its reuse.

(ii) When ventilating formaldehyde-contaminated clothing and equipment, the employer shall establish a storage area so that employee exposure is minimized. Containers for contaminated clothing and equipment and storage areas shall have labels and signs containing the following information:

DANGER

FORMALDEHYDE-CONTAMINATED (CLOTHING) EQUIPMENT
AVOID INHALATION AND SKIN CONTACT

(iii) The employer shall assure that only persons trained to recognize the hazards of formaldehyde remove the contaminated material from the storage area for purposes of cleaning, laundering, or disposal.

(iv) The employer shall assure that no employee takes home equipment or clothing that is contaminated with formaldehyde.

(v) The employer shall repair or replace all required protective clothing and equipment for each affected employee as necessary to assure its effectiveness.

(vi) The employer shall inform any person who launders, cleans, or repairs such clothing or equipment of formaldehyde's potentially harmful effects and of procedures to safely handle the clothing and equipment.

(9) Hygiene protection.

(a) The employer shall provide change rooms, as described in WAC 296-24-120 for employees who are required to change from work clothing into protective clothing to prevent skin contact with formaldehyde.

(b) If employees' skin may become splashed with solutions containing one percent or greater formaldehyde, for example because of equipment failure or improper work practices, the employer shall provide conveniently located quick drench showers and assure that affected employees use these facilities immediately.

(c) If there is any possibility that an employee's eyes may be splashed with solutions containing 0.1 percent or greater formaldehyde, the employer shall provide acceptable eye-wash facilities within the immediate work area for emergency use.

(10) Housekeeping. For operations involving formaldehyde liquids or gas, the employer shall conduct a program to detect leaks and spills, including regular visual inspections.

(a) Preventative maintenance of equipment, including surveys for leaks, shall be undertaken at regular intervals.

(b) In work areas where spillage may occur, the employer shall make provisions to contain the spill, to decontaminate the work area, and to dispose of the waste.

(c) The employer shall assure that all leaks are repaired and spills are cleaned promptly by employees wearing suitable protective equipment and trained in proper methods for cleanup and decontamination.

(d) Formaldehyde-contaminated waste and debris resulting from leaks or spills shall be placed for disposal in sealed containers bearing a label warning of formaldehyde's presence and of the hazards associated with formaldehyde.

(11) Emergencies. For each workplace where there is the possibility of an emergency involving formaldehyde, the employer shall assure appropriate procedures are adopted to minimize injury and loss of life. Appropriate procedures shall be implemented in the event of an emergency.

(12) Medical surveillance.

(a) Employees covered.

(i) The employer shall institute medical surveillance programs for all employees exposed to formaldehyde at concen-

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trations at or exceeding the action level or exceeding the STEL.

(ii) The employer shall make medical surveillance available for employees who develop signs and symptoms of overexposure to formaldehyde and for all employees exposed to formaldehyde in emergencies. When determining whether an employee may be experiencing signs and symptoms of possible overexposure to formaldehyde, the employer may rely on the evidence that signs and symptoms associated with formaldehyde exposure will occur only in exceptional circumstances when airborne exposure is less than 0.1 ppm and when formaldehyde is present in materials in concentrations less than 0.1 percent.

(b) Examination by a physician. All medical procedures, including administration of medical disease questionnaires, shall be performed by or under the supervision of a licensed physician and shall be provided without cost to the employee, without loss of pay, and at a reasonable time and place.

(c) Medical disease questionnaire. The employer shall make the following medical surveillance available to employees prior to assignment to a job where formaldehyde exposure is at or above the action level or above the STEL and annually thereafter. The employer shall also make the following medical surveillance available promptly upon determining that an employee is experiencing signs and symptoms indicative of possible overexposure to formaldehyde.

(i) Administration of a medical disease questionnaire, such as in Appendix D, which is designed to elicit information on work history, smoking history, any evidence of eye, nose, or throat irritation; chronic airway problems or hyperreactive airway disease; allergic skin conditions or dermatitis; and upper or lower respiratory problems.

(ii) A determination by the physician, based on evaluation of the medical disease questionnaire, of whether a medical examination is necessary for employees not required to wear respirators to reduce exposure to formaldehyde.

(d) Medical examinations. Medical examinations shall be given to any employee who the physician feels, based on information in the medical disease questionnaire, may be at increased risk from exposure to formaldehyde and at the time of initial assignment and at least annually thereafter to all employees required to wear a respirator to reduce exposure to formaldehyde. The medical examination shall include:

(i) A physical examination with emphasis on evidence of irritation or sensitization of the skin and respiratory system, shortness of breath, or irritation of the eyes.

(ii) Laboratory examinations for respirator wearers consisting of baseline and annual pulmonary function tests. As a minimum, these tests shall consist of forced vital capacity (FVC), forced expiratory volume in one second (FEV1), and forced expiratory flow (FEF).

(iii) Any other test which the examining physician deems necessary to complete the written opinion.

(iv) Counseling of employees having medical conditions that would be directly or indirectly aggravated by exposure to formaldehyde on the increased risk of impairment of their health.

(e) Examinations for employees exposed in an emergency. The employer shall make medical examinations avail-

able as soon as possible to all employees who have been exposed to formaldehyde in an emergency.

(i) The examination shall include a medical and work history with emphasis on any evidence of upper or lower respiratory problems, allergic conditions, skin reaction or hypersensitivity, and any evidence of eye, nose, or throat irritation.

(ii) Other examinations shall consist of those elements considered appropriate by the examining physician.

(f) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and Appendices A, C, D, and E;

(ii) A description of the affected employee's job duties as they relate to the employee's exposure to formaldehyde;

(iii) The representative exposure level for the employee's job assignment;

(iv) Information concerning any personal protective equipment and respiratory protection used or to be used by the employee; and

(v) Information from previous medical examinations of the affected employee within the control of the employer.

(vi) In the event of a nonroutine examination because of an emergency, the employer shall provide to the physician as soon as possible: A description of how the emergency occurred and the exposure the victim may have received.

(g) Physician's written opinion.

(i) For each examination required under this standard, the employer shall obtain a written opinion from the examining physician. This written opinion shall contain the results of the medical examination except that it shall not reveal specific findings or diagnoses unrelated to occupational exposure to formaldehyde. The written opinion shall include:

(A) The physician's opinion as to whether the employee has any medical condition that would place the employee at an increased risk of material impairment of health from exposure to formaldehyde;

(B) Any recommended limitations on the employee's exposure or changes in the use of personal protective equipment, including respirators;

(C) A statement that the employee has been informed by the physician of any medical conditions which would be aggravated by exposure to formaldehyde, whether these conditions may have resulted from past formaldehyde exposure or from exposure in an emergency, and whether there is a need for further examination or treatment.

(ii) The employer shall provide for retention of the results of the medical examination and tests conducted by the physician.

(iii) The employer shall provide a copy of the physician's written opinion to the affected employee within fifteen days of its receipt.

(h) Medical removal.

(i) The provisions of this subdivision apply when an employee reports significant irritation of the mucosa of the eyes or of the upper airways, respiratory sensitization, dermal irritation, or dermal sensitization attributed to workplace formaldehyde exposure. Medical removal provisions do not apply in case of dermal irritation or dermal sensitization

when the product suspected of causing the dermal condition contains less than 0.05% formaldehyde.

(ii) An employee's report of signs or symptoms of possible overexposure to formaldehyde shall be evaluated by a physician selected by the employer pursuant to (c) of this subsection. If the physician determines that a medical examination is not necessary under (c)(ii) of this subsection, there shall be a two-week evaluation and remediation period to permit the employer to ascertain whether the signs or symptoms subside untreated or with the use of creams, gloves, first-aid treatment, or personal protective equipment. Industrial hygiene measures that limit the employee's exposure to formaldehyde may also be implemented during this period. The employee shall be referred immediately to a physician prior to expiration of the two-week period if the signs or symptoms worsen. Earnings, seniority, and benefits may not be altered during the two-week period by virtue of the report.

(iii) If the signs or symptoms have not subsided or been remedied by the end of the two-week period, or earlier if signs or symptoms warrant, the employee shall be examined by a physician selected by the employer. The physician shall presume, absent contrary evidence, that observed dermal irritation or dermal sensitization are not attributable to formaldehyde when products to which the affected employee is exposed contain less than 0.1% formaldehyde.

(iv) Medical examinations shall be conducted in compliance with the requirements of (e)(i) and (ii) of this subsection. Additional guidelines for conducting medical exams are contained in WAC 296-62-07546, Appendix C.

(v) If the physician finds that significant irritation of the mucosa of the eyes or the upper airways, respiratory sensitization, dermal irritation, or dermal sensitization result from workplace formaldehyde exposure and recommends restrictions or removal. The employer shall promptly comply with the restrictions or recommendations of removal. In the event of a recommendation of removal, the employer shall remove the affected employee from the current formaldehyde exposure and if possible, transfer the employee to work having no or significantly less exposure to formaldehyde.

(vi) When an employee is removed pursuant to item (v) of this subdivision, the employer shall transfer the employee to comparable work for which the employee is qualified or can be trained in a short period (up to six months), where the formaldehyde exposures are as low as possible, but not higher than the action level. The employer shall maintain the employee's current earnings, seniority, and other benefits. If there is no such work available, the employer shall maintain the employee's current earnings, seniority, and other benefits until such work becomes available, until the employee is determined to be unable to return to workplace formaldehyde exposure, until the employee is determined to be able to return to the original job status, or for six months, whichever comes first.

(vii) The employer shall arrange for a follow-up medical examination to take place within six months after the employee is removed pursuant to this subsection. This examination shall determine if the employee can return to the original job status, or if the removal is to be permanent. The physician shall make a decision within six months of the date the employee was removed as to whether the employee can be

returned to the original job status, or if the removal is to be permanent.

(viii) An employer's obligation to provide earnings, seniority, and other benefits to a removed employee may be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program or from employment with another employer made possible by virtue of the employee's removal.

(ix) In making determinations of the formaldehyde content of materials under this subsection the employer may rely on objective data.

(i) Multiple physician review.

(i) After the employer selects the initial physician who conducts any medical examination or consultation to determine whether medical removal or restriction is appropriate, the employee may designate a second physician to review any findings, determinations, or recommendations of the initial physician and to conduct such examinations, consultations, and laboratory tests as the second physician deems necessary and appropriate to evaluate the effects of formaldehyde exposure and to facilitate this review.

(ii) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician conducts a medical examination or consultation for the purpose of medical removal or restriction.

(iii) The employer may condition its participation in, and payment for, the multiple physician review mechanism upon the employee doing the following within fifteen days after receipt of the notification of the right to seek a second medical opinion, or receipt of the initial physician's written opinion, whichever is later:

(A) The employee informs the employer of the intention to seek a second medical opinion; and

(B) The employee initiates steps to make an appointment with a second physician.

(iv) If the findings, determinations, or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve the disagreement. If the two physicians are unable to quickly resolve their disagreement, then the employer and the employee through their respective physicians shall designate a third physician who shall be a specialist in the field at issue:

(A) To review the findings, determinations, or recommendations of the prior physicians; and

(B) To conduct such examinations, consultations, laboratory tests, and discussions with prior physicians as the third physician deems necessary to resolve the disagreement of the prior physicians.

(v) In the alternative, the employer and the employee or authorized employee representative may jointly designate such third physician.

(vi) The employer shall act consistent with the findings, determinations, and recommendations of the third physician, unless the employer and the employee reach an agreement which is otherwise consistent with the recommendations of at least one of the three physicians.

(13) Hazard communication.

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(a) General. Notwithstanding any exemption granted in WAC 296-800-170 for wood products, each employer who has a workplace covered by this standard shall comply with the requirements of WAC 296-800-170. The definitions of the chemical hazard communication standard shall apply under this standard.

(i) The following shall be subject to the hazard communication requirements of this section: Formaldehyde gas, all mixtures or solutions composed of greater than 0.1 percent formaldehyde, and materials capable of releasing formaldehyde into the air under reasonably foreseeable concentrations reaching or exceeding 0.1 ppm.

(ii) As a minimum, specific health hazards that the employer shall address are: Cancer, irritation and sensitization of the skin and respiratory system, eye and throat irritation, and acute toxicity.

(b) Manufacturers and importers who produce or import formaldehyde or formaldehyde-containing products shall provide downstream employers using or handling these products with an objective determination through the required labels and MSDSs (~~if these items may constitute a health hazard within the meaning of WAC 296-62-05407 under normal conditions of use~~) as required by chapter 296-839 WAC.

(c) Labels.

(i) The employer shall assure that hazard warning labels complying with the requirements of WAC 296-800-170 are affixed to all containers of materials listed in (a)(i) of this subsection, except to the extent that (a)(i) of this subsection is inconsistent with this item.

(ii) Information on labels. As a minimum, for all materials listed in (a)(i) of this subsection, capable of releasing formaldehyde at levels of 0.1 ppm to 0.5 ppm, labels shall identify that the product contains formaldehyde: List the name and address of the responsible party; and state that physical and health hazard information is readily available from the employer and from material safety data sheets.

(iii) For materials listed in (a)(i) of this subsection, capable of releasing formaldehyde at levels above 0.5 ppm, labels shall appropriately address all the hazards as defined in WAC 296-800-170, and Appendices A and B, including respiratory sensitization, and shall contain the words "Potential Cancer Hazard."

(iv) In making the determinations of anticipated levels of formaldehyde release, the employer may rely on objective data indicating the extent of potential formaldehyde release under reasonably foreseeable conditions of use.

(v) Substitute warning labels. The employer may use warning labels required by other statutes, regulations, or ordinances which impart the same information as the warning statements required by this subitem.

(d) Material safety data sheets.

(i) Any employer who uses formaldehyde-containing materials listed in (a)(i) of this subsection shall comply with the requirements of WAC 296-800-170 with regard to the development and updating of material safety data sheets.

(ii) Manufacturers, importers, and distributors of formaldehyde containing materials listed in (a)(i) of this subsection shall assure that material safety data sheets and updated information are provided to all employers purchasing such

materials at the time of the initial shipment and at the time of the first shipment after a material safety data sheet is updated.

(e) Written hazard communication program. The employer shall develop, implement, and maintain at the workplace, a written hazard communication program for formaldehyde exposures in the workplace, which at a minimum describes how the requirements specified in this section for labels and other forms of warning and material safety data sheets, and subsection (14) of this section for employee information and training, will be met. Employees in multiemployer workplaces shall comply with the requirements of WAC 296-800-170.

(14) Employee information and training.

(a) Participation. The employer shall assure that all employees who are assigned to workplaces where there is a health hazard from formaldehyde participate in a training program, except that where the employer can show, using objective data, that employees are not exposed to formaldehyde at or above 0.1 ppm, the employer is not required to provide training.

(b) Frequency. Employers shall provide such information and training to employees at the time of their initial assignment and whenever a new exposure to formaldehyde is introduced into their work area. The training shall be repeated at least annually.

(c) Training program. The training program shall be conducted in a manner which the employee is able to understand and shall include:

(i) A discussion of the contents of this regulation and the contents of the material safety data sheet;

(ii) The purpose for and a description of the medical surveillance program required by this standard, including:

(A) A description of the potential health hazards associated with exposure to formaldehyde and a description of the signs and symptoms of exposure to formaldehyde.

(B) Instructions to immediately report to the employer the development of any adverse signs or symptoms that the employee suspects is attributable to formaldehyde exposure.

(iii) Description of operations in the work area where formaldehyde is present and an explanation of the safe work practices appropriate for limiting exposure to formaldehyde in each job;

(iv) The purpose for, proper use of, and limitations of personal protective clothing;

(v) Instructions for the handling of spills, emergencies, and clean-up procedures;

(vi) An explanation of the importance of engineering and work practice controls for employee protection and any necessary instruction in the use of these controls;

(vii) A review of emergency procedures including the specific duties or assignments of each employee in the event of an emergency; and

(viii) The purpose, proper use, limitations, and other training requirements for respiratory protection as required by chapter 296-62 WAC, Part E.

(d) Access to training materials.

(i) The employer shall inform all affected employees of the location of written training materials and shall make these materials readily available, without cost, to the affected employees.

(ii) The employer shall provide, upon request, all training materials relating to the employee training program to the director of labor and industries, or his/her designated representative.

(15) Recordkeeping.

(a) Exposure measurements. The employer shall establish and maintain an accurate record of all measurements taken to monitor employee exposure to formaldehyde. This record shall include:

- (i) The date of measurement;
- (ii) The operation being monitored;
- (iii) The methods of sampling and analysis and evidence of their accuracy and precision;
- (iv) The number, durations, time, and results of samples taken;

(v) The types of protective devices worn; and

(vi) The names, job classifications, Social Security numbers, and exposure estimates of the employees whose exposures are represented by the actual monitoring results.

(b) Exposure determinations. Where the employer has determined that no monitoring is required under this standard, the employer shall maintain a record of the objective data relied upon to support the determination that no employee is exposed to formaldehyde at or above the action level.

(c) Medical surveillance. The employer shall establish and maintain an accurate record for each employee subject to medical surveillance under this standard. This record shall include:

(i) The name and Social Security number of the employee;

(ii) The physician's written opinion;

(iii) A list of any employee health complaints that may be related to exposure to formaldehyde; and

(iv) A copy of the medical examination results, including medical disease questionnaires and results of any medical tests required by the standard or mandated by the examining physician.

(d) Record retention. The employer shall retain records required by this standard for at least the following periods:

(i) Exposure records and determinations shall be kept for at least thirty years; and

(ii) Medical records shall be kept for the duration of employment plus thirty years.

(e) Availability of records.

(i) Upon request, the employer shall make all records maintained as a requirement of this standard available for examination and copying to the director of labor and industries, or his/her designated representative.

(ii) The employer shall make employee exposure records, including estimates made from representative monitoring and available upon request for examination and copying, to the subject employee, or former employee, and employee representatives in accordance with (~~WAC 296-62-052 through 296-62-05209 and 296-62-05213 through 296-62-05217 and WAC 296-800-180~~) chapter 296-802 WAC.

(iii) Employee medical records required by this standard shall be provided upon request for examination and copying, to the subject employee, or former employee, or to anyone having the specific written consent of the subject employee

or former employee in accordance with (~~WAC 296-62-05201 through 296-62-05209, and 296-62-05213 through 296-62-05217~~) chapter 296-802 WAC.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-62-07631 Recordkeeping. (1) Monitoring data for exempted employers.

(a) Where as a result of the initial monitoring the processing, use, or handling of products made from or containing MDA are exempted from other requirements of this section under WAC 296-62-07601(2), the employer shall establish and maintain an accurate record of monitoring relied on in support of the exemption.

(b) This record shall include at least the following information:

(i) The product qualifying for exemption;

(ii) The source of the monitoring data (e.g., was monitoring performed by the employer or a private contractor);

(iii) The testing protocol, results of testing, and/or analysis of the material for the release of MDA;

(iv) A description of the operation exempted and how the data support the exemption (e.g., are the monitoring data representative of the conditions at the affected facility); and

(v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(c) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(2) Objective data for exempted employers.

(a) Where the processing, use, or handling of products made from or containing MDA are exempted from other requirements of WAC 296-62-076 under WAC 296-62-07601, the employer shall establish and maintain an accurate record of objective data relied upon in support of the exemption.

(b) This record shall include at least the following information:

(i) The product qualifying for exemption;

(ii) The source of the objective data;

(iii) The testing protocol, results of testing, and/or analysis of the material for the release of MDA;

(iv) A description of the operation exempted and how the data support the exemption; and

(v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(c) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(3) Exposure measurements.

(a) The employer shall establish and maintain an accurate record of all measurements required by WAC 296-62-07609, in accordance with Part B of this chapter.

(b) This record shall include:

(i) The dates, number, duration, and results of each of the samples taken, including a description of the procedure used to determine representative employee exposures;

(ii) Identification of the sampling and analytical methods used;

(iii) A description of the type of respiratory protective devices worn, if any; and

(iv) The name, Social Security number, job classification, and exposure levels of the employee monitored and all other employees whose exposure the measurement is intended to represent.

(c) The employer shall maintain this record for at least 30 years, in accordance with Part B of this chapter.

(4) Medical surveillance.

(a) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance required by WAC 296-62-07625, 296-62-07627, and 296-62-07629, in accordance with Part B of this chapter.

(b) This record shall include:

(i) The name, Social Security number, and description of the duties of the employee;

(ii) The employer's copy of the physician's written opinion on the initial, periodic, and any special examinations, including results of medical examination and all tests, opinions, and recommendations;

(iii) Results of any airborne exposure monitoring done for that employee and the representative exposure levels supplied to the physician; and

(iv) Any employee medical complaints related to exposure to MDA.

(c) The employer shall keep, or assure that the examining physician keeps, the following medical records:

(i) A copy of this standard and its appendices, except that the employer may keep one copy of the standard and its appendices for all employees provided the employer references the standard and its appendices in the medical surveillance record of each employee;

(ii) A copy of the information provided to the physician as required by any sections in the regulatory text;

(iii) A description of the laboratory procedures and a copy of any standards or guidelines used to interpret the test results or references to the information;

(iv) A copy of the employee's medical and work history related to exposure to MDA.

(d) The employer shall maintain this record for at least the duration of employment plus 30 years, in accordance with Part B of this chapter.

(5) Medical removals.

(a) The employer shall establish and maintain an accurate record for each employee removed from current exposure to MDA pursuant to WAC 296-62-07625, 296-62-07627, and 296-62-07629.

(b) Each record shall include:

(i) The name and Social Security number of the employee;

(ii) The date of each occasion that the employee was removed from current exposure to MDA as well as the corresponding date on which the employee was returned to his or her former job status;

(iii) A brief explanation of how each removal was or is being accomplished; and

(iv) A statement with respect to each removal indicating the reason for the removal.

(c) The employer shall maintain each medical removal record for at least the duration of an employee's employment plus 30 years.

(6) Availability.

(a) The employer shall assure that records required to be maintained by WAC 296-62-076 shall be made available, upon request, to the director for examination and copying.

(b) Employee exposure monitoring records required by WAC 296-62-076 shall be provided upon request for examination and copying to employees, employee representatives, and the director in accordance with the applicable sections of WAC 296-800-170.

(c) Employee medical records required by this section shall be provided upon request for examination and copying, to the subject employee, to anyone having the specific written consent of the subject employee, and to the director in accordance with Part B of this chapter.

(7) Transfer of records.

(a) The employer shall comply with the requirements involving transfer of records set forth in (~~WAC 296-62-05215~~) chapter 296-802 WAC.

(b) If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the director, at least 90 days prior to disposal, and transmit the records to the director if so requested by the director within that period.

AMENDATORY SECTION (Amending WSR 00-06-075, filed 3/1/00, effective 4/10/00)

WAC 296-62-07727 Recordkeeping. (1) Exposure measurements.

(a) The employer shall keep an accurate record of all measurements taken to monitor employee exposure to asbestos as prescribed in WAC 296-62-07709.

(b) This record shall include at least the following information:

(i) Name of employer;

(ii) Name of person conducting monitoring;

(iii) The date of measurement;

(iv) Address of operation or activity;

(v) Description of the operation or activity involving exposure to asbestos that is being monitored;

(vi) Personal or area sample;

(vii) Name, Social Security number, and exposure level of the employees whose exposures are represented;

(viii) Type of protective devices worn, if any;

(ix) Pump calibration date and flow rate;

(x) Total volume of air sampled;

(xi) Name and address of analytical laboratory;

(xii) Number, duration, and results (f/cc) of samples taken;

(xiii) Date of analysis; and

(xiv) Sampling and analytical methods used and evidence of their accuracy.

(c) The employer shall maintain this record for the duration of employment plus thirty years, in accordance with (~~WAC 296-62-052~~) chapter 296-802 WAC.

(2) Objective data for exempted operations.

(a) Where the processing, use, or handling of products made from or containing asbestos is exempted from other requirements of this section under WAC 296-62-07709 (2)(a)(iii) and (3)(b)(i), the employer shall establish and

maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(b) The record shall include at least the following:

- (i) The product qualifying for exemption;
- (ii) The source of the objective data;
- (iii) The testing protocol, results of testing, and/or analysis of the material for the release of asbestos;
- (iv) A description of the operation exempted and how the data support the exemption; and

(v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(c) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

Note: The employer may utilize the services of competent organizations such as industry trade associations and employee associations to maintain the records required by this section.

(3) Medical surveillance.

(a) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance by WAC 296-62-07725 (1)(a), in accordance with (~~WAC 296-62-052~~) chapter 296-802 WAC.

(b) The record shall include at least the following information:

(i) The name and Social Security number of the employee;

(ii) Physician's written opinions;

(iii) Any employee medical complaints related to exposure to asbestos;

(iv) A copy of the information provided to the physician as required by WAC 296-62-07725(6); and

(v) A copy of the employee's medical examination results, including the medical history, questionnaire responses, results of any tests, and physicians recommendations.

(c) The employer shall ensure that this record is maintained for the duration of employment plus thirty years, in accordance with (~~WAC 296-62-052~~) chapter 296-802 WAC.

(4) Training. The employer shall maintain all employee training records for one year beyond the last date of employment of that employee.

(5) Availability.

(a) The employer, upon written request, shall make all records required to be maintained by this section available to the director for examination and copying.

(b) The employer, upon request, shall make any exposure records required by subsection (1) of this section available for examination and copying to affected employees, former employees, designated representatives, and the director, in accordance with (~~WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217~~) chapter 296-802 WAC.

(c) The employer, upon request, shall make employee medical records required by subsection (2) of this section available for examination and copying to the subject employee, to anyone having the specific written consent of the subject employee, and the director, in accordance with (~~WAC 296-62-052~~) chapter 296-802 WAC.

(6) Transfer of records.

(a) The employer shall comply with the requirements concerning transfer of records set forth in (~~WAC 296-62-05215~~) chapter 296-802 WAC.

(b) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the director at least ninety days prior to disposal of records and, upon request, transmit them to the director.

(7) Data to rebut PACM. Where the building owner and employer have relied on data to demonstrate that PACM is not asbestos-containing, such data shall be maintained for as long as they are relied upon to rebut the presumption.

(8) Records of required notifications. Where the building owner has communicated and received information concerning the identification, location and quantity of ACM and PACM, written records of such notifications and their content shall be maintained by the building owner for the duration of ownership and shall be transferred to successive owners of such buildings/facilities.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-62-09041 Recordkeeping. (1) Exposure measurements. The employer shall maintain an accurate record of all employee exposure measurements required by this section.

(2) Audiometric tests.

(a) The employer shall retain a legible copy of all employee audiograms obtained pursuant to WAC 296-62-09027.

(b) This record shall include:

(i) Name and job classification of the employee;

(ii) Date of the audiogram;

(iii) The examiner's name;

(iv) Date of the last acoustic or exhaustive calibration of the audiometer; and

(v) Employee's most recent noise exposure assessment.

(3) Audiometric test rooms. The employer shall maintain accurate records of the measurements of the background sound pressure levels in audiometric test rooms.

(4) Record retention. The employer shall retain records required in this section for at least the following periods:

(a) Noise exposure measurement records shall be retained for two years.

(b) Audiometric test records shall be retained for the duration of the affected employee's employment.

(5) Access to records. All records required by this section shall be provided upon request to employees, former employees, representatives designated by the individual employee, and the director. The provisions of (~~WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217~~) chapter 296-802 WAC apply to access to records under this section.

(6) Transfer of records. If the employer ceases to do business, the employer shall transfer to the successor employer all records required to be maintained by this section, and the successor employer shall retain them for the remainder of the period prescribed in WAC 296-62-09041(4).

AMENDATORY SECTION (Amending WSR 01-19-065, filed 9/18/01, effective 11/1/01)

WAC 296-62-14533 Cotton dust. (1) Scope and application.

(a) This section, in its entirety, applies to the control of employee exposure to cotton dust in all workplaces where employees engage in yarn manufacturing, engage in slashing and weaving operations, or work in waste houses for textile operations.

(b) This section does not apply to the handling or processing of woven or knitted materials; to maritime operations covered by chapters 296-56 and 296-304 WAC; to harvesting or ginning of cotton; or to the construction industry.

(c) Only subsection (8) Medical surveillance, subsection (11)(b) Medical surveillance, subsection (11)(c) Availability, subsection (11)(d) Transfer of records, and Appendices B, C, and D of this section apply in all work places where employees exposed to cotton dust engage in cottonseed processing or waste processing operations.

(d) This section applies to yarn manufacturing and slashing and weaving operations exclusively using washed cotton (as defined by subsection (14) of this section) only to the extent specified by subsection (14) of this section.

(e) This section, in its entirety, applies to the control of all employees exposure to the cotton dust generated in the preparation of washed cotton from opening until the cotton is thoroughly wetted.

(f) This section does not apply to knitting, classing or warehousing operations except that employers with these operations, if requested by WISHA, shall grant WISHA access to their employees and workplaces for exposure monitoring and medical examinations for purposes of a health study to be performed by WISHA on a sampling basis.

(2) Definitions applicable to this section:

(a) "Blow down" - the cleaning of equipment and surfaces with compressed air.

(b) "Blow off" - the use of compressed air for cleaning of short duration and usually for a specific machine or any portion of a machine.

(c) "Cotton dust" - dust present in the air during the handling or processing of cotton, which may contain a mixture of many substances including ground-up plant matter, fiber, bacteria, fungi, soil, pesticides, noncotton plant matter and other contaminants which may have accumulated with the cotton during the growing, harvesting and subsequent processing or storage periods. Any dust present during the handling and processing of cotton through the weaving or knitting of fabrics, and dust present in other operations or manufacturing processes using raw or waste cotton fibers or cotton fiber byproducts from textile mills are considered cotton dust within this definition. Lubricating oil mist associated with weaving operations is not considered cotton dust.

(d) "Director" - the director of labor and industries or his authorized representative.

(e) "Equivalent instrument" - a cotton dust sampling device that meets the vertical elutriator equivalency requirements as described in subsection (4)(a)(iii) of this section.

(f) "Lint-free respirable cotton dust" - particles of cotton dust of approximately 15 microns or less aerodynamic equivalent diameter.

(g) "Vertical elutriator cotton dust sampler" or "vertical elutriator" - a dust sampler which has a particle size cut-off at approximately 15 microns aerodynamic equivalent diameter when operating at the flow rate of 7.4 ± 0.2 liters per minute.

(h) "Waste processing" - waste recycling (sorting, blending, cleaning and willowing) and garnetting.

(i) "Yarn manufacturing" - all textile mill operations from opening to, but not including, slashing and weaving.

(3) Permissible exposure limits and action levels.

(a) Permissible exposure limits (PEL).

(i) The employer shall assure that no employee who is exposed to cotton dust in yarn manufacturing and cotton washing operations is exposed to airborne concentrations of lint-free respirable cotton dust greater than $200 \mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(ii) The employer shall assure that no employee who is exposed to cotton dust in textile mill waste house operations or is exposed in yarn manufacturing to dust from "lower grade washed cotton" as defined in subsection (14)(e) of this section is exposed to airborne concentrations of lint-free respirable cotton dust greater than $500 \mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(iii) The employer shall assure that no employee who is exposed to cotton dust in the textile processes known as slashing and weaving is exposed to airborne concentrations of lint-free respirable cotton dust greater than $750 \mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(b) Action levels.

(i) The action level for yarn manufacturing and cotton washing operations is an airborne concentration of lint-free respirable cotton dust of $100 \mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(ii) The action level for waste houses for textile operations is an airborne concentration of lint-free respirable cotton dust of $250 \mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(iii) The action level for the textile processes known as slashing and weaving is an airborne concentration of lint-free respirable cotton dust of $375 \mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(4) Exposure monitoring and measurement.

(a) General.

(i) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(ii) The sampling device to be used shall be either the vertical elutriator cotton dust sampler or an equivalent instrument.

(iii) If an alternative to the vertical elutriator cotton dust sampler is used, the employer shall establish equivalency by demonstrating that the alternative sampling devices:

(A) It collects respirable particulates in the same range as the vertical elutriator (approximately 15 microns);

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(B) Replicate exposure data used to establish equivalency are collected in side-by-side field and laboratory comparisons; and

(C) A minimum of 100 samples over the range of 0.5 to 2 times the permissible exposure limit are collected, and ninety percent of these samples have an accuracy range of plus or minus twenty-five percent of the vertical elutriator reading with a ninety-five percent confidence level as demonstrated by a statistically valid protocol. (An acceptable protocol for demonstrating equivalency is described in Appendix E of this section.)

(iv) WISHA will issue a written opinion stating that an instrument is equivalent to a vertical elutriator cotton dust sampler if:

(A) A manufacturer or employer requests an opinion in writing and supplies the following information:

(I) Sufficient test data to demonstrate that the instrument meets the requirements specified in this paragraph and the protocol specified in Appendix E of this section;

(II) Any other relevant information about the instrument and its testing requested by WISHA; and

(III) A certification by the manufacturer or employer that the information supplied is accurate, and

(B) If WISHA finds, based on information submitted about the instrument, that the instrument meets the requirements for equivalency specified by this subsection.

(b) Initial monitoring. Each employer who has a place of employment within the scope of subsections (1)(a), (d) or (e) of this section shall conduct monitoring by obtaining measurements which are representative of the exposure of all employees to airborne concentrations of lint-free respirable cotton dust over an eight-hour period. The sampling program shall include at least one determination during each shift for each work area.

(c) Periodic monitoring.

(i) If the initial monitoring required by (4)(b) of this section or any subsequent monitoring reveals employee exposure to be at or below the permissible exposure limit, the employer shall repeat the monitoring for those employees at least annually.

(ii) If the initial monitoring required by (4)(b) of this section or any subsequent monitoring reveals employee exposure to be above the PEL, the employer shall repeat the monitoring for those employees at least every six months.

(iii) Whenever there has been a production, process, or control change which may result in new or additional exposure to cotton dust, or whenever the employer has any other reason to suspect an increase in employee exposure, the employer shall repeat the monitoring and measurements for those employees affected by the change or increase.

(d) Employee notification.

(i) Within twenty working days after the receipt of monitoring results, the employer shall notify each employee in writing of the exposure measurements which represent that employee's exposure.

(ii) Whenever the results indicate that the employee's exposure exceeds the applicable permissible exposure limit specified in subsection (3) of this section, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the correc-

tive action taken to reduce exposure below the permissible exposure limit.

(5) Methods of compliance.

(a) Engineering and work practice controls. The employer shall institute engineering and work practice controls to reduce and maintain employee exposure to cotton dust at or below the permissible exposure limit specified in subsection (3) of this section, except to the extent that the employer can establish that such controls are not feasible.

(b) Whenever feasible engineering and work practice controls are not sufficient to reduce employee exposure to or below the permissible exposure limit, the employer shall nonetheless institute these controls to immediately reduce exposure to the lowest feasible level, and shall supplement these controls with the use of respirators which shall comply with the provisions of subsection (6) of this section.

(c) Compliance program.

(i) Where the most recent exposure monitoring data indicates that any employee is exposed to cotton dust levels greater than the permissible exposure limit, the employer shall establish and implement a written program sufficient to reduce exposures to or below the permissible exposure limit solely by means of engineering controls and work practices as required by (a) of this subsection.

(ii) The written program shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to cotton dust;

(B) Engineering plans and other studies used to determine the controls for each process;

(C) A report of the technology considered in meeting the permissible exposure limit;

(D) Monitoring data obtained in accordance with subsection (4) of this section;

(E) A detailed schedule for development and implementation of engineering and work practice controls, including exposure levels projected to be achieved by such controls;

(F) Work practice program; and

(G) Other relevant information.

(iii) The employer's schedule as set forth in the compliance program, shall project completion of the implementation of the compliance program no later than March 27, 1984 or as soon as possible if monitoring after March 27, 1984 reveals exposures over the PEL, except as provided in (13)(b)(ii)(B) of this section.

(iv) The employer shall complete the steps set forth in his program by the dates in the schedule.

(v) Written programs shall be submitted, upon request, to the director, and shall be available at the worksite for examination and copying by the director, and any affected employee or their designated representatives.

(vi) The written programs required under subsection (5)(c) of this section shall be revised and updated at least every six months to reflect the current status of the program and current exposure levels.

(d) Mechanical ventilation. When mechanical ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system to control exposure, such as capture velocity, duct velocity, or static pressure shall be made at reasonable intervals.

(6) Use of respirators.

(a) General. For employees who are required to use respirators by this section, the employer must provide respirators that comply with the requirements of this section. Respirators must be used during:

(i) Periods necessary to install or implement feasible engineering controls and work-practice controls;

(ii) Maintenance and repair activities for which engineering and work-practice controls are not feasible;

(iii) Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce employee exposure to or below the permissible exposure limits;

(iv) Work operations specified under subsection (7)(a) of this section;

(v) Periods for which an employee requests a respirator.

(b) Respirator program.

(i) The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).

(ii) Whenever a physician determines that an employee who works in an area in which the cotton-dust concentration exceeds the PEL is unable to use a respirator, including a powered air-purifying respirator, the employee must be given the opportunity to transfer to an available position, or to a position that becomes available later, that has a cotton-dust concentration at or below the PEL. The employer must ensure that such employees retain their current wage rate or other benefits as a result of the transfer.

(c) Respirator selection.

(i) The employer must select the appropriate respirator from Table 1 of this section.

4. Supplied air respirators are not required but are permitted under the following conditions: Cotton dust concentration not greater than 10X the PEL—Any supplied air respirator; not greater than 100X the PEL—Any supplied air respirator with full facepiece, helmet or hood; greater than 100X the PEL—A supplied air respirator operated in positive pressure mode.

(ii) Whenever respirators are required by this section for cotton-dust concentrations that do not exceed the applicable permissible exposure limit by a multiple of 100 (100 x), the employer must, when requested by an employee, provide a powered air-purifying respirator with a high-efficiency particulate filter instead of the respirator specified in (a), (b), or (c) of Table 1 of this section.

(7) Work practices. Each employer shall, regardless of the level of employee exposure, immediately establish and implement a written program of work practices which shall minimize cotton dust exposure. The following shall be included where applicable:

(a) Compressed air "blow down" cleaning shall be prohibited, where alternative means are feasible. Where compressed air is used for cleaning, the employees performing the "blow down" or "blow off" shall wear suitable respirators. Employees whose presence is not required to perform "blow down" or "blow off" shall be required to leave the area affected by the "blow down" or "blow off" during this cleaning operation.

(b) Cleaning of clothing or floors with compressed air shall be prohibited.

(c) Floor sweeping shall be performed with a vacuum or with methods designed to minimize dispersal of dust.

(d) In areas where employees are exposed to concentrations of cotton dust greater than the permissible exposure limit, cotton and cotton waste shall be stacked, sorted, baled, dumped, removed or otherwise handled by mechanical means, except where the employer can show that it is infeasible to do so. Where infeasible, the method used for handling cotton and cotton waste shall be the method which reduces exposure to the lowest level feasible.

(8) Medical surveillance.

(a) General.

(i) Each employer covered by the standard shall institute a program of medical surveillance for all employees exposed to cotton dust.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician and are provided without cost to the employee.

(iii) Persons other than licensed physicians, who administer the pulmonary function testing required by this section shall have completed a NIOSH approved training course in spirometry.

(b) Initial examinations. The employer shall provide medical surveillance to each employee who is or may be exposed to cotton dust. For new employees' this examination shall be provided prior to initial assignment. The medical surveillance shall include at least the following:

(i) A medical history;

(ii) The standardized questionnaire contained in WAC 296-62-14537; and

(iii) A pulmonary function measurement, including a determination of forced vital capacity (FVC) and forced expi-

TABLE - 1

Cotton dust concentration	Required respirator
Not greater than—	
(a) 5 x the applicable permissible exposure limit (PEL).	A disposable respirator with a particulate filter.
(b) 10 x the applicable PEL.	A quarter or half-mask respirator, other than a disposable respirator, equipped with particulate filters.
(c) 100 x the applicable PEL.	A full facepiece respirator equipped with high-efficiency particulate filters.
(d) Greater than 100 x the applicable PEL.	A powered air-purifying respirator equipped with high-efficiency particulate filters.

Notes 1. A disposable respirator means the filter element is an inseparable part of the respirator.
 2. Any respirators permitted at higher environmental concentrations can be used at lower concentrations.
 3. Self-contained breathing apparatus are not required respirators but are permitted respirators.

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ratory volume in one second (FEV₁), the FEV₁/FVC ratio, and the percentage that the measured values of FEV₁ and FVC differ from the predicted values, using the standard tables in WAC 296-62-14539. These determinations shall be made for each employee before the employee enters the workplace on the first day of the work week, preceded by at least thirty-five hours of no exposure to cotton dust. The tests shall be repeated during the shift, no less than four hours and no more than ten hours after the beginning of the work shift; and, in any event, no more than one hour after cessation of exposure. Such exposure shall be typical of the employee's usual workplace exposure. The predicted FEV₁ and FVC for blacks shall be multiplied by 0.85 to adjust for ethnic differences.

(iv) Based upon the questionnaire results, each employee shall be graded according to Schilling's byssinosis classification system.

(c) Periodic examinations.

(i) The employer shall provide at least annual medical surveillance for all employees exposed to cotton dust above the action level in yarn manufacturing, slashing and weaving, cotton washing and waste house operations. The employer shall provide medical surveillance at least every two years for all employees exposed to cotton dust at or below the action level, for all employees exposed to cotton dust from washed cotton (except from washed cotton defined in subsection (9)(c) of this section), and for all employees exposed to cotton dust in cottonseed processing and waste processing operations. Periodic medical surveillance shall include at least an update of the medical history, standardized questionnaire (Appendix B-111), Schilling byssinosis grade, and the pulmonary function measurements in (b)(iii) of this subsection.

(ii) Medical surveillance as required in (c)(i) of this subsection shall be provided every six months for all employees in the following categories:

(A) An FEV₁ of greater than eighty percent of the predicted value, but with an FEV₁ decrement of five percent or 200 ml. on a first working day;

(B) An FEV₁ of less than eighty percent of the predicted value; or

(C) Where, in the opinion of the physician, any significant change in questionnaire findings, pulmonary function results, or other diagnostic tests have occurred.

(iii) An employee whose FEV₁ is less than sixty percent of the predicted value shall be referred to a physician for a detailed pulmonary examination.

(iv) A comparison shall be made between the current examination results and those of previous examinations and a determination made by the physician as to whether there has been a significant change.

(d) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's exposure level or anticipated exposure level;

(iv) A description of any personal protective equipment used or to be used; and

(v) Information from previous medical examinations of the affected employee which is not readily available to the examining physician.

(e) Physician's written opinion.

(i) The employer shall obtain and furnish the employee with a copy of a written opinion from the examining physician containing the following:

(A) The results of the medical examination and tests including the FEV₁, FVC, and FEV₁/FVC ratio;

(B) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from exposure to cotton dust;

(C) The physician's recommended limitations upon the employee's exposure to cotton dust or upon the employee's use of respirators including a determination of whether an employee can wear a negative pressure respirator, and where the employee cannot, a determination of the employee's ability to wear a powered air purifying respirator; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The written opinion obtained by the employer shall not reveal specific findings or diagnoses unrelated to occupational exposure.

(9) Employee education and training.

(a) Training program.

(i) The employer shall provide a training program for all employees exposed to cotton dust and shall assure that each employee is informed of the following:

(A) The acute and long term health hazards associated with exposure to cotton dust;

(B) The names and descriptions of jobs and processes which could result in exposure to cotton dust at or above the PEL.

(C) The measures, including work practices required by subsection (7) of this section, necessary to protect the employee from exposures in excess of the permissible exposure limit;

(D) The purpose, proper use, limitations, and other training requirements for respiratory protection as required by subsection (6) of this section and chapter 296-62 WAC, Part E (see WAC 296-62-07117, 296-62-07172, and 296-62-01786 through 296-62-07190);

(E) The purpose for and a description of the medical surveillance program required by subsection (8) of this section and other information which will aid exposed employees in understanding the hazards of cotton dust exposure; and

(F) The contents of this standard and its appendices.

(ii) The training program shall be provided prior to initial assignment and shall be repeated annually for each employee exposed to cotton dust, when job assignments or work processes change and when employee performance indicates a need for retraining.

(b) Access to training materials.

(i) Each employer shall post a copy of this section with its appendices in a public location at the workplace, and shall, upon request, make copies available to employees.

(ii) The employer shall provide all materials relating to the employee training and information program to the director upon request.

(10) Signs. The employer shall post the following warning sign in each work area where the permissible exposure limit for cotton dust is exceeded:

WARNING
COTTON DUST WORK AREA
MAY CAUSE ACUTE OR DELAYED LUNG INJURY
(BYSSINOSIS)
RESPIRATORS REQUIRED IN THIS AREA

(11) Recordkeeping.

(a) Exposure measurements.

(i) The employer shall establish and maintain an accurate record of all measurements required by subsection (4) of this section.

(ii) The record shall include:

(A) A log containing the items listed in WAC 296-62-14535 (4)(a), and the dates, number, duration, and results of each of the samples taken, including a description of the procedure used to determine representative employee exposures;

(B) The type of protective devices worn, if any, and length of time worn; and

(C) The names, social security number, job classifications, and exposure levels of employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least twenty years.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate medical record for each employee subject to medical surveillance required by subsection (8) of this section.

(ii) The record shall include:

(A) The name and social security number and description of the duties of the employee;

(B) A copy of the medical examination results including the medical history, questionnaire response, results of all tests, and the physician's recommendation;

(C) A copy of the physician's written opinion;

(D) Any employee medical complaints related to exposure to cotton dust;

(E) A copy of this standard and its appendices, except that the employer may keep one copy of the standard and the appendices for all employees, provided that he references the standard and appendices in the medical surveillance record of each employee; and

(F) A copy of the information provided to the physician as required by subsection (8)(d) of this section.

(iii) The employer shall maintain this record for at least twenty years.

(c) Availability.

(i) The employer shall make all records required to be maintained by subsection (11) of this section available to the director for examination and copying.

(ii) Employee exposure measurement records and employee medical records required by this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with (~~WAC~~

~~296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217~~) chapter 296-802 WAC.

(d) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by subsection (11) of this section.

(ii) Whenever the employer ceases to do business, and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the director at least three months prior to the disposal of such records and shall transmit those records to the director if he requests them within that period.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in (~~WAC 296-62-05215~~) chapter 296-802 WAC.

(12) Observation of monitoring.

(a) The employer shall provide affected employees or their designated representatives an opportunity to observe any measuring or monitoring of employee exposure to cotton dust conducted pursuant to subsection (4) of this section.

(b) Whenever observation of the measuring or monitoring of employee exposure to cotton dust requires entry into an area where the use of personal protective equipment is required, the employer shall provide the observer with and assure the use of such equipment and shall require the observer to comply with all other applicable safety and health procedures.

(c) Without interfering with the measurement, observers shall be entitled to:

(i) An explanation of the measurement procedures;

(ii) An opportunity to observe all steps related to the measurement of airborne concentrations of cotton dust performed at the place of exposure; and

(iii) An opportunity to record the results obtained.

(13) Washed cotton.

(a) Exemptions. Cotton, after it has been washed by the processes described in this section is exempt from all or parts of this section as specified if the requirements of this section are met.

(b) Initial requirements.

(i) In order for an employer to qualify as exempt or partially exempt from this standard for operations using washed cotton, the employer must demonstrate that the cotton was washed in a facility which is open to inspection by the director and the employer must provide sufficient accurate documentary evidence to demonstrate that the washing methods utilized meet the requirements of this section.

(ii) An employer who handles or processes cotton which has been washed in a facility not under the employer's control and claims an exemption or partial exemption under this paragraph, must obtain from the cotton washer and make available at the worksite, to the director, or his designated representative, to any affected employee, or to their designated representative the following:

(A) A certification by the washer of the cotton of the grade of cotton, the type of washing process, and that the batch meets the requirements of this section:

(B) Sufficient accurate documentation by the washer of the cotton grades and washing process; and

(C) An authorization by the washer that the director may inspect the washer's washing facilities and documentation of the process.

(c) Medical and dyed cotton. Medical grade (USP) cotton, cotton that has been scoured, bleached and dyed, and mercerized yarn shall be exempt from all provisions of this standard.

(d) Higher grade washed cotton. The handling or processing of cotton classed as "low middling light spotted or better" (color grade 52 or better and leaf grade code 5 or better according to the 1993 USDA classification system) shall be exempt from all provisions of the standard except requirements of subsection (8) of this section, medical surveillance; subsection (11)(b) through (d) of this section, recordkeeping-medical records, and Appendices B, C, and D of this section, if they have been washed on one of the following systems:

(i) On a continuous batt system or a rayon rinse system including the following conditions:

(A) With water;

(B) At a temperature of no less than 60°C;

(C) With a water-to-fiber ratio of no less than 40:1; and

(D) With the bacterial levels in the wash water controlled to limit bacterial contamination of the cotton.

(ii) On a batch kier washing system including the following conditions:

(A) With water;

(B) With cotton fiber mechanically opened and thoroughly prewetted before forming the cake;

(C) For low-temperature processing, at a temperature of no less than 60°C with a water-to-fiber ratio of no less than 40:1; or, for high-temperature processing, at a temperature of no less than 93°C with a water-to-fiber ratio of no less than 15:1;

(D) With a minimum of one wash cycle followed by two rinse cycles for each batch, using fresh water in each cycle; and

(E) With bacterial levels in the wash water controlled to limit bacterial contamination of the cotton.

(e) Lower grade washed cotton. The handling and processing of cotton of grades lower than "low middling light spotted," that has been washed as specified in (d) of this subsection and has also been bleached, shall be exempt from all provisions of the standard except the requirements of subsection (3)(a) Permissible exposure limits, subsection (4) Exposure monitoring and measurement, subsection (8) Medical surveillance, subsection (11) Recordkeeping, and Appendices B, C and D of this section.

(f) Mixed grades of washed cotton. If more than one grade of washed cotton is being handled or processed together, the requirements of the grade with the most stringent exposure limit, medical and monitoring requirements shall be followed.

(14) Appendices.

(a) Appendix B (B-I, B-II and B-III), WAC 296-62-14537, Appendix C, WAC 296-62-14539 and Appendix D, WAC 296-62-14541 are incorporated as part of this chapter and the contents of these appendices are mandatory.

(b) Appendix A of this chapter, WAC 296-62-14535 contains information which is not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

(c) Appendix E of this chapter is a protocol which may be followed in the validation of alternative measuring devices as equivalent to the vertical elutriator cotton dust sampler. Other protocols may be used if it is demonstrated that they are statistically valid, meet the requirements in subsection (4)(a)(iii) of this section, and are appropriate for demonstrating equivalency.

AMENDATORY SECTION (Amending Order 81-21, filed 8/27/81)

WAC 296-62-20023 Recordkeeping. (1) Exposure measurements. The employer shall establish and maintain an accurate record of all measurements taken to monitor employee exposure to coke oven emissions required in WAC 296-62-20007.

(a) This record shall include:

(i) Name, social security number, and job classification of the employees monitored;

(ii) The date(s), number, duration and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure where applicable;

(iii) The type of respiratory protective devices worn, if any;

(iv) A description of the sampling and analytical methods used and evidence of their accuracy; and

(v) The environment variables that could affect the measurement of employee exposure.

(b) The employer shall maintain this record for at least 40 years or for the duration of employment plus 20 years, whichever is longer.

(2) Medical surveillance. The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by WAC 296-62-20017.

(a) The record shall include:

(i) The name, social security number, and description of duties of the employee;

(ii) A copy of the physician's written opinion;

(iii) The signed statement of any refusal to take a medical examination under WAC 296-62-20017; and

(iv) Any employee medical complaints related to exposure to coke oven emissions.

(b) The employer shall keep, or assure that the examining physician keeps, the following medical records:

(i) A copy of the medical examination results including medical and work history required under WAC 296-62-20017;

(ii) A description of the laboratory procedures used and a copy of any standards or guidelines used to interpret the test results;

(iii) The initial X ray;

(iv) The X rays for the most recent 5 years;

(v) Any X ray with a demonstrated abnormality and all subsequent X rays;

(vi) The initial cytologic examination slide and written description;

(vii) The cytologic examination slide and written description for the most recent 10 years; and

(viii) Any cytologic examination slides with demonstrated atypia, if such atypia persists for 3 years, and all subsequent slides and written descriptions.

(c) The employer shall maintain medical records required under subsection (2) of this section for at least 40 years, or for the duration of employment plus 20 years, whichever is longer.

(3) Availability.

(a) The employer shall make available upon request all records required to be maintained by this section to the director for examination and copying.

(b) Employee exposure measurement records and employee medical records required by this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with ((WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217)) chapter 296-802 WAC.

(c) The employer shall make available upon request employee medical records required to be maintained by subsection (2) of this section to a physician designated by the affected employee or former employee.

(4) Transfer of records.

(a) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(b) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted by registered mail to the director.

(c) At the expiration of the retention period for the records required to be maintained under subsections (1) and (2) of this section, the employer shall transmit these records by registered mail to the director or shall continue to retain such records.

(d) The employer shall also comply with any additional requirements involving transfer of records set forth in ((WAC 296-62-05215)) chapter 296-802 WAC.

AMENDATORY SECTION (Amending Order 90-10, filed 8/13/90, effective 9/24/90)

WAC 296-62-40019 Recordkeeping. (1) The employer shall establish and maintain for each employee an accurate record of any measurements taken to monitor employee exposures and any medical consultation and examinations including tests or written opinions required by this standard.

(2) The employer shall assure that such records are kept, transferred, and made available in accordance with ((WAC 296-62-052)) chapter 296-802 WAC.

WSR 04-10-032
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

(Apprenticeship and Training Council)

[Filed April 28, 2004, 4:44 p.m., effective June 1, 2004]

Date of Adoption: April 28, 2004.

Purpose: Chapter 296-05 WAC, Apprenticeship rules. This rule making clarifies the apprenticeship program standards objection process. These changes are consistent with the current policy adopted by the Washington State Apprenticeship and Training Council (WSATC), but establish specific timeframes relating to objections of apprenticeship program standards. In addition, these rules clarify that it is the WSATC chair or "designee" that is allowed to preside over adjudicative proceedings, held before the WSATC.

Citation of Existing Rules Affected by this Order: Amending WAC 296-05-007.

Statutory Authority for Adoption: RCW 49.04.010.

Adopted under notice filed as WSR 04-04-014 on January 23, 2004.

Changes Other than Editing from Proposed to Adopted Version:

NEW SECTION

WAC 296-05-008 Process for objections to apprenticeship program standards.

(1) Objections to apprenticeship program standards shall be submitted to the department with a copy to the program sponsor for WSATC consideration fifteen twenty days prior to of the regular quarterly scheduled or special WSATC meeting on a form provided by the department and approved by the WSATC.

(2) The department shall notify the program sponsor no more than two business days after the department receives the objection.

(3) In accordance with WAC 296-05-007, the WSATC may either adjudicate matter(s) itself themselves or refer matter(s) to the office of administrative hearings for initial adjudication.

(a) If the WSATC decides to adjudicate all or part of the objections to the apprenticeship program standards, the individual(s) submitting the objections shall present the objections at the regular quarterly scheduled WSATC meeting or at the special WSATC meeting convened for purposes of hearing the objections. The department shall notify the competitor making the objections individuals(s) and the program sponsor that the objection is on the agenda for consideration and give their recommendation ten five days prior to the WSATC meeting for which the objections will be considered.

(b) If the WSATC decides to refer all or part of the objections to the office of administrative hearings, the WSATC may shall identify the specific matters that the WSATC is requesting the office of administrative hearings to provide findings and conclusions for the initial order.

(4) The department may attempt to facilitate a resolution to any objections during the process identified in this section.

Note: Per WAC 296-05-207, the approval or disapproval of committee programs, plant programs or amend-

PERMANENT

ments to those programs can only occur at regular quarterly meetings.

This rule adoption clarifies the apprenticeship program standards objection process. These changes are consistent with the current policy adopted by the Washington State Apprenticeship and Training Council (WSATC), but establish specific timeframes relating to objections of apprenticeship program standards. In addition, these rules clarify that it is the WSATC chair or "designee" that is allowed to preside over adjudicative proceedings, held before the WSATC.

CHANGES BETWEEN PROPOSED AND FINAL RULES

WAC 296-05-008(1)

- Clarified that the objections shall be submitted to the department with a copy to the program sponsor.
- Removed the language relating to "special" WSATC meetings.
- Extended the timeframe for filing objections from fifteen to twenty days prior to the WSATC meeting.

WAC 296-05-008(2)

- Added language to clarify that the department shall notify the program sponsor that they have received an objection no more than two business [days] after receiving the objection.

WAC 296-05-008 (3)(a)

- Clarified the language to make clear that the special WSATC meetings are convened only to hear objections.
- Clarified that the department will notify the program sponsor and the objector that the objection is on the agenda for the WSATC meeting and the department will give their recommendation ten days prior to the WSATC meeting.
- Changed the timeframe from five to ten days that the department will notify the program sponsor and the objector.

WAC 296-05-008 (3)(b)

- Changed "may" to "shall." This makes clear that the WSATC will identify the specific matters for the Office of Administrative Hearings.

WAC 296-05-008 Note

- The note was changed to subsection (4) to make clear that this is a requirement.

WAC 296-05-008 Note

- Adds the citation to the WAC that the WSATC can approve or disapprove of programs only at regular meetings.

COMMENTS RECEIVED RELATED TO THE PROPOSED RULES

WAC 296-05-007

Comment received:

- WAC 296-05-007, subsection (1), should be clarified. It is not clear as to the intent of this language.

WSATC's response:

- The council believes this language is clear. The purpose of this rule making was to clarify that it is the WSATC chair or designee who is allowed to preside over adjudicative proceedings that are held before the WSATC.

WAC 296-05-008(1)

Comments received:

- WAC 296-05-008 states that the objections can be submitted within fifteen days of the council meeting giving the sponsors a limited amount of time to address concerns. Timing needs to be lengthened so that all parties can adequately and reasonably respond. (The organization providing comment) would like to propose that the language within fifteen days in subsection (1) be changed to no later than twenty-five days. This change would allow the sponsor more time to work with L&I and the objectors toward the resolution of any concerns.
- There again, on the new section WAC 296-05-008, I would have to voice a concern over the fifteen days of a regularly scheduled special meeting for and provided by the department, as it's my understanding that the agenda needs to be out twenty days prior to the meeting, that only leaves the sponsors five days to object.
- In subsection (1) the fifteen-day requirement given to objectors means that the program sponsors have very little time to be notified of the objections and prepare an adequate response. The timing for objectors and sponsors should be redrafted to give the sponsors more time. The fifteen-day reference should be changed to "no later than twenty-five days." If the department has five days to notify the parties, then the sponsor has twenty days to respond, instead of five.
- With respect to WAC 296-05-008(1) - the timelines are inadequate, in that objections could be filed as near as fifteen days prior to a council meeting, a full thirty days after the sponsor is required to make application. It is also inappropriate to allow objections prior to a special WSATC meeting, which may presumably have been scheduled to hear such objections. This requirement also appears to conflict with the current practice, as required on the "Notice of Contest or Objection to Proposed Standards of Apprenticeship" form used to file such an objection; which requires submittal twenty days prior to the council meeting. The rule is absent any direction for the department to play a role in notifying the sponsor of the existence of any objections, let alone

attempt to understand and evaluate their potential merit.

WSATC's response:

- Clarified that the objections shall be submitted to the department with a copy to the program sponsor.
- Removed the language relating to "special" WSATC meetings.
- Extended the timeframe for filing objections from fifteen to twenty days prior to the WSATC meeting.

WAC 296-05-008 (2)(a)

Comments received:

- The next section I would like to comment on is subsection (a) under WAC 296-05-008. Delete or special: All objections should be presented to the council prior to the council's determination as to whether the objection will be adjudicated by the council or sent to the Office of Administrative Hearings. The result of a special meeting should only be availed to those parties concerned if they are unable to present their objections on the floor of the regularly scheduled council meeting. In the interest of creating an efficient process, the council should through L&I expect that if objectors have legitimate concerns and the parties concerned have not been able to work them out with the assistance of the department, the objection - objector should be prepared to present those concerns at the regularly scheduled council meeting. In the same section, for the purposes of clarity, CITC would recommend that "individuals" be replaced with "all concerned parties."
- In subsection (2)(a) it says, "the department shall notify the individual(s) within five days of the WSATC meeting" but it is unclear if "the individuals" are the objectors, notifying them that their objections are on the agenda, or the applicants [applicants], who then are only given five days to develop a response and mount a defense.
- With respect to WAC 296-05-008 (2)(a) - Notice is required by five days prior to the council meeting. Such notice is required only to those "individuals" who are referenced earlier in that subsection, defined as "individuals submitting the objections." These "individuals" are also the only parties defined as participating in the proceedings. There is no reference to the council seeking a response to the objections from the program sponsor during the council meeting. There is also no reference to the department's responsibilities in evaluating or mitigating any matters which may benefit from such activities. Five days is simply not an adequate allowance for a program sponsor to prepare a response. The council would justifiably have concerns that these requirements would produce nothing more than more delays, to provide adequate time for intelligent discussion of the objections. (There is a subscript "note" at the end of the draft rule allowing that the department "may attempt to facilitate a resolution" to the matter. We believe that this

important activity should be specifically tasked, as a proactive effort, to the department in the body of the rule.)

WSATC's response:

- Added language to clarify that the department shall notify the program sponsor that they have received an objection no more than two business [days] after receiving the objection.
- Clarified the language to make clear that the special WSATC meetings that are convened are to specifically hear objections.
- Clarified that the department will notify the program sponsor and the objector that the objection is on the agenda for the WSATC meeting and the department will give their recommendation prior to ten days of the WSATC meeting.
- Changed the timeframe from five to ten days that the department will notify the program sponsor and the objector.

WAC 296-05-008 (2)(b)

Comments received:

- Under subsection (2)(b) it says the WSATC "may"
- With respect to WAC 296-05-008 (2)(b) - If the council decides to refer any matter to the Office of Administrative Hearings, the council should require of itself that it identify the specific matters it desires the administrative law judge to consider. We understand the resistance that the OAH may have to being told what to consider, and we agree that this may be an overstepping of the council's bounds. However, it does not seem unreasonable for the WSATC to direct itself, in its WAC rules, to be specific in what it requests the OAH to consider. This is only a fair approach for both the council as well as the interested parties.
- I also have a concern with the little note that's in different font on the bottom of page 2 under WAC 296-05-008, subsection (2)(b). "Note: The department may attempt to facilitate a resolution to any objections during the process identified in this section." As most people in this room know, we went through this process at the last council meeting and there is a definite misunderstanding. I guess you could have, to where one sponsor may not object to a set of standards but during the resolution process may come out to have an objection to those sponsors and not be able to participate in those meetings, I guess would you call them. I do believe that little note could cause us more heartburn than we really care to matter. Then again, I have another concern with receiving of a sponsor, puts in an objection, the council has five days prior to the meeting to tell that sponsor whether that objection is going to be considered or not. That leaves very limited time for an appeal process.

WSATC's response:

- Changed "may" to "shall." This makes clear that the WSATC will identify the specific matters for the Office of Administrative Hearings.
- The note was changed to subsection (4) to make clear that this is a requirement.

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: June 1, 2004.

April 28, 2004

Lawrence "Pete" Crow, Chair
Apprenticeship and Training Council

AMENDATORY SECTION (Amending WSR 02-10-083, filed 4/29/02, effective 6/1/02)

WAC 296-05-007 Rules of procedure. All hearings and adjudication, under chapter 49.04 RCW and these rules, shall be conducted according to chapter 34.05 RCW, the Administrative Procedure Act and chapter 10-08 WAC, Model Rules of Procedure. The chair (or ~~((vice chair in the chair's absence))~~ designee) is the presiding officer for adjudicative proceedings, held before the WSATC. The WSATC may either adjudicate matter(s) ~~((themselves))~~ itself, or refer matter(s) to the office of administrative hearings for initial adjudication.

If the initial adjudication is before the WSATC, the WSATC will enter a final order. If the initial adjudication has been held at the office of administrative hearings, the administrative hearings judge shall issue an initial order. The WSATC, upon review of the initial order shall enter the final order. An initial order shall become final without further WSATC action five working days after the next regular quarterly meeting unless:

- (1) The WSATC upon its own motion determines that the initial order should be reviewed; or
- (2) A party to the proceedings files a petition for review of the initial order.

The WSATC may appoint a person to review the initial order and prepare and enter the final WSATC order.

NEW SECTION

WAC 296-05-008 Process for objections to apprenticeship program standards. (1) Objections to apprenticeship program standards shall be submitted to the department

with a copy to the program sponsor for WSATC consideration twenty days prior to the regular quarterly WSATC meeting on a form provided by the department and approved by the WSATC.

(2) The department shall notify the program sponsor no more than two business days after the department receives the objection.

(3) In accordance with WAC 296-05-007, the WSATC may either adjudicate matter(s) itself or refer matter(s) to the office of administrative hearings for initial adjudication.

(a) If the WSATC decides to adjudicate all or part of the objections to the apprenticeship program standards, the individual(s) submitting the objections shall present the objections at the regular quarterly WSATC meeting or at the special WSATC meeting convened for purposes of hearing the objections. The department shall notify the competitor making the objections and the program sponsor that the objection is on the agenda for consideration and give their recommendation ten days prior to the WSATC meeting.

(b) If the WSATC decides to refer all or part of the objections to the office of administrative hearings, the WSATC shall identify the specific matters that the WSATC is requesting the office of administrative hearings to provide findings and conclusions for the initial order.

(4) The department may attempt to facilitate a resolution to any objections during the process identified in this section.

Note: Per WAC 296-05-207, the approval or disapproval of committee programs, plant programs or amendments to those programs can only occur at regular quarterly meetings.

WSR 04-10-033**PERMANENT RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 04-91—Filed April 29, 2004, 11:13 a.m.]

Date of Adoption: April 28, 2004.

Purpose: Amend catch record card rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-56-175.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 03-21-139 on October 21, 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 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.
 April 28, 2004
 Susan Yeager
 for Will Roehl, Chair
 Fish and Wildlife Commission

WSR 04-10-035
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-94—Filed April 29, 2004, 11:20 a.m.]

AMENDATORY SECTION (Amending Order 03-24, filed 2/14/03, effective 5/1/03)

WAC 220-56-175 Catch record cards. It is unlawful for any person to fail to comply with the catch record requirements as provided for in this section:

(1) In order to fish for or possess for personal use any crab, anadromous salmon, sturgeon, halibut taken from Catch Record Card Areas 5 through 13, or steelhead, an angler must obtain and have in personal possession a valid appropriate catch record card as described in WAC 220-69-236 except for commercially caught salmon retained for personal use as provided for in WAC 220-20-016 and commercially caught sturgeon retained for personal use as provided for in WAC 220-20-021.

(2) Any angler, after obtaining a catch record card shall validate the catch record card by completely, accurately, and legibly completing all personal identification information in ink on the catch record card prior to detaching the catch record card from the underlying copy of the catch record card or, for automated licenses, affixing the appropriate validation sticker to the catch record card. A catch record card remains valid so long as there are one or more unfilled spaces available for the species being fished for, except:

(a) In the mainstem Columbia River downstream from where the river forms the common boundary between Oregon and Washington for sturgeon a catch record card remains valid when the sturgeon portion of the catch record card is filled. A person may not retain sturgeon after the sturgeon portion of the catch record card is filled.

(b) A second or subsequent catch record card is invalid for retention of sturgeon.

(3) Immediately upon catching and possessing a salmon, steelhead, sturgeon or halibut, the angler shall enter in ink in the appropriate space the place, date of catch, species (catch type), for sturgeon, length ((and)), for halibut, vessel type and for salmon, whether or not the fish was marked.

(4) Immediately upon retaining a Dungeness crab aboard a vessel or on the shore, the fisher must enter in ink in the appropriate space the place and date of catch, fishery type and enter a tally mark for each Dungeness crab retained from each catch record card area fished. At the end of the fishing day, the fisher shall enter the total number of crab tally marks for each fishery type.

(5) Every person possessing a catch record card shall by April 30 of the year following the year printed on the card return such card to the department of fish and wildlife.

(6) Any person possessing a catch record card shall, upon demand of any law enforcement officer or authorized department employee, exhibit said card to such officer or employee for inspection.

(7) A catch record card shall not be transferred, borrowed, altered, or loaned to another person.

Date of Adoption: April 27, 2004.

Purpose: Amend coastal sardine rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-88C-030 and 220-88C-040.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 04-07-186 on March 24, 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 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

April 28, 2004

J. P. Koenings

Director

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.

~~((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.

WSR 04-10-037

PERMANENT RULES

**DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT**

[Filed April 29, 2004, 2:07 p.m.]

Date of Adoption: March 24, 2004.

Purpose: Rules are necessary to implement the mandates of chapter 70.103 RCW to establish a state lead-based paint program. Specifically, the rule will establish (1) criteria and procedures for accreditation of lead-based paint training courses and for certification of lead-based paint contractors; (2) work practice standards for the conduct of regulated lead-based paint activities; and (3) enforcement protocols.

Statutory Authority for Adoption: RCW 70.103.0030(2) [70.103.030(2)].

Other Authority: RCW 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090.

Adopted under notice filed as WSR 04-05-062 on February 17, 2004.

Changes Other than Editing from Proposed to Adopted Version: WAC 365-230-020: 250 ppm soil lead standard adopted for all portions of yard; course completion certificates valid for six months.

WAC 365-230-040: Experience requirements for training manager clarified; eliminate application processing timeline.

WAC 365-230-060: Eliminate application processing timeline.

WAC 365-230-090: Identification of reports that must be submitted.

WAC 365-230-130: Applicants from out of state are required to complete a refresher course in the appropriate dis-

PERMANENT

cipline; written reciprocity agreement required for acceptance of out-of-state training.

WAC 365-230-134: Clarification of eligibility requirements for project designer.

WAC 365-230-140: Expiration date of valid prior license recognized; change effective date for certification based on prior licensing to one hundred twenty days after date of self-certification of state lead-based paint program.

WAC 365-230-170: Eliminate application processing timeline; requirements regarding contractors who use certified contractors eliminated; insurance and bonding requirements changed.

WAC 365-230-200: Identify reports that must be submitted to the department.

WAC 365-230-230: Clarify inspection protocol.

WAC 365-230-270: Eliminate specific lead-related references to WACs of other state agencies.

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 32, 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.

April 29, 2004

Stephen H. Buxbaum
Assistant Director

Chapter 365-230 WAC

ACCREDITATION OF LEAD-BASED PAINT TRAINING PROGRAMS AND THE CERTIFICATION OF FIRMS AND INDIVIDUALS CONDUCTING LEAD-BASED PAINT ACTIVITIES

NEW SECTION

WAC 365-230-010 Authority, purpose and scope. (1) The authority for these regulations is chapter 70.103 RCW.

(2) Purpose.

(a) These regulations address Washington's need for a qualified and properly trained work force to perform inspection, risk assessment and abatement of hazards associated with lead-based paint, as defined in these rules, to safeguard the environment and protect human health, especially for children under six years of age and other high-risk groups from lead-based paint hazards.

(b) These regulations prescribe the accreditation requirements for training providers offering lead-based paint activities training courses to qualify individuals for lead-based

paint certification and will require that all lead-based paint training courses be offered or provided only by accredited training providers.

(c) These regulations prescribe the certification requirements of individuals and firms engaged in lead-based paint activities in target housing and child occupied facilities.

(d) These regulations establish work practice standards for the performance of lead-based paint inspection, risk assessment, and abatement activities for individuals and firms and will require that only certified individuals and firms perform lead-based paint activities.

(3) Scope.

(a) These rules apply to all individuals and firms that are engaged in lead-based paint activities as defined in these regulations, (WAC 365-230-200) except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.

(b) These rules establish the requirement that lead-based paint activities be performed only by certified individuals and firms.

(c) These rules prescribe the requirements for, and the manner of, certifying competency of applicants for certification of lead-based paint inspector, risk assessor, supervisor, project designer, and worker, and of legally registered firms employing such individuals.

(d) These rules prescribe work practice standards for the abatement of lead-based paint hazards and for the performance of lead-based paint inspection and risk assessment, and those actions or circumstances that constitute failure to achieve or maintain competency, or that otherwise are contrary to the public interest, for which the department may deny, suspend, revoke, or modify certification.

(e) These rules establish application fees for certification and accreditation.

(f) These rules establish a procedure by which training providers may apply for and obtain accreditation to offer initial lead-based paint activity courses in any of the following disciplines: Inspector, risk assessor, supervisor, project designer, and abatement worker. A training program accredited in a discipline may also seek accreditation to offer refresher courses for the discipline.

(g) These rules prescribe the requirements for training programs to provide, offer, or claim to provide accredited lead-based paint activities courses.

(h) These rules prescribe those actions or circumstances that constitute failure to achieve or maintain competency, or that otherwise are contrary to the public interest, for which the department may deny, suspend, revoke or modify accreditation.

(i) These rules describe the actions or failures to act that constitute violations of these rules and for which the department may issue fines.

(j) These rules establish a schedule of penalties for failure to comply with these rules.

NEW SECTION

WAC 365-230-015 Adoption by reference. All standards, listings and publications referred to in these rules are by those references made a part of these rules as though fully set forth.

NEW SECTION

WAC 365-230-016 Contact information for accreditation and certification matters. Application materials and information concerning lead-based paint accreditation and certification as described in these rules can be obtained from the lead-based paint program via the following contact information:

- (1) Mailing address: Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525
- (2) Telephone number: 360-725-2949
- (3) Fax number: 360-586-5880
- (4) Website: www.cted.wa.gov

NEW SECTION

WAC 365-230-020 Definitions. As used in these rules unless otherwise required by context:

(1) "Abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards including, but not limited to:

(a) The removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or covering of soil, when lead-based paint hazards are present in such paint, dust or soil; and

(b) All preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

Specifically, abatement includes, but is not limited to:

(i) Projects for which there is a written contract or other documentation, which provides that an individual or firm will be conducting activities in or to a residential dwelling or child-occupied facility that results in permanent elimination of lead-based paint hazards or designed to permanently eliminate lead-based paint hazards and described in (a) and (b) of this subsection.

(ii) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by certified and licensed firms or individuals, unless such projects are covered under (c) of this subsection.

(iii) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities, unless such projects are covered under (c) of this subsection.

(iv) Projects resulting in the permanent elimination of lead-based paint hazards, that are conducted in response to state or local abatement orders.

(c) Abatement does not include renovation, remodeling, landscaping or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a

given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

(2) "Accreditation" means the process whereby the department has reviewed and approved a training provider's written application with associated materials for accreditation, and has conducted an on-site audit finding the training program is in compliance as specified in these rules.

(3) "Accredited training program" means a training program accredited by the department, either directly or through a reciprocity agreement with other jurisdictions, to provide training for individuals engaged in lead-based paint activities.

(4) "Accredited training course" means either an initial or a refresher training course accredited by the department, either directly or through a reciprocity agreement with other jurisdictions, that provides training for individuals engaged in lead-based paint activities.

(5) "Accredited training provider" means an individual, corporation, partnership or other unincorporated association or public entity to which the department has approved accreditation to offer one or more lead-based paint courses.

(6) "Adequate quality control" means a plan or design that ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling.

(7) "Administrator" means the director of the department of community, trade and economic development, or the director's designee.

(8) "Approved" means approved in writing by the department.

(9) "Arithmetic mean" means the algebraic sum of data values divided by the number of data values (e.g., the sum of the concentration of lead in several soil samples divided by the number of samples).

(10) "Business day" means Monday through Friday with the exception of legal Washington state holidays.

(11) "Certified" means issued a certificate by the department based on meeting requirements for the appropriate discipline. Those requirements include, but are not limited to, the following:

(a) Successful completion of a training program accredited by the department; and

(b) Receiving a passing score on a certification examination administered by the department; and

(c) Satisfaction of any other requirements for the appropriate discipline; and

(d) Submittal and approval of the appropriate application by the department for inspection, risk assessment or abatement activities in target housing and child-occupied facilities.

(12) "Certified firm" means a company, partnership, corporation, sole proprietorship, association, or other business entity that performs lead-based paint activities to which the department has issued a certificate under these rules.

(13) "Chewable surface" means an interior or exterior surface painted with lead-based paint that a young child can

mouth or chew. A chewable surface is the same as an "accessible surface" as defined in 42 U.S.C. 4851b(2). Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

(14) "Child-occupied facility" means a building, or a portion of a building, constructed prior to 1978, visited regularly by the same child, under the age of six, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least three hours and the combined weekly visit lasts at least six hours, and the combined annual visits last at least sixty hours. Child-occupied facilities may include, but are not limited to, day care centers, preschools and kindergarten classrooms.

(15) "Clearance levels" are values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement activity.

(16) "Clearance examination standards" means a maximum of 40 micrograms of lead in dust per square foot on floors, 250 micrograms of lead in dust per square foot on interior window sills, and 400 micrograms of lead in dust on window troughs.

(17) "Common area" means a portion of a building that is generally accessible to all occupants that may include, but that is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

(18) "Common area group" means a group of common areas that are similar in design, construction, and function. Common area groups include, but are not limited to, hallways, stairwells, and laundry rooms.

(19) "Component or building component" means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include, but are not limited to, interior components such as: Ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills or stools and troughs), built in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners; and exterior components such as: Painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, cornerboards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes and wells, and air conditioners.

(20) "Concentration" means the relative content of a specific substance contained within a larger mass, such as the amount of lead (in micrograms per gram or parts per million by weight) in a sample of dust or soil.

(21) "Containment" means a process to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement.

(22) "Course agenda" means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

(23) "Course test" means an evaluation of the overall effectiveness of the training which shall test the trainees' knowledge and retention of the topics covered during the course.

(24) "Course completion date" means the final date of classroom instruction and/or student examination of an accredited lead-based paint training course.

(25) "Course completion certificate" means documentation issued by an accredited training provider to an individual as proof of successful completion of a department-approved lead-based paint course or initial training course. All course completion certificates are valid for six months from the course completion date.

(26) "Course test blue print" means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

(27) "Demonstration testing" means the observation and scoring of a student's job task and equipment use skills taught during an initial or refresher training course.

(28) "Department" means the Washington department of community, trade, and economic development.

(29) "Deteriorated paint" means any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

(30) "Discipline" means one of the specific types or categories of lead-based paint activities identified in this subpart for which individuals may receive training from accredited programs and become certified by the department. For example, "abatement worker" is a discipline.

(31) "Distinct painting history" means the application history, as indicated by the visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

(32) "Documented methodologies" are written methods or protocols used to sample for the presence of lead in paint, dust, and soil as recommended in U.S. Department of Housing and Urban Development "*Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing*," revised, October, 1997; "*Agency Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil*," September, 1995; and "*EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling*," March 1995. These materials can be downloaded from the following website: www.epa.gov/lead or www.hud.gov/lead/offices.

(33) "Dripline" means the area within three feet surrounding the perimeter of a building.

(34) "Dust-lead hazard" means surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding 40 $\mu\text{g}/\text{ft}^2$ on floors or 250 $\mu\text{g}/\text{ft}^2$ on interior window sills based on wipe samples.

(35) "Elevated blood lead level (EBL)" means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 $\mu\text{g}/\text{dl}$ (micrograms of lead per deciliter of whole blood) for a single venous test or of 15-19 $\mu\text{g}/\text{dl}$ in two consecutive tests taken three to four months apart.

(36) "Encapsulant" means a substance that forms a barrier between lead-based paint and the environment using a liquid applied coating (with or without reinforcement materials) or an adhesively bonded covering material.

(37) "Encapsulation" means the application of an encapsulant.

(38) "Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

(39) "EPA" means the Environmental Protection Agency.

(40) "Firm" means a sole proprietorship, corporation, association, firm, partnership, or joint stock company legally registered with the Washington department of licensing to conduct business in the state of Washington.

(41) "Friction surface" means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.

(42) "Guest instructor" means an individual designated by the training program manager or principal instructor to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(43) "Hands-on training" means training during which students practice skills that they will be expected to perform at the worksite.

(44) "Hands-on skills assessment" means an evaluation which tests the trainees' ability to satisfactorily perform the work practices and procedures identified in WAC 365-230-200 as well as any other skill taught in a training course.

(45) "Hazardous waste" means any waste as defined in chapter 173-303 WAC.

(46) "Impact surface" means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of door frames.

(47) "Initial training course" means a full, accredited lead-based paint training course required for certification. It is different than a refresher course.

(48) "Inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report, in writing, explaining the results of the investigation.

(49) "Inspector" means an individual who is certified by the department to conduct in target housing and child-occupied facilities a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report, in writing; and conduct clearance procedures in accordance with WAC 365-230-200. An inspector may also collect dust and soil samples and perform clearance testing. An inspector may cite the applicable standard for the medium being sampled, but may not evaluate the results or assess risk.

(50) "Interactive/participatory teaching methods" mean instruction which consists of active participation of the students, such as brainstorming, hands-on training, demonstration and practice, small group problem solving, learning games, discussions, risk mapping, field visits, walk-throughs, problem posing, group work assignments, homework review sessions, question-and-answer periods, skits, or role-playing sessions. Lecture is not considered an interactive/participatory teaching method.

(51) "Interim controls" mean a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

(52) "Interior window sill" means the portion of the horizontal window ledge that protrudes into the interior of the room.

(53) "Job tasks" mean the specific activities performed in the context of work.

(54) "Lead abatement professional" means an individual certified to conduct lead-based paint activities under WAC 365-230-200 as a worker, supervisor, project designer, inspector, or risk assessor.

(55) "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

(56) "Lead-based paint activities" mean, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement, as defined in these rules.

(57) "Lead-based paint activities courses" mean training courses (worker, supervisor, inspector, risk assessor, project designer) provided by accredited training providers.

(58) "Lead-based paint hazard" means hazardous lead-based paint, dust-lead hazard or soil-lead hazard as identified in these rules.

(59) "Lead-hazard screen" is a limited risk assessment activity that involves limited paint and dust sampling as described in WAC 365-230-200.

(60) "Lead hazard standard" means the amount of lead the department considers to be a hazard in target housing or child-occupied facilities. The standards are: Greater than 40 micrograms of lead in dust per square foot on floors, or greater than 250 micrograms of lead in dust per square foot on interior window sills, or 250 parts per million of lead in bare soil.

(61) "Licensed" means a person who has been certified by the department in one or more disciplines.

(62) "Living area" means any area of a residential dwelling used by one or more children under the age of six, including, but not limited to, living rooms, kitchen areas, dens, play rooms, and children's bedrooms.

(63) "Loading" means the quantity of specific substance present per unit of surface area, such as the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters.

(64) "Multifamily dwelling" means a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

(65) "Multifamily housing" means a housing property consisting of more than four dwelling units.

(66) "Paint in poor condition" means more than ten square feet of deteriorated paint on exterior components with large surface areas; or more than two square feet of deteriorated paint on interior components with large surface areas

(e.g., walls, ceilings, floors, doors); or more than ten percent of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (window sills, baseboards, soffits, trim).

(67) "Paint-lead hazard" means any of the following:

(a) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill, or floor) are equal to or greater than the dust-lead hazard levels identified in these rules.

(b) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame).

(c) Any chewable lead-based painted surface on which there is evidence of teeth marks.

(d) Any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

(68) "Permanent" means having an expected design life of twenty years.

(69) "Permanently covered soil" means soil which has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass, mulch, and other landscaping materials are not considered permanent covering.

(70) "Person" means any natural or judicial person including any individual, corporation, partnership, or association; any Indian tribe, state, or political subdepartment thereof; any interstate body; and any department, agency, or instrumentality of the federal government.

(71) "Play area" means an area of frequent soil contact by children of less than six years of age as indicated by, but not limited to, such factors including the following: The presence of play equipment (e.g., sandboxes, swing sets, and sliding boards), toys, or other children's possessions, observations of play patterns, or information provided by parents, residents, care givers, or property owners.

(72) "Preliminary clearance" means clearance of interior living areas according to which an inspector or risk assessor determines that residual lead levels (as determined by laboratory analysis) do not exceed clearance levels.

(73) "Principal instructor" means the individual who has the primary responsibility for organizing and teaching a particular course.

(74) "Proficiency test" means any alternative to a conventional written examination that is used to measure a trainee's mastery of course content. An oral examination offered to a trainee with a manual disability is an example of a proficiency test.

(75) "Project designer" means an individual who is certified by the department to interpret lead inspection or risk assessment reports and to develop plans, specifications, and project procedures for lead abatement projects in target housing and child-occupied facilities, including occupant notification and protection, cleanup and clearance, and abatement reports.

(76) "Recognized laboratory" means an environmental laboratory recognized by EPA pursuant in accordance with the National Lead Laboratory Accreditation Program

(NLLAP) as being capable of performing an analysis for lead compounds in paint, soil, and dust.

(77) "Refresher training course" means a minimum seven-hour training course (or four hours for project designer) accredited by the department to update an individual's knowledge and skills in the discipline in which training is offered.

(78) "Residential dwelling" means:

(a) A detached single-family dwelling unit, including attached structures such as porches and stoops; or

(b) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be occupied, in whole or in part, as the home or residence of one or more persons.

(79) "Risk assessment" means an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and the provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

(80) "Risk assessor" means an individual who is certified by the department to conduct in target housing and child-occupied facilities on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and to provide a report explaining the results of the investigation and options for reducing lead-based paint hazards; and who may conduct a lead-hazard screen, in accordance with WAC 365-230-200.

(81) "Room" means a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least six inches from an intersecting wall. Half walls or bookcases count as room separators if built-in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened-in porch that is used as a living area is a room.

(82) "Sample quality control" means a plan or design which ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or film samples. Sample quality control also includes provisions for representative sampling and control samples.

(83) "Scope of work" means a written description of all of the abatement activities to be conducted at a specific abatement project site.

(84) "Soil-lead hazard" means bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding 250 parts per million (mg/g) based on soil samples.

(85) "Soil sample" means a sample collected in a representative location using ASTM E1727, "*Standard Practice for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques*," or equivalent method. ASTM standards can be obtained from ASTM International, P.O. Box C700, West Conshohocken, PA 19428-2929, via phone at 610-832-9525, or electronically at www.astm.org

(86) "Supervisor" means an individual who is certified by the department to either conduct or oversee and direct the work-site conduct of lead-based paint abatement and clear-

ance activities in target housing and child-occupied facilities, and to prepare occupant protection plans and abatement reports in accordance with WAC 365-230-200.

(87) "Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children under the age of six resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling.

(88) "These rules" means Washington Administrative Code (WAC) 365-230-010 through 365-230-270.

(89) "Train-the-trainer course" means a course that includes, but is not limited to, instruction in the planning and teaching of adult education, adult learning principles, designing training objectives, selecting and designing training activities, creating an effective learning environment, facilitating group involvement and discussions, and strategies for dealing with difficult training situations and difficult learners.

(90) "Training curriculum" means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

(91) "Training hour" means at least fifty minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on experience.

(92) "Training manager" means the individual responsible for administering a training program and monitoring the performance of principal instructors and guest instructors.

(93) "Training provider" means any business entity accredited under WAC 365-230-035 and 365-230-040 that offers lead-based paint activities courses.

(94) "Weighted arithmetic mean" means the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. A single surface sample is comprised of a single subsample. A composite sample may contain from two to four subsamples of the same area as each other and of each single surface sample in the composite. The weighted arithmetic mean is obtained by summing, for all samples, the product of the sample's result multiplied by the number of subsamples in the sample, and dividing the sum by the total number of subsamples contained in all samples. For example the weighted arithmetic mean of a single surface sample containing $60 \mu\text{g}/\text{ft}^2$, a composite sample (three subsamples) containing $100 \mu\text{g}/\text{ft}^2$, and a composite sample (four subsamples) containing $110 \text{mg}/\text{ft}^2$ is $100 \mu\text{g}/\text{ft}^2$. This result is based on the equation $[60+(3*100)+(4*110)]/(1+3+4)$.

(95) "Window trough" means for a typical double-hung window, the portion of the exterior window sill between the interior window sill (or stool) and the frame of the storm window. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered. The window trough is sometimes referred to as the window "well."

(96) "Wipe sample" means a sample collected by wiping a representative surface of known area, as determined by ASTM E1728, "Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for

Lead Determination by Atomic Spectrometry Techniques," or equivalent method, with an acceptable wipe material as defined in ASTM E 1792, "Standard Specification for Wipe Sampling Materials for Lead in Surface Dust." ASTM standards can be obtained from ASTM International, P.O. Box C700, West Conshohocken, PA 19428-2929, via phone at 610-832-9525, or electronically at www.astm.org

(97) "Worker" means an individual who is certified by the department and licensed by the construction contractors' board to conduct lead-based paint abatement activities in target housing and child-occupied facilities in accordance with WAC 365-230-200.

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.

NEW SECTION

WAC 365-230-030 Accreditation required. (1) No person shall provide, offer, or claim to provide an accredited lead-based paint activities course unless the person has received accreditation from the department.

(2) Training courses may be accredited for the initial inspector, risk assessor, abatement worker, supervisor, and project designer training courses or for refresher training courses within the same disciplines.

(3) Only accredited training providers are eligible to offer initial and refresher training courses for lead-based paint discipline courses.

(4) To qualify for and maintain accreditation, a training provider shall:

(a) Propose and offer at least one accredited or accredited lead-based paint training course.

(b) Conform to personnel, operational and curriculum requirements.

(c) Comply with accreditation application and procedural requirements.

NEW SECTION

WAC 365-230-035 Application process. The following are procedures a training program must follow to receive accreditation by the department to offer lead-based paint training courses:

(1) Submission of a completed application for course accreditation or renewal. Information that must be provided with the application is as follows:

(a) Name, address, and phone number of training provider and training program manager.

(b) List of course(s) for which accreditation is being applied.

(c) A statement signed by the training program manager certifying that the training program meets the requirements under WAC 365-230-040.

(d) A copy of the entire course instruction curriculum, including, but not limited to: Learning objectives; documentation of course agenda with time allocation for each course topic; the sequence of topics to be covered during the course(s); student and instructor manuals, or other materials to be used for the course.

(e) Copy of the test blueprint describing the portion of test questions devoted to each major course topic.

(f) Description of the facilities and equipment to be used for lecture and hands-on training, respectively.

(g) Description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.

(h) A copy of the quality control plan developed by the training manager. The plan shall be used to maintain and improve the training program and contain at least the following elements:

(i) Procedures for periodic revision of training materials and course test to be current with innovations in the field.

(ii) Procedures for the training manager's annual review of principal instructor competency.

(2) Documentation of accreditation by other state or federal agencies, if applicable.

(3) Submit a check or money order made out to the department of community, trade, and economic development in the amount as described in WAC 365-230-120.

NEW SECTION

WAC 365-230-040 Requirements for the accreditation of training programs. For a training program to obtain accreditation from department to offer lead-based paint activities courses, the program shall meet the following requirements:

(1) The training program shall employ a training manager who has:

(a) At least two years of experience, education, or training in teaching workers or adults; or

(b) A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration or program management or a related field; or

(c) Two years of experience in managing a training program specializing in environmental hazards; and

(d) Demonstrated experience, education, or training in the construction industry including: Lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

(2) The training manager shall designate a qualified principal instructor for each course who has:

(a) Demonstrated experience, education, or training in teaching workers or adults; and

(b) Successfully completed at least sixteen hours of any department-accredited, EPA-accredited or tribal-accredited lead-specific training; and

(c) Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

(3) The principal instructor shall be responsible for the organization of the course and oversight of the teaching of all course material. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(4) The following documents shall be recognized by the department as evidence that training managers and principal instructors have the education, work experience, training requirements or demonstrated experience, specifically listed in subsections (1), (2) and (3) of this section. This documentation need not be submitted with the accreditation application, but, if not submitted, shall be retained by the training program as required by WAC 365-230-090. Those documents include the following:

(a) Official academic transcripts or diploma as evidence of meeting education requirements.

(b) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) Certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.

(5) The training program shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed.

(6) To become accredited in the following disciplines, the training program shall provide training courses that meet the following training hour requirements:

(a) The inspector course shall last a minimum of twenty-four training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the inspector course are contained in WAC 365-230-050.

(b) The risk assessor course shall last a minimum of sixteen training hours, with a minimum of four hours devoted to hands-on training activities. The minimum curriculum requirements for the risk assessor course are contained in WAC 365-230-050.

(c) The supervisor course shall last a minimum of thirty-two training hours, with a minimum of eight hours devoted to hands-on activities. The minimum curriculum requirements for the supervisor course are contained in WAC 365-230-050.

(d) The project designer course shall last a minimum of eight training hours. The minimum curriculum requirements for the project designer course are contained in WAC 365-230-050.

(e) The abatement worker course shall last a minimum of sixteen training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the abatement worker course are contained in WAC 365-230-050.

(7) If a training program uses EPA-developed model training materials, or training materials approved by a state or Indian tribe that has been authorized by EPA under 40 CFR 745.324 to develop its initial training course materials, the training manager shall include a statement certifying that, as well.

(8) If the initial training course materials are not based on EPA-developed model training materials or training materials approved by an authorized state or Indian tribe, the training program's application for accreditation shall include:

(a) A copy of the student and instructor manuals to be used for each course.

(b) A copy of the course agenda for each course.

(9) All initial training courses shall include in their application for accreditation the following:

(a) A description of the facilities and equipment to be used for lecture and hands-on training.

(b) A copy of the course test blueprint for each course.

(c) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course (if applicable).

(d) A copy of the quality control plan as described in WAC 365-230-040.

(10) If a training program meets the requirements listed in this section, then the department shall approve the application for accreditation. In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the department may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The department may also request additional materials retained by the training provider described under WAC 365-230-090. If an initial training program's application is disapproved, the program may reapply for accreditation at any time.

(11) For each course offered, the training program shall conduct either a course test at the completion of the course, and if applicable, a hands-on skills assessment, or in the alternative, a proficiency test for that discipline. Each individual must successfully complete the hands-on skills assessment and receive a passing score on the course test to pass any course, or successfully complete a proficiency test.

(a) The training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment or proficiency test to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in WAC 365-230-050.

(b) The training manager is responsible for maintaining the validity and integrity of the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

(c) The course test shall be developed in accordance with the test blueprint submitted with the training accreditation application.

(12) The training program shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include:

(a) The name, a unique identification number, and address of the individual.

(b) The name of the particular course that the individual completed.

(c) Dates of course completion/test passage.

(d) The name, address, and telephone number of the training program.

(13) The training manager shall develop and implement a quality control plan. The plan shall be used to maintain and improve the quality of the training program over time. This plan shall contain at least the following elements:

(a) Procedures for periodic revision of training materials and the course test to reflect innovations in the field.

(b) Procedures for the training manager's annual review of principal instructor competency.

(14) The training program shall offer courses that teach the work practice standards for conducting lead-based paint activities contained in WAC 365-230-200, and other standards developed by EPA pursuant to Title IV of TSCA. These standards shall be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities they are responsible for conducting.

(15) The training manager shall be responsible for ensuring that the training program complies at all times with all of the requirements in this section.

(16) A course audit shall include, but not be limited to, a review of: Instructional curriculum; examination design, administration and security procedures, and results, including those of demonstration testing; classroom instruction; audio-visual materials; course content; coverage; and teaching facilities.

(17) An accredited training provider may not implement changes in method or content that affect one half-hour or more of contact instruction without ten business days advance notice of the changes to department.

NEW SECTION

WAC 365-230-050 Minimum training curriculum requirements. To become accredited to offer lead-based paint courses instruction in the specific disciplines listed below, training programs must ensure that their courses of study include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on activities as an integral component of the course.

(1) Inspector.

(a) Role and responsibilities of an inspector.

(b) Background information on lead and its adverse health effects.

(c) Background information on federal, state, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.

(d) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing.*

(e) Paint, dust, and soil sampling methodologies.*

(f) Clearance standards and testing, including random sampling.*

(g) Preparation of the final inspection report.*

(h) Recordkeeping.

(2) Risk assessor.

(a) Role and responsibilities of a risk assessor.

(b) Collection of background information to perform a risk assessment.

(c) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food.

(d) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards.*

(e) Lead hazard screen protocol.

(f) Sampling for other sources of lead exposure.*

(g) Interpretation of lead-based paint and other lead sampling results, including all applicable state or federal guidance or regulations pertaining to lead-based paint hazards.*

(h) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.

(i) Preparation of a final risk assessment report.

(3) Supervisor.

(a) Role and responsibilities of a supervisor.

(b) Background information on lead and its adverse health effects.

(c) Background information on federal, state, and local regulations and guidance that pertain to lead-based paint abatement.

(d) Liability and insurance issues relating to lead-based paint abatement.

(e) Risk assessment and inspection report interpretation.*

(f) Development and implementation of an occupant protection plan and abatement report.

(g) Lead-based paint hazard recognition and control.*

(h) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.*

(i) Interior dust abatement/cleanup or lead-based paint hazard control and reduction methods.*

(j) Soil and exterior dust abatement or lead-based paint hazard control and reduction methods.*

(k) Clearance standards and testing.

(l) Cleanup and waste disposal.

(m) Recordkeeping.

(4) Project designer.

(a) Role and responsibilities of a project designer.

(b) Development and implementation of an occupant protection plan for large scale abatement projects.

(c) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects.

(d) Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects.

(e) Clearance standards and testing for large scale abatement projects.

(f) Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large scale abatement projects.

(5) Abatement worker.

(a) Role and responsibilities of an abatement worker.

(b) Background information on lead and its adverse health effects.

(c) Background information on federal, state and local regulations and guidance that pertain to lead-based paint abatement.

(d) Lead-based paint hazard recognition and control.*

(e) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.*

(f) Interior dust abatement methods/cleanup or lead-based paint hazard reduction.*

(g) Soil and exterior dust abatement methods or lead-based paint hazard reduction.*

NEW SECTION

WAC 365-230-060 Requirements for the accreditation of refresher training courses. A training program may seek accreditation to offer refresher training courses in any of the following disciplines: Inspector, risk assessor, supervisor, project designer, and abatement worker. To obtain department accreditation to offer refresher training, a training program must meet the following minimum requirements:

(1) Each refresher course shall review the curriculum topics of the full-length courses listed under WAC 365-230-050, as appropriate. In addition, to become accredited to offer refresher training courses, training programs shall ensure that their courses of study include, at a minimum, the following:

(a) An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(b) Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(c) Current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(2) Each refresher course, except for the project designer course, shall last a minimum of eight training hours. The project designer refresher course shall last a minimum of four training hours.

(3) For each course offered, the training program shall conduct a hands-on assessment (if applicable), and at the completion of the course, a course test.

(4) A training program may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course as described in WAC 365-230-035. If so, the department shall use the approval procedure described in WAC 365-230-035. In addition, the minimum requirements contained in WAC 365-230-040 (except for the training hour requirements of refresher training courses). For these purposes, the hourly training requirements of WAC 365-230-060 shall also apply.

(5) A training program seeking accreditation to offer refresher training courses only shall submit a written application to the department containing the following information:

(a) The refresher training program's name, address, and telephone number.

(b) A list of courses for which it is applying for accreditation.

(c) A statement signed by the training program manager certifying that the refresher training program meets the minimum requirements established in the WAC 365-230-040 except for the training hour requirements of refresher training courses. If a training program uses EPA-developed model training materials, or training materials approved by a state or Indian tribe that has been authorized by EPA under 40 CFR 745.324 to develop its refresher training course materials, the training manager shall include a statement certifying that, as well.

(d) If the refresher training course materials are not based on EPA-developed model training materials or training materials approved by an authorized state or Indian tribe, the training program's application for accreditation shall include:

(i) A copy of the student and instructor manuals to be used for each course.

(ii) A copy of the course agenda for each course.

(e) All refresher training programs shall include in their application for accreditation the following:

(i) A description of the facilities and equipment to be used for lecture and hands-on training.

(ii) A copy of the course test blueprint for each course.

(iii) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course (if applicable).

(iv) A copy of the quality control plan as described in WAC 365-230-040.

(f) The requirements of WAC 365-230-040 (1) through (5), and (7) through (12) apply to refresher training providers.

(g) If a refresher training program meets the requirements listed in this paragraph, then the department shall approve the application for accreditation. In the case of approval, a certificate of accreditation shall be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the department may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The department may also request additional materials retained by the refresher training program described under WAC 365-230-090. If a refresher training program's application is disapproved, the program may reapply for accreditation at any time.

NEW SECTION

WAC 365-230-070 Reaccreditation of training programs. (1) Unless reaccredited, a training program's accreditation for both initial and refresher training courses shall expire four years after the date of issuance of the course accreditation.

(2) A training provider seeking reaccreditation shall submit an application to the department no later than one hundred eighty days before its accreditation expires. If a training program does not submit its application by that date, the department cannot guarantee that the program will be reaccredited before the end of the accreditation period.

(3) The training program's application for reaccreditation shall contain:

(a) The training program's name, address, and telephone number.

(b) A list of courses for which it is applying for reaccreditation.

(c) A description of any changes to the training facility, equipment or course materials since its last application was approved that adversely affects the students' ability to learn or that affects more than thirty minutes of a training hour.

(d) A statement signed by the program manager stating:

(i) That the training program complies at all times with all the Requirements for the accreditation of training programs (WAC 365-230-040) and Requirements for the accreditation of refresher training programs (WAC 365-230-035), as applicable; and

(ii) The training program recordkeeping (WAC 365-230-090) and Notification requirements (WAC 365-230-100) shall be followed.

NEW SECTION

WAC 365-230-080 Approval/disapproval of application for accreditation or renewal of accreditation. The department may disapprove an application for accreditation or renewal of an initial or refresher training course for any of the following reasons:

(1) Failure to complete application in accordance with these rules, or department policy or instructions.

(2) Failure to meet Training curriculum requirements (WAC 365-230-050) as set forth in these rules.

(3) Failure to meet Requirements for accreditation of training programs (WAC 365-230-040) as set forth in these rules.

(4) Failure to meet the Requirements for the accreditation of refresher training programs (WAC 365-230-060) as set forth in these rules.

(5) In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the department may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The department may also request additional materials retained by the training provider described under the Training program recordkeeping requirements (WAC 365-230-090). If a training provider's application for accreditation of an initial or refresher training course is disapproved, the provider may reapply for accreditation at any time.

NEW SECTION

WAC 365-230-090 Training program recordkeeping requirements. (1) Accredited training programs shall maintain, and make available to the department if requested, the following records:

(a) All documents specified in the Requirements of the accreditation of training programs (WAC 365-230-040) as set forth in these rules that demonstrate the qualifications for training manager and principal instructors.

(b) Current curriculum, course materials and documents reflecting any changes made to these materials.

(c) The course test blueprint.

(d) Information regarding how the hands-on assessment is conducted including, but not limited to, who conducts the assessment, how skills are graded, what facilities are used, and the pass/fail rate.

(e) The quality control plan as described in the Requirements of the accreditation of training programs (WAC 365-230-040) as set forth in these rules.

(f) Results of student's hands-on skills assessments and course tests, and a copy of each student's course completion certificate.

(g) Any other material submitted as part of the program's application for accreditation.

(2) The training provider shall retain these records at the address specified on the training provider's accreditation application (or as modified as the result of notification of

change of address) shall be retained a minimum of three years and six months.

(3) A training provider shall notify the department in writing within thirty days of changing the address specified on its training program accreditation, or transferring the records from that address.

(4) Accreditation is transferable in the case of acquisition of the accredited training provider by another entity. The new entity must notify the department within thirty days of the change of ownership and any other changes to information included in the original application.

(5) A training provider shall submit to the department the two notifications described in WAC 365-230-100.

NEW SECTION

WAC 365-230-100 Notification of lead-based paint training activity. (1) The training manager shall provide notification of lead-based paint activities courses offered.

(a) The training manager shall provide the department with notice of all lead-based paint activities courses offered. The original notice must be received by the department at least ten business days prior to offering any lead-based paint activities course.

(b) The training manager shall provide the department updated notice when lead-based paint activities courses will begin on a date other than the one specified in the original notification, as follows:

(i) For lead-based paint activities courses beginning prior to the original start date an updated notice must be received by the department at least ten business days before the revised start date.

(ii) For lead-based paint activities courses beginning after the original start date an updated notice must be received by the department at least two business days before the original start date.

(c) The training manager shall update the department of any change in location of lead-based paint activities courses at least ten business days prior to the scheduled course start date.

(d) The training manager shall also update the department regarding any course cancellations, or any other change to the original notice. Updated notices must be received by the department at least two business days prior to the scheduled course start date.

(e) Each notice, including updates, shall include the following:

(i) Notification type (original, update, cancellation).

(ii) Training program name, department accreditation number, address, and phone number.

(iii) Course discipline, type (initial/refresher), and the language in which instruction will be given.

(iv) Date(s) and time(s) of training.

(v) Training location(s) phone number, and street address.

(vi) Principal instructor's name.

(vii) Training manager's name and signature.

(f) Notification shall be accomplished using any of the following methods: Written notice, or by e-mail. All notices submitted by e-mail must be followed with written notice

within twenty-four hours of submission. Written notification of lead-based paint activities course schedules can be accomplished by using either the sample form titled "Lead-Based Paint Activities Training Course Schedule" or a similar form developed by the training program containing the required information. All written notices shall be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery. (Persons submitting notification by U.S. Postal Service are reminded that they should allow three additional business days for delivery in order to ensure that the department receives the notification by the required date.) Instructions and sample forms can be obtained from the department at 360-725-2949, or on the internet at <http://www.cted.wa.gov>

(g) Lead-based paint activities courses shall not begin on a date, or at a location other than that specified in the original notice unless an updated notice identifying a new date or location is submitted, in which case the course must begin on the date and location specified in the updated notice.

(h) No training program shall provide lead-based paint activities courses without first notifying the agency of such activities in accordance with the requirements of this paragraph.

(2) The training manager shall provide notification following completion of lead-based paint activities courses.

(a) The training manager shall provide the department with notice after the completion of any lead-based paint activities course that shall be received by the department no later than twenty business days following course completion.

(b) The notice shall include the following:

(i) Training program name, department accreditation number, address, and phone number.

(ii) Course discipline and type (initial/refresher).

(iii) Date(s) of training.

(iv) The following information for each student who took the course:

(A) Name.

(B) Address.

(C) Social Security number.

(D) Course completion certificate number.

(E) Student test score.

(v) Training manager's name and signature.

(c) Notification shall be accomplished using any of the following methods: Written notice, or by e-mail. All notices submitted by e-mail must be followed with written notice within twenty-four hours of submission. Written notification following lead-based paint activities training courses can be accomplished by using either the sample form titled "Lead-Based Paint Activities Training Course Follow-up" or a similar form developed by the training program containing the required information. All written notices shall be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery. (Persons submitting notification by U.S. Postal Service are reminded that they should allow three additional business days for delivery in order to ensure that the department receives the notification by the required date.) Instructions and sample forms can be obtained from department at 360-725-2949, or on the internet at <http://www.cted.gov>

NEW SECTION

WAC 365-230-110 Reciprocity. The department will accept for purposes of certification, valid course completion certificates issued by an accredited training program duly accredited by either the Environmental Protection Agency (EPA) or an EPA state or tribal lead-based paint program authorized by EPA according to 40 CFR 745.324.

(1) The EPA state or tribal lead-based paint program shall accept, by written agreement, for purposes of certification the valid course completion certificates issued by a training program duly accredited according to these rules.

(2) The department may withdraw reciprocity from any accredited training program following a finding by the department, in its sole discretion, that the training program does not meet the standards of these rules.

NEW SECTION

WAC 365-230-120 Accreditation fees. The following fees are established for accreditation:

(1) A nonrefundable application fee of two hundred dollars for accreditation of an initial or refresher lead-based paint training course.

(2) A nonrefundable application fee of two hundred dollars for reaccreditation of an initial or a refresher lead-based paint training course.

(3) If an initial or refresher course provides instruction for more than one discipline, a separate application fee of two hundred dollars for each discipline is required.

(4) All fees shall be in the form of a check or money order made out to the department of community, trade, and economic development.

**CERTIFICATION OF INDIVIDUALS AND FIRMS
ENGAGED IN LEAD-BASED PAINT ACTIVITIES:
TARGET HOUSING AND CHILD-OCCUPIED FACILITIES**

NEW SECTION

WAC 365-230-130 Certification of individuals. (1) Individuals seeking certification by the department to engage in lead-based paint activities must either:

(a) Submit to the department an application demonstrating that they meet the requirements established in these rules for the inspector, risk assessor, supervisor, project designer or worker for the particular discipline for which certification is sought; or

(b) Submit to the department an application with a copy of a valid lead-based paint activities certification (or equivalent) from a state or tribal program that has been authorized by EPA pursuant to 40 CFR 745.324.

(i) Applicants for certification based on certification from another state or tribal program must complete a refresher course in the discipline accredited by the department.

(ii) Certifications from another state or tribe will be recognized if there is a written reciprocity agreement between the department and that state or tribe.

(2) Individuals may first apply to the department for certification to engage in lead-based paint activities pursuant to this section on or after the effective date of these rules.

(3) Following the submission of an application demonstrating that all the requirements of this section have been met, the department shall certify an applicant as an inspector, risk assessor, supervisor, project designer, or abatement worker, as appropriate.

(4) Upon receiving the department certification, individuals conducting lead-based paint activities shall comply with the work practice standards for performing the appropriate lead-based paint activities as established in the Work practice standards section (WAC 365-230-200).

(5) It shall be a violation of these rules for an individual to conduct any of the lead-based paint activities described in the Work practice standards section (WAC 365-230-200) has not been certified by the department within one hundred twenty days of the effective date of these rules.

NEW SECTION

WAC 365-230-132 Inspector, risk assessor, or supervisor. (1) To become certified by the department as an inspector, risk assessor, supervisor, pursuant to WAC 365-230-130, an individual must:

(a) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Pass the certification exam in the appropriate discipline offered by the department; and

(c) Meet or exceed the following experience and/or education requirements:

(i) Inspectors. No additional experience and/or education requirements.

(ii) Risk assessors.

(A) Successful completion of an accredited training course for inspectors; and

(B) Bachelor's degree and one year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction), or an associates degree and two years experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or

(C) Certification as an industrial hygienist, an engineer, a registered architect, certified safety professional, registered sanitarian, or registered environmental specialist; or

(D) A high school diploma (or equivalent), and at least three years of experience in a related field (e.g., lead, asbestos, environmental remediation work or construction).

(iii) Supervisor:

(A) One year of experience as a certified lead-based paint abatement worker; or

(B) At least two years of experience in a related field (e.g., lead, asbestos, or environmental remediation work) or in the building trades.

(2) The following documents shall be recognized by the department as evidence of meeting the experience or education requirements described in this section of these rules:

(a) Official academic transcripts or diploma, as evidence of meeting the education requirements.

(b) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.

(3) In order to take the certification examination for a particular discipline an individual must:

(a) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Meet or exceed the education and/or experience requirements described in this section.

(4) After successfully completing the appropriate training courses and application requirements and meeting any other qualifications as described in inspector, risk assessor and supervisor section of these rules, an individual shall be certified by the department.

(5) To maintain certification, an individual must be recertified as described in WAC 365-230-160.

(6) An individual may take the certification exam no more than three times within six months of receiving a course completion certificate.

(7) If an individual does not pass the certification exam and receive a certificate within six months of receiving his/her course completion certificate, the individual must successfully complete the appropriate lead-based paint course from an accredited training program before reapplying for certification from the department.

(8) A passing score on third-party, qualifying examination administered by the department is seventy or above.

NEW SECTION

WAC 365-230-134 Abatement worker and project designers. (1) To become certified by the department as an abatement worker or project designer, pursuant to the certification of individuals section of these rules, an individual must:

(a) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Meet or exceed the following additional experience and/or education requirements:

(i) Abatement workers. No additional experience and/or education requirements.

(ii) Project designers.

(A) Successful completion of an accredited training course for supervisors; and

(B) Successful completion of an accredited training course for project designers; and

(C) Bachelor's degree in engineering, architecture, or a related profession, and one year of experience in building construction and design or a related field; or

(D) Three years of experience as an AHERA-certified project designer; or

(E) Four years experience as an AHERA-certified supervisor or as a certified lead-based paint abatement supervisor; and

(F) Pass the supervisor or project designer examination administered by the department, the latter being required when available.

(2) The following documents shall be recognized by the department as evidence of meeting the requirements listed in this paragraph:

(a) Official academic transcripts or diploma, as evidence of meeting the education requirements.

(b) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.

(3) After successfully completing the appropriate training courses and application requirements and meeting any other qualifications as described in abatement worker and project designer section of these rules, an individual shall be certified by the department.

(4) To maintain certification, an individual must be recertified as described in the recertification section of these rules.

(5) An individual may take the certification exam no more than three times within six months of receiving a course completion certificate.

(6) If an individual does not pass the certification exam and receive a certificate within six months of receiving his/her course completion certificate, the individual must successfully complete the appropriate lead-based paint course from an accredited training program before reapplying for certification from the department.

(7) Certification shall be nontransferable.

NEW SECTION

WAC 365-230-140 Accreditation and certification based on prior licensing. (1) All current and valid accreditations and certifications issued by the EPA for practice in the state of Washington, and their respective dates of expiration, shall be recognized by the department on the effective date of the self-certification of the state lead-based paint program and for a period not to exceed one hundred twenty days thereafter.

(2) Any accredited or certified person or entity may apply for accreditation or certification without fee on forms available from the department by submitting documentation of current and valid accreditation or certification issued by EPA, as described in subsection (1) of this section.

(3) Persons or entities with accreditations or certifications that expire within one hundred twenty days of the effective date of these rules, and who wish to apply on the basis of prior licensing, as provided for in this section of these rules, must have completed the application process by the expiration date.

(4) Applicants not holding a valid and current accreditation or certification issued by EPA for practice in the state of Washington must follow the application procedures described in WAC 365-230-150.

(5) Applicants for certification based on prior licensing must submit two, recent passport-size photographs with their application.

NEW SECTION

WAC 365-230-150 Application requirements for an individual. (1) Applications for an individual shall be submitted on forms prescribed by the department and shall be accompanied, as appropriate, by:

(a) Documentation of applicant's training, experience, and education including:

(i) Lead-based paint training course completion certificate issued by a department-accredited training provider.

(ii) Documentation of experience must include name and address of employer, name and telephone number of supervisor; or indicate if self-employed. Documentation must also include employment dates, description of specific duties performed, estimated percentage of time associated with conducting inspections and assessing health, safety or environmental hazards. This documentation must be signed by supervisor or employer verifying that the information is true and correct. A self-employed individual must submit a notarized affidavit attesting to the work experience claimed for the purposes of application.

(iii) Evidence of completion of educational requirements under WAC 365-230-130, such as a transcript or diploma, if applicable.

(b) Two current, passport-size photos.

(c) Applicant's name, signature and date.

(2) A check or money order made out to the department of community, trade, and economic development in the amount as described in the certification fees section of these rules.

(3) Application materials can be obtained by mail from Department of Community, Trade, and Economic Development, Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525, or electronically at <http://www.cted.wa.gov>

(4) The following documents shall be recognized by the department as evidence of meeting the application requirements listed in this section:

(a) Official academic transcripts or diploma, as evidence of meeting the education requirements.

(b) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.

(5) For the purposes of application, photocopies of original documents are acceptable.

NEW SECTION

WAC 365-230-160 Recertification. (1) To maintain certification in a particular discipline, a certified individual shall apply to and be recertified by the department in that discipline either:

(a) Every three years after the original date of issue if the individual completed a training course with a course test and hands-on assessment; or

(b) Every five years if the individual completed a training course with a proficiency test.

(2) An individual shall be recertified if the individual:

(a) Successfully completes the appropriate accredited refresher training course; and

(b) Submits a valid copy of the appropriate refresher course completion certificate; and

(c) Complies with the following application requirements established by the department:

(i) Submit a complete and signed application; and

(ii) Submit two recent passport-size photographs; and

(iii) Submit a check or money order made out to the department of community, trade, and economic development in the amount as described in WAC 365-230-260.

(3) Application materials can be obtained by mail from Department of Community, Trade, and Economic Development, Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525, or electronically at <http://www.cted.wa.gov>

(4) An individual whose certification expires may obtain certification by completing the requirements described in WAC 365-230-150 and 365-230-130.

NEW SECTION

WAC 365-230-170 Certification of firms. (1) All firms which perform or offer to perform any of the lead-based paint activities described in WAC 365-230-200 shall be certified by the department no later than one hundred twenty days after the date of self-certification of the state lead-based paint program.

(2) A firm seeking certification shall submit to the department an application provided by the department and a letter attesting that the firm shall only employ appropriately certified employees to conduct lead-based paint activities, and that the firm and its employees shall follow the work practice standards set forth in WAC 365-230-200 for conducting lead-based paint activities.

(3) The application for a state-licensed contractor seeking certification shall include documentation that the firm meets the current minimum requirements of the department of labor and industries regarding a surety bond and insurance.

(4) The application of a firm that is not a state-licensed contractor shall include documentation that the firm has in force a business, e.g., liability, errors and omissions, insurance policy in the minimum amount of five hundred thousand dollars.

(5) A certified firm may not conduct lead-based paint activities, as described in WAC 365-230-200, if, at any time, it does not have in force the minimum bonding or insurance coverage described in this section.

(6) The firm shall maintain all records pursuant to WAC 365-230-200.

(7) Certification is transferable in the instance of acquisition of a certified firm by another entity. The acquiring firm must notify the department within thirty days of the change of

ownership of any changes to information submitted on the original application.

NEW SECTION

WAC 365-230-180 Application requirements for a firm. (1) Applications for a firm shall be submitted on forms prescribed by the department and shall be accompanied, by the following:

A letter of compliance, signed by an officer of the firm, or an individual authorized to sign on the firm's behalf, certifying the following:

(a) The firm will employ only certified employees of the appropriate discipline to conduct lead-based paint activities as prescribed in these rules.

(b) The firm will follow the standards for conducting lead-based paint activities as prescribed in these rules.

(c) The firm shall maintain all records pursuant to these rules.

(2) A check or money order made out to the department of community, trade, and economic development in the amount as described in WAC 365-230-260.

NEW SECTION

WAC 365-230-190 Approval or disapproval of certification. (1) The department may disapprove an application for certification for the following reasons, including, but not limited to:

(a) Failure to complete application in accordance with these rules, or department policy or instructions;

(b) Failure to satisfy eligibility requirements for certification;

(c) Failure to satisfy training requirements;

(d) Failure to provide required documentation or information requested by the department;

(e) History of citations or violations of existing regulations or these rules, regulations including execution of a consent agreement in settlement of an enforcement action;

(f) History of revocation of a certificate;

(g) Making false or misleading statements in the application;

(h) Permitting the duplication or use of the individual's own certificate by another;

(i) Having been subject to a final administrative order imposing a civil penalty or a criminal conviction for engaging in a prohibited act under department.

(2) In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the department may, at its discretion, work with the applicant to address inadequacies in the application for certification. The department may also request additional materials under the recordkeeping requirements of WAC 365-230-200(8). If an individual or firm's application for certification has been disapproved, the program may reapply for certification at any time.

NEW SECTION

WAC 365-230-200 Work practice standards. (1) When performing any lead-based paint activity described by

a certified and licensed individual as an inspection, lead hazard screen, risk assessment or abatement, a certified and licensed person must perform that activity in compliance with these rules, documented methodologies, procedures and work practice standards.

(2) Inspection. An inspection shall be conducted only by a person certified by the department as an inspector or risk assessor.

(a) Locations shall be selected according to documented methodologies and tested for the presence of lead as follows:

(i) In target housing and child-occupied facilities, each component with a distinct painting history shall be tested, except those components determined to have been replaced after 1978 or to not contain lead-based paint; and

(ii) In a multifamily dwelling or child-occupied facility, each component with a distinct painting history in every common area shall be tested, except those components determined to have been replaced after 1978 or to not contain lead-based paint.

(b) Paint shall be tested for the presence of lead using documented methodologies which incorporate sampling quality control procedures and all paint chip, dust, and soil samples shall be analyzed for detectable levels of lead by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP).

(c) Inspection reports shall be prepared and include at least:

(i) Inspection date;

(ii) Building address;

(iii) Date of construction;

(iv) Apartment identification (numbers, letters, names if applicable);

(v) Name, address and telephone number of owner or owners of each unit;

(vi) Name, signature, and certification number of each inspector and/or risk assessor conducting testing;

(vii) Name, address and telephone number of the certified firm employing each inspector and/or risk assessor;

(viii) Each testing method and device and/or sampling procedure employed for paint analysis, including sample quality control data, and if used, the serial number of any X-ray fluorescence (XRF) device; and

(ix) Specific locations of each painted component tested and the results of the inspection expressed in appropriate units for the sampling method used.

(3) Lead hazard screen. A lead hazard screen shall be conducted only by a person certified by the department as a risk assessor and shall be conducted as follows:

(a) Background information shall be collected about the physical characteristics of the target housing or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under shall be collected.

(b) A visual inspection shall be conducted to determine the presence of any deteriorated paint and locate at least two dust sampling locations.

(c) If deteriorated paint is present, each deteriorated paint surface determined, using documented methodologies, to be in poor condition and to have a distinct painting history shall be tested for the presence of lead.

(d) In residential dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children age six or under are likely to come in contact with dust.

(e) In multifamily dwellings and child-occupied facilities, floor and window composite dust sampling shall be conducted as specified for conducting lead hazard screens in residential dwellings in the Work Practice Standard section of these rules. In addition, composite dust samples shall be collected in common areas where one or more children age six or under are likely to come in contact with dust.

(f) All dust samples shall be collected using documented methodologies that incorporate sample quality control procedures and analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP) to determine detectable lead.

(g) A lead hazard screen report shall be prepared by the risk assessor and include:

(i) Information in a risk assessment report as specified in subsection (4) including (i)(i) through (xiv) and excluding (i)(xv) through (xviii). Additionally, any background information collected pursuant to the lead hazard screen shall be included.

(ii) Any recommendations for follow-up risk assessment and other further actions.

(4) Risk assessment. A risk assessment of target housing or child-occupied facility shall be conducted only by a person certified by the department. A risk assessment shall be conducted as follows:

(a) A visual inspection shall be conducted to locate the existence of deteriorated paint, assess the extent and cause of deterioration, and other potential lead-based hazards.

(b) Background information shall be collected regarding the physical characteristics and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under.

(c) The following surfaces which are determined, using documented methodologies, to have a distinct painting history, shall be tested for the presence of lead:

(i) Each friction surface or impact surface with visibly deteriorated paint.

(ii) All other surfaces with visibly deteriorated paint.

(d) In residential dwellings, dust samples (either composite or single-surface samples) from the interior window sill(s) and floor shall be collected and analyzed for lead concentration in all living areas where one or more children, age six and under, are most likely to come in contact with dust.

(e) For multifamily dwellings and child-occupied facilities, the samples required in "residential dwellings" as described in subsection (4) of this section shall be taken. In addition, interior window sill and floor dust samples (either composite or single-surface samples) shall be collected and analyzed for lead concentration in the following locations:

(i) Common areas adjacent to sampled target house or child-occupied facility; and

(ii) Other common areas in the building where the risk assessor determines that one or more children, age six and under, are likely to come in contact with dust.

(f) For child-occupied facilities, interior window sill and floor dust samples (either composite or single-surface samples) shall be collected and analyzed in each room, hallway or stairwell utilized by one or more children, age six and under, and in other common areas in the child-occupied facility where the risk assessor determines one or more children, age six and under, are likely to come in contact with dust.

(g) Soil samples shall be collected and analyzed for lead concentrations from the following locations:

(i) Exterior play areas where bare soil is present; and

(ii) The rest of the yard (i.e., nonplay areas) where bare soil is present.

(h) Any paint, dust or soil sampling or testing shall be conducted using documented methodologies that incorporate sample quality control procedures and analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP) to determine detectable lead.

(i) The certified risk assessor shall prepare a risk assessment report which shall include as a minimum the following information:

(i) Assessment date.

(ii) Address of each building.

(iii) Date of construction of buildings.

(iv) Apartment identification (numbers, letters, names if applicable).

(v) Name, address and telephone number of each owner of each building.

(vi) Name, signature, and certification number of each risk assessor conducting the assessment.

(vii) Name, address and telephone number of the certified firm employing each risk assessor.

(viii) Name, address and telephone number of each laboratory conducting analysis of collected samples.

(ix) Results of the visual inspection.

(x) Testing method and sampling procedure employed for paint analysis.

(xi) Specific locations of each painted component tested for the presence of lead.

(xii) All data collected from on-site testing, including quality control data, and if used, the serial number of any X-ray fluorescence (XRF) device.

(xiii) All results of laboratory analysis on collected paint, soil, and dust samples.

(xiv) Any other sampling results.

(xv) Any background information collected pursuant to subsection background information portion of the risk assessment work practice standard of this section.

(xvi) To the extent used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint related hazards.

(xvii) A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.

(xviii) A description of interim controls and/or abatement options for each identified lead-based paint hazard and a recommended prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(5) Abatement. An abatement shall be conducted only by a person certified by the department. Abatement shall be conducted as follows:

(a) A certified and licensed supervisor or project designer is required for each abatement project and shall be on-site during all worksite preparation and during postabatement cleanup of work areas. At all other times, the certified supervisor or project designer shall be on-site or available by telephone, pager, or answering service, and be able to be present at the worksite in no more than two hours.

(b) A certified and licensed project designer is required for each abatement project that:

(i) Consists of ten or more target housing units built prior to 1960; or

(ii) Consists of twenty or more target housing units built during or after 1960; or

(iii) Consists of twenty-five thousand square feet or more of target housing.

(c) The certified and licensed supervisor or project designer, as well as the certified and licensed firm employing that supervisor shall ensure that all abatement activities are conducted according to the requirements of these rules and all federal, state and local requirements.

(d) A certified and licensed project designer may replace and assume the responsibilities of a certified and licensed supervisor required for an abatement project. If a certified and licensed project designer provides supervision on an abatement project, the project designer shall be responsible for preparing the occupant protection plan and the abatement report.

(e) A written occupant protection plan shall be developed prior to all abatement projects, be prepared by a certified and licensed supervisor or project designer, be unique to each target housing or child-occupied facility, describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards. The written occupant protection plan shall be present at the project site and must be made available on demand for inspection.

(f) A scope of work for the abatement project shall be present at the project site and must be made available on demand for inspection.

(g) These work practices shall be restricted during abatement and paint removal:

(i) Open-flame burning or torching of lead-based paint is prohibited;

(ii) Uncontained hydro blasting or high-pressure washing of lead-based paint is prohibited;

(iii) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with high efficiency particulate air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;

(iv) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two square feet in any room, hallway or stairwell or totaling no more than twenty square feet on exterior surfaces; and

(v) Operating a heat gun on lead-based paint is permitted only at temperatures below 1100°F.

(h) When soil abatement is conducted, if the soil is removed:

(i) The soil shall be replaced by soil with a lead concentration as close to local background as practicable, but no greater than 250 ppm.

(ii) The soil that is removed shall not be used as top soil at another residential property or child-occupied facility.

(iii) If the soil is not removed, the soil shall be permanently covered as defined in these rules.

(i) The following clearance procedures shall be performed only by a certified and licensed inspector or risk assessor and according to the following procedures:

(i) A visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures.

(ii) If exterior work on a project cannot be completed due to inclement weather or other factors, the project supervisor or designer may apply in writing to the department for authorization of a preliminary clearance. The application must include the following:

(A) The project address.

(B) The name and certification number of the abatement project supervisor or project designer.

(C) A description of the conditions that justify issuance of a waiver.

(D) A description of the abatement work that remains to be done on the project.

(E) A schedule for completion of the abatement work that remains to be done.

(F) A plan for monitoring and controlling potential lead-based paint contamination until work can be completed.

(G) At the conclusion of all work on a project for which preliminary clearance has been authorized, the project supervisor or designer shall present the department with documentation that clearance testing has been performed on exterior and interior areas according to these rules and that all clearance test results are below clearance levels.

(iii) Following the visual inspection and any postabatement cleanup required in subsection (5)(i) of this section, clearance sampling for lead in dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.

(iv) Dust samples for clearance purposes shall be taken using documented methodologies that incorporate sample quality control procedures and shall be taken a minimum of one hour after completion of final cleanup activities.

(v) Postabatement clearance activities shall be conducted based upon the extent or manner of work activities conducted in or on the target housing or child-occupied facility as follows:

(j) After conducting an abatement with containment between containment and noncontainment areas, one dust sample shall be taken from one interior window sill and from one window trough (if present) and one dust sample shall be taken from the floors of no less than four rooms, hallways or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment

area. If there are fewer than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells shall be sampled.

(i) After conducting an abatement with no containment, two dust samples shall be taken from no fewer than four rooms, hallways or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one interior window sill and from one window trough (if present) and one dust sample shall be taken from the floor of each room, hallway or stairwell selected. If there are fewer than four rooms, hallways or stairwells within the target housing or child-occupied facility then all rooms, hallways or stairwells shall be sampled.

(ii) Following exterior paint abatement, a visual inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surfaces shall be found to be cleaned of visible dust and debris. The surfaces shall be recleaned when visible dust and debris is present. The visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior abated surface. Paint chips, if present, shall be removed from the site and disposed of according to federal, state and local requirements.

(iii) The rooms, hallways or stairwells selected for sampling shall be selected according to documented methodologies.

(iv) The certified and licensed inspector or risk assessor shall compare residual lead levels (as determined by laboratory analysis) from each single surface dust sample with clearance examination standards as defined in these rules for lead in dust on floors and interior window sills, and window troughs, divided by half the number of subsamples in the composite sample. If the residual lead level in a single surface dust sample equals or exceeds the applicable clearance examination refresher or if the residual lead level in a composite dust sample equals or exceeds the applicable clearance examination refresher divided by half the number of subsamples in the composite sample, the components represented by the failed sample shall be recleaned and retested until clearance examination standards are met.

(k) In a multifamily dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:

(i) The certified individuals who work on or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.

(ii) The randomly selected residential dwellings shall be sampled and evaluated for clearance according to subsection (5)(i) of this section.

(iii) A sufficient number of residential dwellings are selected for dust sampling to provide a ninety-five percent level of confidence that no more than five percent or fifty of the residential dwellings (whichever is smaller) in the randomly sampled population exceeds the appropriate clearance examination standards.

(l) An abatement report shall be prepared by a certified and licensed supervisor or project designer and shall include as a minimum the following information:

(i) Start and completion dates of abatement.

(ii) The name, address and telephone number of each certified firm conducting the abatement and the name of each supervisor or project designer assigned to the abatement project.

(iii) The occupant protection plan.

(iv) The name, address and signature of each certified and licensed inspector or risk assessor conducting clearance sampling and the date(s) that clearance sampling was performed.

(v) The results of clearance sampling and all soil analyses and the name of each laboratory conducting analysis of collected samples.

(vi) A detailed written description of the abatement, including abatement methods, location of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.

(m) A clearance report shall be prepared by a certified inspector or risk assessor. The clearance report shall include the following information:

(i) The property address where the clearance sampling occurred.

(ii) The abatement cleanup completion date and time.

(iii) The date and time of clearance sampling.

(iv) Name and certification number of each inspector or risk assessor conducting the clearance.

(v) The signature of the inspector or risk assessor conducting the clearance.

(vi) Name, address, telephone number, and certification number of the certified firm employing the inspector or risk assessor.

(vii) Results of the visual inspection.

(viii) Identification of containment or noncontainment applications.

(ix) Identification of location(s) where clearance samples were collected.

(x) Name, address, and telephone number of the laboratory analyzing the collected samples.

(xi) All results of laboratory analysis on collected samples, including quality control results.

(xii) Documented methodology used for sampling.

(6) Sampling. Any paint chip, dust, or soil samples collected pursuant to this section shall be collected by a certified and licensed inspector or risk assessor. Such samples shall be analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP).

(7) Composite sample. Composite dust sampling may only be conducted when conducting a lead hazard screen, risk assessment, or postabatement activities. If conducted, the composite dust samples shall consist of at least two subsamples, every component that is being tested shall be included in the sampling, and shall not consist of subsamples from more than one type of component.

(8) Reports or plans. All lead-based paint activity reports or plans shall be maintained by the certified firms or individual who prepared the report for no fewer than three years and six months.

(a) The following reports must be submitted to the department as specified in WAC 365-230-100 and 365-230-220:

(i) Notification of lead-based paint activities course to take place.

(ii) Notification of lead-based paint activities course that has taken place.

(iii) Notice of abatement.

(b) All reports required by these rules may be submitted on forms available from the department. The exhibit referred to in this rule is not printed in this WAC. Copies are available as follows from department of community, trade, and economic development:

Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525

Telephone number: 360-725-2949

Fax number: 360-586-5880

Website: www.cted.wa.gov

NEW SECTION

WAC 365-230-210 Determinations of lead-based paint and lead-based paint hazards. (1) Lead-based paint is present:

(a) On any surface that is tested and found to contain lead equal to or in excess of 1.0 milligrams per square centimeter or equal to or in excess of 0.5% by weight; and

(b) On any surface similar to a surface tested in the same room equivalent that has a similar painting history and is found to be lead-based paint.

(2) A paint-lead hazard is present:

(a) On any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface (e.g., the window sill or floor) are equal to or greater than the dust hazard levels identified in the "clearance examination standards" definition of these rules;

(b) On any chewable lead-based paint surface on which there is evidence of teeth marks;

(c) Where there is any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against a door frame); and

(d) If there is any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

(3) A dust lead-hazard is present in a residential dwelling or child-occupied facility:

(a) In a residential dwelling on floors and interior window sills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills is equal to or greater than 40 $\mu\text{g}/\text{ft}^2$ for floors and 250 $\mu\text{g}/\text{ft}^2$ for interior window sills, respectively;

(b) On floors or interior window sills in an unsampled residential dwelling in a multifamily dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled residential unit on the property; and

(c) On floors or interior window sills in an unsampled common area in a multifamily dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively in at least one sampled common area in the same common area group on the property.

(4) A soil-lead hazard is present in a residential dwelling or child-occupied facility when the soil-lead concentration from a composite sample of bare soil is equal to or greater than 250 parts per million.

NEW SECTION

WAC 365-230-220 Notice of abatement. A certified firm shall notify the department of lead-based paint abatement activities as follows:

(1) Except as provided in subsection (2) of this section, the department must be notified prior to conducting lead-based paint abatement activities. The original notice must be received by the department at least ten business days before lead-based paint abatement activities begin.

(2) Notice for abatement activities required in response to an elevated blood lead level (EBL) determination, or federal, state, tribal, or local emergency abatement order must be received by the department as early as possible before, but not later than the day lead-based paint abatement activities begin. Documentation showing evidence of an EBL determination or a copy of the federal/state/tribal/local emergency abatement order must be included in the notification to take advantage of this abbreviated notification period.

(3) Updated notice of a new start date must be provided to the department for lead-based paint abatement activities that will begin on a date other than the date specified in the original notification notice, as follows:

(a) For lead-based paint abatement activities beginning prior to the original start date, an updated notice must be received by the department at least ten business days before the revised start date.

(b) For lead-based paint abatement activities beginning after the original start date, an updated notice must be received by the department at least two business days before the original start date.

(4) The certified firm shall update the department of any change in location of lead-based paint abatement activities at least ten business days prior to the project start date.

(5) The certified firm shall also update the department regarding the cancellation of any lead-based paint abatement activities, or other significant changes including, but not limited to, when the square footage or acreage to be abated changes by at least twenty percent. This updated notice must be received by the department at least two business days prior to the project start date.

(6) The following shall be included in each notice:

(a) Notification type (original, updated, cancellation).

(b) Date when lead-based paint abatement activities will commence.

(c) Date when lead-based paint abatement activities will end (approximation using best professional judgment).

(d) Firm's name, the department certification number, address, phone number.

(e) Type of building (e.g., single-family dwelling, multifamily dwelling, child-occupied facilities) on/in which abatement work will be performed.

(f) Property name (if applicable).

(g) Property address including apartment or unit number (if applicable) for abatement work.

(h) Documentation showing evidence of an EBL determination or a copy of the federal/state/tribal/local emergency abatement order, if applicable.

(i) Name, department certification number, and signature of the certified supervisor or project designer.

(j) Approximate square footage/acreage to be abated.

(k) Brief description of abatement activities to be performed.

(7) Notification shall be accomplished using any of the following methods: Written notice, or by e-mail. All notices submitted by e-mail must be followed by written notice within twenty-four hours of submission. Written notification can be accomplished using either the sample form titled "Notice of Abatement" or similar form. All written notices shall be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery. (Persons submitting notification by U.S. Postal Service are reminded that they should allow three additional business days for delivery in order to ensure that the department receives the notification by the required date.) Instructions and sample forms can be obtained from the department via phone 360-725-2941 or fax 360-588-5966, or on the internet at <http://www.cted.gov>

(8) Lead-based paint abatement activities shall not begin on a date, or at a location other than that specified in either an original, or updated notice, in the event of changes to the original notice.

(9) No firm or individual shall engage in lead-based paint abatement activities, as defined in WAC 365-230-200 prior to notifying the department of such activities according to requirements of this section.

NEW SECTION

WAC 365-230-230 Inspections. (1) The director or the director's designee is authorized to inspect, without cost, and at reasonable times and, when feasible, with at least twenty-four hours prior notification:

(a) Premises or facilities where those engaged in training for lead-based paint activities conduct business; and

(b) The business records of, and take samples at, the businesses accredited or certified under this chapter to conduct lead-based paint training or activities.

Any accredited training program or any firm or individual certified under this chapter that denies access to the department for the purposes of this subsection is subject to deaccreditation or decertification.

(2) The director or the director's designee is authorized to inspect premises or facilities where violations may occur concerning lead-based paint activities, as defined under WAC 365-230-020, at reasonable times and, when feasible, with at least forty-eight hours prior notification of the inspection.

(3) Prior to receipt of federal lead-based paint abatement funding, all premises or facility owners shall be notified by any entity that receives and disburses the federal funds that an inspection may be conducted. If a premises or facility owner does not wish to have an inspection conducted, that owner is not eligible to receive lead-based paint abatement funding.

NEW SECTION

WAC 365-230-240 Suspension, revocation and modification of accredited training course or lead-based paint certification. (1) The department may suspend, revoke or modify accreditation of a training course, or the lead-based paint certification of an individual or firm, and may assess a civil penalty, if the individual, entity, or responsible party under these rules has:

(a) Failed to comply with a requirement of chapter 70.103 RCW or the rules adopted thereunder; or

(b) Obtained or retained accreditation or certification by error, misrepresentation, or fraud.

(2) The department may assess a civil penalty against any person who engages in lead-based paint activity without certification from the department or who offers to provide or provides lead-based paint training courses without accreditation from the department.

(3) Prior to denying, suspending, revoking, or modifying an accreditation or certification, or imposing a civil penalty, the department in writing shall notify the affected entity of:

(a) The factual and legal basis for the alleged violation;

(b) The penalty assessed for the alleged violation;

(c) The date on which the penalties take effect; and

(d) The opportunity to contest the action by requesting an adjudicative proceeding within twenty days of notice of the action.

(4) Whenever an affected entity does not timely request an adjudication proceeding to contest the department's action, the action becomes final and binding on the day specified in the notification of action. Except as provided in subsection (3) of this section, the filing of a timely request for an adjudicative proceeding stays any action against the affected entity until completion of the adjudicative proceeding.

(5) Whenever the department determines that the public health, safety, or welfare warrants immediate action, the department may summarily suspend accreditation or certification prior to the opportunity for an adjudicative proceeding, as provided in RCW 34.05.479.

(6) Any request for adjudicative proceeding shall be conducted by the department under chapters 34.05 RCW and 10-08 WAC.

(7) The public shall be notified of the suspension, revocation, modification or reinstatement of a training program's accreditation through appropriate mechanisms.

(8) Department shall maintain a list, available to the public, of entities whose accreditation has been suspended, revoked, or modified.

NEW SECTION

WAC 365-230-250 Schedule of penalties. (1) The standard penalty for each violation shall be a maximum:

First violation, five hundred dollars and/or ten days suspension.

Second violation, one thousand dollars and/or twenty days suspension.

Third violation, one thousand five hundred dollars and/or thirty days suspension.

Fourth violation, two thousand dollars and/or one year suspension or revocation.

Fifth violation, five thousand dollars and/or one year suspension (or more) or revocation.

(2) The department may aggravate the maximum standard penalty in an amount not to exceed five thousand dollars per violation and/or revocation, based on the following factors:

(a) The violation caused or had the potential to cause injury to humans or significant property damage;

(b) The violation involved fraud or intentional misrepresentation;

(c) The violation was similar to a previous violation; or

(d) The violator obstructed or failed to cooperate with the department's investigation of the violation.

(3) The department may mitigate the maximum standard penalty if the violator has cooperated with the department's investigation and has voluntarily undertaken steps to prevent recurrence of the same violation.

(4) Any person or entity whose accreditation or certification has been revoked shall not be eligible to reapply for one year from the effective date of the final order of revocation.

NEW SECTION

WAC 365-230-260 Certification fees. The following fees are established for certification:

(1) Firms, inspectors, risk assessors, supervisors, project designers and workers shall pay a nonrefundable certification or recertification fee of twenty-five dollars.

(2) All fees shall be in the form of a check or money order made out to the department of community, trade, and economic development.

NEW SECTION

WAC 365-230-270 Other state regulations concerning lead. The following Washington state regulations may apply to contractors working with lead. Consult the appropriate agency for more information regarding specific requirements:

(1) Department of ecology or any successor agency.

(2) Department of labor and industries or any successor agency.

WSR 04-10-038

PERMANENT RULES

COLUMBIA RIVER

GORGE COMMISSION

[Filed April 29, 2004, 2:41 p.m., effective June 1, 2004]

Date of Adoption: April 13, 2004.

Purpose: The Columbia River Gorge Compact Art. I, § a and the Columbia River Gorge National Scenic Area Act, 16 U.S.C. § 544c(b) require the gorge commission to maintain regulations relating to public records disclosure that are consistent with the more restrictive statutory provisions of either state. In 2003, Oregon adopted changes to its public records disclosure rules. These amendments make those changes effective to the gorge commission.

Citation of Existing Rules Affected by this Order:
Amending 350-12-008.

Statutory Authority for Adoption: RCW 43.97.015.

Other Authority: ORS 196.150; 16 U.S.C. § 544c(b).

Adopted under notice filed as WSR 04-05-049 on February 13, 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 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: June 1, 2004.

April 27, 2004

Nancy A. Andring

Rules Coordinator

AMENDATORY SECTION

350-12-008 Public records exempt from disclosure.

(1) The following public records are exempt from disclosure under 350-12-001 to 350-12-008 unless the public interest requires disclosure in the particular instance:

(a) Records of the commission pertaining to litigation to which the commission is a party if the complaint has been filed, or if the complaint has not been filed, if the commission shows that such litigation is reasonably likely to occur. This exemption does not apply to litigation which has been concluded, and nothing in this paragraph shall limit any right or opportunity granted by discovery or deposition statutes to a party to litigation or potential litigation;

(b) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or service or to locate minerals or other substances, having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it;

(c) Investigatory information compiled for criminal law purposes, except that the record of an arrest or the report of a crime shall not be confidential unless and only so long as there is a clear need in a particular case to delay disclosure in the course of a specific investigation. Nothing in this paragraph shall limit any right constitutionally guaranteed, or granted by statute, to disclosure or discovery in criminal cases. For purpose of this paragraph, the record of an arrest or the report of a crime includes, but is not limited to:

(A) The arrested person's name, age, residence, employment, marital status and similar biographical information;

(B) The offense with which the arrested person is charged;

(C) The conditions of release;

(D) The identity of and biographical information concerning both complaining party and victim;

(E) The identify of the investigation and arresting agency and the length of the investigation;

(F) The circumstances of arrest, including time, place, resistance in apprehending fugitives from justice;

(G) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice.

(d) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the examination is given and if the examination is to be used again;

(e) Information relating to the appraisal of real estate prior to its acquisition;

(f) The names and signatures of employees who sign authorization cards or petitions for the purpose of requesting representation or decertification elections;

(g) Investigatory information relating to any complaint filed relating to unlawful employment practices until such time as the complain is resolved, or a final administrative determination is made;

(h) Investigatory information relating to any complaint filed relating to unfair labor practices;

(i) Information concerning the location of archaeological sites or objects, except if the governing body of an Indian tribe requests the information and the need for the information is related to that Indian tribe's cultural or religious activities. This exemption does not include information relating to a site that is all or part of an existing, commonly known and publicized tourist activity or attraction; and

(j) A personnel discipline action, or materials or documents supporting that action.

(k) Sensitive fish, wildlife, and plant data obtained by or created by the Gorge Commission. However, sensitive fish, wildlife and plant data may be released to government agencies concerned with the management of fish and wildlife resources. Sensitive fish, wildlife, and plant data includes:

(1) The nesting sites or specific locations of endangered, threatened or sensitive species listed in the Management Plan or otherwise designated by the appropriate agencies in Oregon and Washington;

(2) Radio frequencies used in or locational data generated by telemetry studies;

(3) Other location data that could compromise the viability of a specific fish, wildlife or plant population and where one or more of the following criteria are met:

(A) The species has a known commercial or black market value

(B) There is a history of malicious take of that species; or

(C) There is a known demand to visit, take, or disturb, and the species behavior or ecology renders it especially vulnerable or the species has an extremely limited distribution and concentration.

(l) Records or information that would reveal or otherwise identify security measures, or weaknesses or potential weak-

nesses in security measures, taken or recommended to be taken to protect:

(1) An individual;

(2) Buildings or other property; or

(3) Information processing, communication or telecommunication systems, including the information contained in the systems.

(2) The following public records are exempt from disclosure under 350-12-001 to 350-12-008:

(a) Communications within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action. This exemption shall not apply unless the commission shows that in the particular instance the public interest in encouraging frank communication between officials and employees of the commission clearly outweighs the public interest in disclosure;

(b) Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy;

(c) Information submitted to the commission in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the commission has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure;

(d) Any public records or information the disclosure of which is prohibited by federal or state law or regulations;

(e) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged;

(f) Public records or information described in this section, furnished by the public body originally compiling, preparing or receiving them to any other public officer or public body in connection with performance of the duties of the recipient, if the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable.

(g) Information about review or approval of programs relating to the security of:

(1) Generation, storage or conveyance of:

(A) Electricity;

(B) Gas in liquefied or gaseous form;

(C) Hazardous substances as defined by Oregon or Washington state law;

(D) Petroleum products;

(E) Sewage; or

(F) Water;

(2) Telecommunications systems, including cellular, wireless or radio systems.

(3) Data transmissions by whatever means provided.

(3) If any public record contains material which is not exempt under subsection (1) or (2) of this section, as well as material which is exempt from disclosure, the commission

shall separate the exempt and nonexempt material and make the nonexempt material available for examination.

(4) An individual may submit a written request to a public body not to disclose a specified public record indicating the home address or personal telephone number of the individual. A public body shall not disclose the specified public record if the individual demonstrates to the satisfaction of the public body that the personal safety of the individual or the personal safety of a family member residing with the individual is in danger if the home address or personal telephone number remains available for public inspection.

(a) A request described in subsection (1) of this section shall remain effective until the public body receives a written request for termination but no later than five years after the date that a public body receives the request.

(b) A public body may disclose a home address or personal telephone number of an individual exempt from disclosure under subsection (1) of this section upon court order, on request from any law enforcement agency or with the consent of the individual.

(c) A public body shall not be held liable for granting or denying an exemption from disclosure under this section or any other unauthorized release of a home address or personal telephone number granted an exemption from disclosure under this section.

(5) Notwithstanding the exemptions in 350-12-008 (1) and (2), public records that are more than 25 years old shall be available for inspection

(6) Notwithstanding 350-12-001 through 350-12-008, the Commission shall not disclose records in violation of a user agreement or license that prohibits the Commission from disclosing such records. The Commission shall refer persons to the creator of the record if the Commission has obtained the records through agreement or license, or for which the Commission was charged a fee, other than a nominal fee for reimbursement of duplicating costs, for the record.

(7) Disclosure of information in violation of Rule 350-12-006(2) is grounds for assessment of a civil penalty pursuant to Rule 350-30 et seq.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 04-10-039
PERMANENT RULES
COLUMBIA RIVER
GORGE COMMISSION

[Filed April 29, 2004, 2:42 p.m., effective June 1, 2004]

Date of Adoption: April 13, 2004.

Purpose: The Columbia River Gorge Compact Art. I, § a and the Columbia River Gorge National Scenic Area Act, 16 U.S.C. § 544c(b) require the gorge commission to maintain regulations relating to open meetings that are consistent with the more restrictive statutory provisions of either state. In 2003, Oregon adopted changes to the Oregon Open Meeting Act to keep certain utility security information confidential. This rule makes those changes effective to the gorge commission.

Citation of Existing Rules Affected by this Order:
Amending 350-11-006.

Statutory Authority for Adoption: RCW 43.97.015.

Other Authority: ORS 196.150; 16 U.S.C. § 544c(b).

Adopted under notice filed as WSR 04-05-050 on February 13, 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 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: June 1, 2004.

April 27, 2004

Nancy A. Andring
Rules Coordinator

PERMANENT

AMENDATORY SECTION

350-11-006 Executive sessions permitted on certain matters; procedures; news media representatives' attendance; limits

(1) The commission can hold executive session during a regular, special or emergency meeting, after the presiding officer has identified the authorization for the holding of such executive session. Executive session may be held:

(a) To consider the employment of a public officer, employee, staff member or individual agent. The exception contained in this paragraph does not apply to:

(A) The filing filling of a vacancy in an elective office;

(B) The filling of a vacancy on any public committee, commission or other advisory group;

(C) The consideration of general employment policies;

(D) The employment of the chief executive officer, other public officers, employees and staff members of any public body unless the vacancy in that office has been advertised, regularized procedures for hiring have been adopted by the public body and there has been opportunity for public input into the employment of such an officer. However, the standards, criteria and policy directives to be used in hiring chief executive officers shall be adopted by the commission in meetings open to the public in which there has been opportunity for public comment.

(b) To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, unless such public officer, employee, staff member or individual agent requests an open hearing;

(c) To conduct deliberations with persons designated by the commission to carry on labor negotiations;

(d) To conduct deliberations with persons designated by the commission to negotiate real property transactions;

(e) To consider information or records that are exempt by law from public inspection;

(f) To consider preliminary negotiations involving matters of trade or commerce in which the commission is in competition with governing bodies in other states or nations;

(g) To consult with counsel concerning the legal rights and duties of the commission with regard to current litigation or litigation likely to be filed;

(h) To review and evaluate, pursuant to standards, criteria and policy directives adopted by the commission, the employment-related performance of the chief executive officer of the commission, a public officer, employee or staff member unless the person whose performance is being reviewed and evaluated requests an open hearing. The standards, criteria and policy directives to be used in evaluating chief executive officers shall be adopted by the commission in meetings open to comment. An executive session for purposes of evaluating a chief executive officer or other officer, employee or staff member shall not include a general evaluation of any agency goal, objective or operation of or any directive to personnel concerning agency goals, objectives, operations or programs;

(i) To carry on negotiations with private persons or business regarding proposed acquisition, exchange or liquidation of public investments.

(j) To discuss information about the review or approval or programs relating to the security of any of the following:

(A) A nuclear-powered thermal power plant or nuclear installation.

(B) Transportation of radioactive material derived from or destined for a nuclear-fueled thermal power plant or nuclear installation.

(C) Generation, storage or conveyance of:

(i) Electricity;

(ii) Gas in liquefied or gaseous form;

(iii) Hazardous substances as defined by Oregon or Washington state law;

(iv) Petroleum products;

(v) Sewage; or

(vi) Water;

(D) Telecommunications systems, including cellular, wireless or radio systems.

(E) Data transmissions by whatever means provided.

(2) Labor negotiations may be conducted in executive session if either side of the negotiators requests closed meetings. Subsequent sessions of the negotiations may continue without further public notice.

(3) Representatives of the news media shall be allowed to attend executive sessions other than those held under paragraph (c) of subsection (1) of this section relating to labor negotiations but no information that is the subject of the executive session shall be disclosed. The Commission shall bar any member of the news media from attending the executive session if the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation.

(4) No executive session may be held for the purpose of taking any final action or making any final decision.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 04-10-045
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 30, 2004, 9:29 a.m., effective June 1, 2004]

Date of Adoption: April 30, 2004.

Purpose: Workers' compensation classification plan, chapter 296-17 WAC, General reporting rules, classification, audit and recordkeeping rates and rating system for Washington workers' compensation insurance, this rule making will amend the definition occupational disease as defined in WAC 296-17-870 as a result of requests from external customers.

Citation of Existing Rules Affected by this Order: Amending WAC 296-17-870.

Statutory Authority for Adoption: RCW 51.16.035.

Other Authority: RCW 51.04.020.

Adopted under notice filed as WSR 04-07-121 on March 19, 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 0, Repealed 0.

Effective Date of Rule: June 1, 2004.

April 30, 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 recoverable 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

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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 04-10-057

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed April 30, 2004, 2:18 p.m., effective July 1, 2004]

Date of Adoption: April 30, 2004.

Purpose: Amendments were made to sections with the Washington Wheat Commission's Marketing Order, chapter 16-528 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 16-528 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 16-528-030; and amending WAC 16-528-010, 16-528-020, and 16-528-040.

Statutory Authority for Adoption: RCW 15.66.030, 15.66.053, 15.66.055, and chapter 34.05 RCW.

Adopted under notice filed as WSR 03-21-142 on October 21, 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 2, Amended 3, Repealed 1.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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.

April 30, 2004

Valoria H. Loveland

Director

NEW SECTION

WAC 16-528-004 Marketing order for Washington wheat—Policy statement. (1) The marketing of wheat within this state is in the public interest. It is vital to the con-

tinued economic well-being of the citizens of this state and their general welfare that its wheat be properly promoted by:

(a) Enabling producers of wheat to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the wheat they produce.

(b) Working towards stabilizing the agricultural industry by increasing consumption of wheat within the state, the nation, and internationally.

(2) That it is in the overriding public interest that support for the wheat industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that wheat be promoted individually, and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's wheat.

(b) Increase the sale and use of Washington state's wheat 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 wheat.

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's wheat and products.

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of wheat produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.66 RCW through this marketing order.

(4) The Washington state wheat 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 wheat under the provisions of this marketing order.

NEW SECTION

WAC 16-528-005 Marketing order purposes. (1) The marketing order for wheat 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; or increasing production efficiency, ensuring a fair regulatory environment; or increasing per capita consumption of wheat in Washington state. The Washington state wheat commission is designated by the director to conduct the following programs in accordance with chapter 15.66 RCW:

(a) To establish plans and conduct programs for marketing and sales promotion. The commission may also engage in cooperative efforts in the domestic or foreign marketing of wheat food products.

(b) To provide for carrying on research studies to find more efficient methods of irrigation, production, processing, handling, transportation, and marketing of wheat.

(c) To adopt rules in accordance with chapter 34.05 RCW to provide for improving standards and grades of wheat by defining, establishing, and providing labeling requirements with respect to the same.

(d) To investigate and take necessary action to prevent unfair trade practices.

(e) Subject to the provisions of the act, to provide information and communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses of wheat produced in Washington state to any elected official or officer or employee of any agency.

(f) To conduct programs for the purpose of providing information and education including:

(i) Marketing information and services for producers of wheat.

(ii) Information and services enabling producers to meet their resource conservation objectives.

(iii) Wheat-related education and training.

(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 wheat marketing and promotion, wheat research, education, and information.

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that marketing and utilization of the wheat may be encouraged, expanded, improved, or made more efficient.

AMENDATORY SECTION (Amending Marketing Order, Article I, effective 4/30/58)

WAC 16-528-010 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 the purposes of the wheat marketing order, the following additional definitions shall apply:

(1) "Director" means the director of agriculture of the state of Washington or ~~((his duly appointed representatives))~~ 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, wheat grown in the designated affected area of the state of Washington. "To produce" means to act as a producer. For the purposes of the wheat 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;

(5) "Affected producer" means any producer who is subject to this marketing order;

(6) "Commercial quantities" shall mean and include five hundred or more bushels of wheat produced for market in any calendar year by any producer;

~~((6))~~ (7) "Wheat" means and includes all kinds and varieties of wheat grown in the state of Washington;

~~((7))~~ (8) "Wheat commission" or "commission" are synonymous and mean the commission established pursuant to the provisions of WAC 16-528-020;

~~((8) "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;))~~

(9) "Marketing year" refers to the twelve-month period beginning June 1 of any year and ending on May 31. "Fiscal year" refers to the twelve-month period beginning July 1 of any year and ending on June 30.

(10) "Handler" means any person ((engaged in the business of handling, selling, processing, storing, shipping, or distributing wheat which he has purchased or acquired from a producer, or which he is shipping for or on behalf of a producer, and shall include any lending agency, for a commodity credit corporation loan to producers)) who acts, either as principal, agent, or otherwise, in the processing, selling, marketing, or distributing of wheat that is 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;

~~((10))~~ (11) "Commercial channels" means the sale of wheat for use as food, feed, seed or any industrial or chemurgic use, when sold to any commercial buyer, dealer, processor, cooperative, or to any person, public or private, who resells any wheat, or products produced from wheat;

~~((11))~~ (12) "Affected area" shall mean and include the following counties located in the state of Washington: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima.

AMENDATORY SECTION (Amending Order 1999, filed 3/29/89)

WAC 16-528-020 Wheat commission—Structure—Powers, duties—Procedure. (1) **Establishment and membership.** A wheat commission is hereby established to administer this marketing order and shall be composed of five members who shall be producers ~~((elected))~~ who are nominated by producers in each district and subsequently appointed by the director as provided in this section and two members who shall be appointed by the ~~((elected producer))~~ commission members. In addition, the director shall be ~~((an ex-officio))~~ a voting member of the commission.

(2) **Representative districts.**

(a) The affected area shall be divided into the five following districts:

District I—One commission member

Ferry County
Lincoln County
Pend Oreille County

Spokane County
Stevens County

District II—One commission member

Whitman County

District III—One commission member

Asotin County
Columbia County
Garfield County
Walla Walla County

District IV—One commission member

Adams County
Chelan County
Douglas County
Grant County
Okanogan County

District V—One commission member

Benton County
Franklin County
Kittitas County
Klickitat County
Yakima County

~~((Each district shall nominate one or more nominees but elect one commission member only.))~~

(b) Producer positions appointed by the director shall be numbered one through five. Positions appointed by the commission members shall be numbered six and seven. The director's position shall be position eight.

(c) Nomination and appointment of director-appointed commission members shall be as set forth in chapter 15.66 RCW and specified by the director.

(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 wheat in the district in and for which they are nominated and ~~((elected))~~ appointed. The qualifications of producer members of the commission as herein set forth must continue during their term of office.

(4) Term of office—Initial commission.

(a) The term of office of commission members shall be three years from the date of their ~~((election))~~ appointment and until their successors are ~~((elected))~~ appointed and qualified. The terms of office for the initial commission members shall be as follows:

Districts I and II shall terminate December 31, 1958.

Districts III and IV shall terminate December 31, 1959.

District V shall terminate December 31, 1960.

One appointed member's term shall terminate December 31, 1959.

The second appointed member's term shall terminate December 31, 1960.

The appointed members of the initial commission shall be elected by a majority of the elected commissioners at the first meeting.

(b) Within thirty days of the effective date of this amended marketing order, the names of the currently elected board members shall be forwarded to the director for appointment to the commission.

(5) Nomination and ~~((election))~~ appointment of commission members.

(a) Nomination and ~~((election))~~ subsequent appointment of director-appointed commission members shall be as set forth in ~~((the act))~~ chapter 15.66 RCW and specified by the director. Dates will be set as follows:

(i) Nominating petitions for director-appointed positions shall be sent not earlier than September 17th and not later than October 2nd of each year in the district wherein ~~((a vacancy))~~ an open commission position(s) will occur. Nominating petitions shall be signed by not less than five affected producers of the district from which such a candidate will be ~~((elected))~~ appointed.

(ii) Filing of nominating petitions for director-appointed positions shall be mailed to the director not earlier than October 8th and not later than October 13th of each year.

(iii) Ballots for an advisory vote will be mailed to all producers in the district wherein ~~((a vacancy))~~ an open commission position(s) will occur, not earlier than October 18th and not later than November 2nd of each year.

(iv) Ballots for an advisory vote shall be returned not later than December 2nd of such year. An affected producer is entitled to one vote.

~~((b) With respect to the initial wheat commission, the director shall call for nominations with the notice of his final decision following the hearing. The ballot for the election of commissioners shall be secret and shall be forwarded to the producers at the same time the director's proposed marketing order is mailed to the producers for their assent.))~~ (v) When only one nominee is nominated by the affected producers for a director-appointed position, RCW 15.66.120 shall apply.

(b) Except with respect to the initial wheat commission, the members of the commission not elected by the producers or appointed by the director shall be 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 within the district wherein the vacancy occurred, in the manner provided in subsection (5) of this section.~~

(b) To fill nonelective vacancies caused by other reasons 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.

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(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 powers and duties, as specified under RCW 15.66.140(~~, and shall include but not be limited to~~)) including the following:

(a) 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 marketing order.

(b) 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 thirty days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its marketing, research, commodity-related education and training plan, and its budget.

(c) To accept and receive gifts and grants from private persons or private and public agencies and expend same.

(d) To administer, enforce, direct, and control the provisions of this marketing order and of the act relating thereto.

(e) To elect a chairman and such other officers as the commission may deem advisable.

(f) To adopt, rescind, and amend rules reasonably necessary for the administration and operation of the commission and the enforcement of its duties under this marketing order.

(g) 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.

(h) To acquire personal property and lease office space and other necessary real property and transfer and convey the same.

(i) 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.

(j) 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.

(k) To borrow money and incur indebtedness.

(l) To make necessary disbursements for routine operating expenses.

(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 wheat.

(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, irrigation, manufacture, regulation, transportation, distribution, sale, or use of wheat 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 wheat within the affected area and data on the amount and value of the wheat 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 wheat and the amount, by unit, of wheat produced during the past three years pursuant to RCW 15.66.143.

(v) To maintain a list of all persons who handle wheat and the amount of wheat 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 assist and cooperate with the department or any other local, state, or federal government agency in the investigation and control of exotic pests and diseases that could damage or affect trade of the affected commodity.

(z) To acquire or own intellectual property rights, licenses, or patents and to collect royalties resulting from commission-funded research related to the affected commodity.

(aa) 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 order.

(8) Procedure for commission.

(a) The commission shall, 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 shall hold an annual meeting at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the wheat commission at least ten days prior to the meeting, through the regular wire news services and radio-television press.

(d) The commission shall establish by resolution, the time, place and manner of calling 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 each~~) from that member (~~thereof~~) of the board. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

(e) Any action taken by the commission shall require the majority vote of the members present, provided a quorum is present.

(f) A quorum of the commission shall consist of at least five members.

(g) No members of the commission shall receive any salary or other compensation from the commission, except that each member shall receive an amount not to exceed the amount as allowed in RCW 43.03.230, as it exists now or as hereafter amended, for each day spent in actual attendance at or traveling to and from meetings of the commission or on special assignments for the commission, together with subsistence, lodging, and mileage expense allowed by RCW 43.03.050 and 43.03.060 as authorized by RCW 15.66.130(~~; the Enabling Act of 1955~~). 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.

AMENDATORY SECTION (Amending Order 1975, filed 4/13/88, effective 6/1/88)

WAC 16-528-040 Assessments and collection. (1) **Assessments.** The annual assessment on wheat shall be (~~one-half~~) three-fourths of one percent of the net receipts at the first point of sale. The assessment shall be levied and paid by the producer, or deducted, as provided in this section, whether the wheat is sold in this or any other state.

(2) **Collection of assessments.** The collection of the assessment made and levied by the wheat commission, pursuant to the provisions of the act, shall be paid by the producer (~~thereof~~) upon all commercial quantities of wheat sold, processed, stored or delivered for sale, processing or storage by him, under any or all of the methods of collections set forth in RCW 15.66.150, in accordance with rules (~~and regulations~~) to be (~~promulgated~~) adopted by the wheat commission: Provided, (~~however;~~) That no assessment shall be levied or collected on wheat grown and used by the producer for feed, seed, or personal consumption.

(3) **Funds.** All moneys collected by the wheat commission shall be used 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 the wheat marketing order. At the end of each fiscal year, the commission shall

credit each producer with any amount paid by such producer in excess of the assessment. Refund may be made only upon satisfactory proof given by the producer in accordance with reasonable rules and regulations prescribed by the director.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-528-030 Marketing order purposes.

WSR 04-10-058 PERMANENT RULES WHEAT COMMISSION

[Filed April 30, 2004, 2:21 p.m., effective July 1, 2004]

Date of Adoption: April 30, 2004.

Purpose: Amendments were made to sections within the rules of the Wheat Commission, WAC 16-528-105 through 16-528-230, to update commission practices. These amendments update the scheduling of the commission's monthly meetings and the number of signatures needed on warrants drawn on commission accounts, as well as, removes an assessment exemption.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-528-220; and amending WAC 16-528-110 and 16-528-150.

Statutory Authority for Adoption: RCW 15.66.140 and chapter 34.05 RCW.

Adopted under notice filed as WSR 03-21-143 on October 21, 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 2, Repealed 1.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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.

April 30, 2004
Thomas Mick
CEO

AMENDATORY SECTION (Amending Order 2072, filed 2/19/91, effective 3/22/91)

WAC 16-528-110 Monthly meetings of the commission. The commission will hold a minimum of four scheduled meetings per year. Dates of each meeting will be determined

~~((during the preceding meeting))~~ annually prior to the new calendar year.

AMENDATORY SECTION (Amending Order 2072, filed 2/19/91, effective 3/22/91)

WAC 16-528-150 Warrants drawn on commission account—Signatures. The chairman, vice-chairman, secretary-treasurer, administrator, and one additional staff member, other than the person responsible for drafting checks, be designated and authorized to draw warrants against the accounts of the Washington wheat commission. Signature((s)) of any ~~((two))~~ one of the above to be required on each and every check.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-528-220 Exemption from assessment.

**WSR 04-10-059
PERMANENT RULES
DEPARTMENT OF AGRICULTURE**

[Filed April 30, 2004, 2:23 p.m.]

Date of Adoption: April 30, 2004.

Purpose: Amendments were made to sections within the rules of Washington State Hop Commodity Board, WAC 16-532-101 through 16-532-120, that remove the approved two-letter abbreviation list for hop varieties and update rule language. These amendments improve readability and clarity, as well as, update board practices.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-532-101; and amending WAC 16-532-120.

Statutory Authority for Adoption: RCW 15.65.047 and chapter 34.05 RCW.

Adopted under notice filed as WSR 03-21-168 on October 22, 2003.

Changes Other than Editing from Proposed to Adopted Version: The department will not be adopting the changes that were proposed to WAC 16-532-110 and the proposed new section WAC 16-532-115. WAC 16-532-110 will remain as currently written.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 1.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

April 30, 2004

Valoria H. Loveland
Director

AMENDATORY SECTION (Amending WSR 97-17-096, filed 8/20/97, effective 9/20/97)

WAC 16-532-120 Labeling. (1) Each lot of hops must be identified by the crop year produced, grower number and lot designation, and variety stenciled on each bale.

(a) A three-digit grower number will be assigned by the Washington hop commodity board (commission) prior to the annual harvest.

(b) The first marking will consist of the last digit of the crop year, the letter "G" and a hyphen, followed by the three-digit grower number and lot designation (example: 8G-000-01).

(c) The first marking shall be affixed on the head or top of the bale and shall be in characters approximately two inches high.

(d) The second marking will consist of the hop variety, utilizing ~~((the following))~~ a two-letter abbreviation((s)). A list of approved two-letter abbreviations will be approved annually by the Washington state hop commodity board.

- ~~((AQ—Aquila~~
- ~~BA—Banner~~
- ~~BG—Brewer's Gold~~
- ~~CA—Cascade~~
- ~~CN—Centennial~~
- ~~CE—Chelan~~
- ~~CH—Chinook~~
- ~~CL—Cluster~~
- ~~CS—Columbus~~
- ~~CR—Crystal~~
- ~~ER—Eroica~~
- ~~EX—Experimental~~
- ~~FU—Fuggle~~
- ~~GA—Galena~~
- ~~GO—Golding~~
- ~~HA—Hallertauer~~
- ~~HE—Hersbrucker~~
- ~~LI—Liberty~~
- ~~MG—Magnum~~
- ~~MH—Mt. Hood~~
- ~~NB—Northern Brewer~~
- ~~NU—Nugget~~
- ~~OL—Olympic~~
- ~~OT—Other~~
- ~~SA—Saaz~~
- ~~SP—Spalter~~
- ~~SY—Symphony~~
- ~~PE—Perle~~
- ~~TE—Tettnanger~~
- ~~UL—Ultra~~
- ~~VA—Vanguard~~

PERMANENT

~~WI—Willamette)~~

(e) The second marking shall be affixed immediately below the first marking on the head or top of the bale, and shall be in characters approximately two inches high.

(2) In addition to any other brands, labels, stencils or other marks customarily used by hop handlers to identify their own trademarks, labels or firm names, all baled hops shall be branded, labeled, stenciled or marked with one distinctive identifying marking, defined or designated by the hop commodity board (commission), which shall identify the hops as having been grown in the state of Washington.

(a) This mark or identification shall be stenciled in letters at least one inch in height and shall read: "WASHINGTON," or "GROWN IN WASHINGTON," as prescribed by the hop commodity board (commission).

(b) This mark or identification shall be affixed in a suitable position on the head or top of the bale, in the area generally used by the federal/state inspectors to stencil their own identification mark and in the same general area where the grower's "G" number and variety identification are affixed.

(c) At no time shall the ((said)) identification marking appear on the face or sides of the bales, as these areas are considered to be for the use of the dealer or handler for trademarks, shipping markings, bale numbers, firm insignias, etc.

(d) The approved identification marking shall be affixed by the federal/state inspector prior to the drawing of samples for federal/state inspection, and, no hops may be sampled for this purpose unless ((said)) the markings have been affixed thereto in compliance with the regulations prescribed by the hop commodity board (commission).

(e) Handlers who offer hops for sale in foreign countries where only shipping markings are permitted on the bales or containers, may apply to the hop commodity board (commission) for permission to blot out or remove the identifying marking.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-532-101 Promulgation.

**WSR 04-10-060
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)**

[Filed April 30, 2004, 2:28 p.m., effective June 1, 2004]

Date of Adoption: April 29, 2004.

Purpose: To increase the scope of the state's recovery of costs of medical care from a client's estate in accordance with ESSB 6153 Washington State Omnibus Operating Budget 2001-2003 (chapter 7, Laws of 2001 2nd sp.s., Part II), which requires additional medical assistance costs to be subject to estate recovery by the department. These rules also implement the State Medicaid Manual (Part 3 - Eligibility, 01-01 General Eligibility Requirements and Options, 3810 Medic-

aid Estate Recoveries); 25 U.S.C. 1408; and 20 C.F.R. 416 Subpart K, Appendix IV.

Citation of Existing Rules Affected by this Order: Amending WAC 388-527-2700, 388-527-2730, 388-527-2733, 388-527-2740, 388-527-2742, 388-527-2750, 388-527-2754, 388-527-2790, and 388-527-2795.

Statutory Authority for Adoption: RCW 43.17.240, 43.20B.80 [43.20B.080], 74.08.090, and 74.34.090, Section 1917(b) of the Social Security Act.

Other Authority: ESSB 6153 - Washington State Omnibus Operating Budget 2001-2003 (chapter 7, Laws of 2001 2nd sp.s., Part II).

Adopted under notice filed as WSR 04-05-082 on February 17, 2004.

Changes Other than Editing from Proposed to Adopted Version: The following changes, other than editing changes, have been made to the rules as proposed (additions indicated by underlined text, deletions indicated by ~~strikethrough text~~) as a result of comments received:

WAC 388-527-2742 (1)(d) Services subject to recovery.

Corrected erroneous date:

(d) The following services provided on and after May 1, 2004 ~~June 1, 2004~~:

WAC 388-527-2750(7) Waiver of recovery if undue hardship.

Changed the verb "are" to "is":

(7) An adjudicative proceeding held under this section ((shall be)) are is governed by chapters 34.05 RCW and 388-02 WAC and this section. If a provision in this section conflicts with a provision in chapter 388-02 WAC, the provision in this section governs.

WAC 388-527-2754 Assets not subject to recovery and other limits on recovery.

1. "Certain properties belonging to American Indians/Alaska Natives (AI/AN) are exempt from ~~Medicaid~~ estate recovery if at the time of death:..."

WAC 388-527-2754(6)

2. Certain AI/AN income and resources (such as interests in and income derived from tribal land and other resources currently held in trust status and judgment funds from the Indian Claims Commission and the U.S. Claims Court) are exempt from ~~Medicaid~~ estate recovery by other laws and regulations.

WAC 388-527-2754(7)

3. ~~Tribal artifacts held by individual Native Americans or Alaska Natives including, but not limited to, traditional regalia, basketry and pottery, and treaty related fishing equipment are exempt from Medicaid estate recovery.~~ Ownership interests in or usage rights to items that have unique religious, spiritual, traditional, and/or cultural significance or rights that support subsistence or a traditional life style according to applicable Tribal law or custom.

WAC 388-527-2754(8)

4. Government reparation payments specifically excluded by federal law in determining eligibility are exempt from ~~Medicaid~~ estate recovery as long as such funds have been kept segregated and not commingled with other countable resources and remain identifiable.

PERMANENT

WAC 388-527-2795 Serving notices on office of financial recovery (OFR).

The word "personally" is changed to "in person."

~~(3) The physical location of the office of financial recovery is:)~~ Personally In person at the Blake Office Park, 4450 10th Avenue (~~(Southeast)~~) SE, Lacey, Washington; or

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 9, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 9, Repealed 0.

Effective Date of Rule: June 1, 2004.

April 29, 2004

Brian H. Lindgren, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 99-11-076, filed 5/18/99, effective 6/18/99)

WAC 388-527-2700 Purpose. This chapter describes the requirements, limitations, and procedures that apply when the department ((will recover from the estate of a deceased client,)) recovers the cost of medical care ((correctly paid on the client's behalf by the department as described by this chapter)) from the estate of a deceased client.

AMENDATORY SECTION (Amending WSR 99-11-076, filed 5/18/99, effective 6/18/99)

WAC 388-527-2730 Estate recovery definitions. For estate recovery purposes:

"Contract health service delivery area (CHSDA)" means the geographic area within which contract health services will be made available by the Indian Health Service to members of an identified Indian community who reside in the area as identified in 42 C.F.R. Sec. 136.21(d) and 136.22.

"Estate" means all real and personal property and any other assets that pass upon the client's death under the client's will or by intestate succession pursuant to chapter 11.04 RCW or under chapter 11.62 RCW. The value of the estate will be reduced by any valid liability against the deceased client's property at the time of death. An estate also includes:

(1) For a client who died after June 30, 1995 and before July 27, 1997, nonprobate assets as defined by RCW 11.02-.005, except property passing through a community property agreement; or

(2) For a client who died after July 26, 1997, nonprobate assets as defined by RCW 11.02.005.

~~((The value of the estate shall be reduced by any valid liability against the deceased client's property at the time of death.))~~

"Lis pendens" means a notice filed in public records warning that title to certain real property is in litigation and this outcome may affect the title.

"Long-term care services" means, for the purposes of this chapter only, the services administered directly or through contract by the ~~((aging and adult services administration of the))~~ department((;)) of social and health services for clients of the home and community services division and division of developmental disabilities including, but not limited to, nursing facility care and home and community services.

"Medicaid" means the state and federally funded program that provides medical services under Title XIX of the Federal Social Security Act.

"Medical assistance" means both Medicaid and medical care services.

"Medicare Savings programs" means the programs described in WAC 388-517-0300 that help a client pay some of the costs that Medicare does not cover.

"Property":

(1) **"Personal property"** means any property that is not classified as real, title, or trust property in the definitions provided here;

(2) **"Real property"** means land and anything growing on, attached to, or erected thereon;

(3) **"Title property"** means, for the purposes of this chapter only, property with a title such as motor homes, mobile homes, boats, motorcycles, and vehicles.

(4) **"Trust property"** means any type of property interest titled in, or held by, a trustee for the benefit of another person or entity.

"State-only funded long-term care" means the long-term care services that are ~~((paid only))~~ financed with state funds only.

~~(("Medical assistance" means the federal aid medical care program provided under Title XIX of the Federal Social Security Act.))~~

AMENDATORY SECTION (Amending WSR 99-11-076, filed 5/18/99, effective 6/18/99)

WAC 388-527-2733 ((No)) Estate liability ((for medical care)). (1) The client's estate is not liable for services provided before July 26, 1987.

(2) The client's estate is not liable when the client died before July 1, 1994 and on the date of death there was:

(a) A surviving spouse; or

(b) A surviving child who was either:

(i) Under twenty-one years of age; or

(ii) Blind or disabled as defined under chapter 388-511

WAC.

(3) The estate of a frail elder or vulnerable adult under RCW ~~((74.34.010))~~ 74.34.005 is not liable for the cost of adult protective services (APS) ~~((paid for only by))~~ financed with state funds only.

(4) The client's estate is not liable for amounts paid for Medicare premiums and other cost-sharing expenses incurred

on behalf of a client who is eligible only for the Medicare Savings programs, and not otherwise Medicaid eligible.

AMENDATORY SECTION (Amending WSR 99-11-076, filed 5/18/99, effective 6/18/99)

WAC 388-527-2740 Age when recovery applies. The client's age and the date when services were received (~~(determines)~~) determine whether the client's estate is liable for the cost of medical (~~(care)~~) services provided. Subsection (1) of this section covers liability for (~~(medical assistance))~~ Medicaid services and subsection (2) covers liability for state-only funded long-term care services. An estate may be liable under both subsections.

(1) For a client who on July 1, 1994 was:

(a) Age sixty-five or older, the client's estate is liable for (~~(medical assistance that was))~~ Medicaid services that were subject to recovery and (~~(which was))~~ provided on and after the date the client became age sixty-five or after July 26, 1987, whichever is later;

(b) Age fifty-five through sixty-four years of age, the client's estate is liable for (~~(medical assistance that was))~~ Medicaid services that were subject to recovery and (~~(which was))~~ provided on and after July 1, 1994; or

(c) Under age fifty-five, the client's estate is liable for (~~(medical assistance))~~ Medicaid services that were subject to recovery and provided on and after the date the client became age fifty-five.

(2) Regardless of the client's age when the services were provided, the client's estate is liable for state-only funded long-term care services provided to:

(a) Home and community services' clients on and after July 1, 1995 (~~(regardless of the client's age when the services were provided));~~ and

(b) Division of developmental disabilities' clients on and after June 1, 2004.

AMENDATORY SECTION (Amending WSR 99-11-076, filed 5/18/99, effective 6/18/99)

WAC 388-527-2742 Services subject to recovery. The medical services the client received and the dates when services were provided determines whether the client's estate is liable for the cost of medical (~~(care))~~ services provided. Subsection (1) of this section covers liability for (~~(medical assistance))~~ Medicaid services and subsection (2) covers liability for state-only funded long-term care services. An estate can be liable under both subsections.

(1) The client's estate is liable for:

(a) All (~~(medical assistance))~~ Medicaid services provided from July 26, 1987 through June 30, 1994;

(b) The following (~~(medical assistance))~~ Medicaid services provided after June 30, 1994 and before July 1, 1995:

(i) Nursing facility services;

(ii) Home and community-based services; and

(iii) Hospital and prescription drug services provided to a client while receiving nursing facility services or home and community-based services.

(c) The following (~~(medical assistance))~~ Medicaid services provided after June 30, 1995 and before June 1, 2004:

(i) Nursing facility services;

(ii) Home and community-based services;

(iii) Adult day health;

(iv) Medicaid personal care;

(v) Private duty nursing administered by the aging and (~~(adult))~~ disability services administration of the department; and

(vi) Hospital and prescription drug services provided to a client while receiving services described under (c)(i), (ii), (iii), (iv), or (v) of this subsection.

(d) The following services provided on and after June 1, 2004:

(i) All Medicaid services;

(ii) Medicare savings programs services for individuals also receiving Medicaid;

(iii) Medicare premiums only for individuals also receiving Medicaid; and

(iv) Premium payments to managed care organizations.

(2) The client's estate is liable for all state-only funded long-term care services and related hospital and prescription drug services provided (~~(after June 30, 1995))~~ to:

(a) Home and community services' clients on and after July 1, 1995; and

(b) Division of developmental disabilities' clients on and after June 1, 2004.

AMENDATORY SECTION (Amending WSR 01-02-076, filed 12/29/00, effective 1/29/01)

WAC 388-527-2750 Waiver of recovery if undue hardship. Recovery is waived under this section when recovery would cause an undue hardship, except as provided in subsection (3) of this section. This waiver is limited to the period during which undue hardship exists.

(1) Undue hardship exists when:

(a) The estate subject to adjustment or recovery is the sole income-producing asset of one or more of the heirs and income is limited; or

(b) (~~(Recovery would result in the impoverishment of one or more of the heirs; or~~

~~(e))~~ Recovery would deprive an heir of shelter and the heir lacks the financial means to obtain and maintain alternative shelter.

(2) Undue hardship does not exist when:

(a) The adjustment or recovery of the client's cost of assistance would merely cause the client's family members inconvenience or restrict the family's lifestyle.

(b) The heir divests assets to qualify under the undue hardship provision.

(3) When a deceased client's assets were disregarded in connection with a long-term care insurance policy or contract under chapter 48.85 RCW, recovery is not waived.

(4) When a waiver is not granted, the department will provide notice to the person who requested the waiver. The denial of a waiver must state:

(a) The requirements of an application for an adjudicative proceeding to contest the department's decision to deny the waiver; and

(b) Where assistance may be obtained to make such application.

(5) A person may contest the department's decision in an adjudicative proceeding when that person requested the department waive recovery, and suffered a loss because that request was not granted.

(6) An application for an adjudicative proceeding under this section must:

(a) Be in writing;

(b) State the basis for contesting the department's denial of the request to waive recovery;

(c) Include a copy of the department's denial of the request to waive recovery;

(d) Be signed by the applicant and include the applicant's address and telephone number;

(e) Be served on the office of financial recovery (OFR) within twenty-eight days of the date the applicant received the department's decision denying the request for a waiver. If the applicant shows good cause, the application may be filed up to thirty days late; and

(f) Be served on ~~((the office of financial recovery~~ OFR) as described in WAC 388-527-2795.

(7) An adjudicative proceeding held under this section ~~((shall be))~~ is governed by chapters 34.05 RCW and 388-02 WAC and this section. If a provision in this section conflicts with a provision in chapter 388-02 WAC, the provision in this section governs.

AMENDATORY SECTION (Amending WSR 99-11-076, filed 5/18/99, effective 6/18/99)

WAC 388-527-2754 Assets not subject to recovery and other limits on recovery. (1) Recovery does not apply to the first fifty thousand dollars of the estate value at the time of death and is limited to thirty-five percent of the remaining value of the estate for services the client:

(a) Received before July 25, 1993; and

(b) When the client died with:

(i) No surviving spouse;

(ii) No surviving child who is:

(A) Under twenty-one years of age;

(B) Blind; or

(C) Disabled.

(iii) A surviving child who is twenty-one years of age or older.

(2) For services received after July 24, 1993, all services recoverable under WAC 388-527-2742 will be recovered, even from the first fifty thousand dollars of estate value that is exempt above, except as set forth in ~~((subsection))~~ subsections (3) through (8) of this section.

(3) For a client who received services after July 24, 1993 and before July 1, 1994, the following property, up to a combined fair market value of two thousand dollars, is not recovered from the estate of the client:

(a) Family heirlooms~~(:);~~

(b) Collectibles~~(:);~~

(c) Antiques~~(:);~~

(d) Papers~~(:);~~

(e) Jewelry~~(:);~~

(f) Photos~~(:);~~ and

(g) Other personal effects of the deceased client and to which a surviving child is entitled.

(4) Certain properties belonging to American Indians/Alaska Natives (AI/AN) are exempt from estate recovery if at the time of death:

(a) The deceased client was enrolled in a federally recognized tribe; and

(b) The estate or heir documents the deceased client's ownership interest in trust or nontrust real property and improvements located on a reservation, near a reservation as designated and approved by the Bureau of Indian Affairs of the U.S. Department of the Interior, or located:

(i) Within the most recent boundaries of a prior federal reservation; or

(ii) Within the Contract Health Service Delivery Area boundary for social services provided by the deceased client's tribe to its enrolled members.

(5) Protection of trust and nontrust property under subsection (4) is limited to circumstances when the real property and improvements pass from an Indian (as defined in 25 U.S.C. Chapter 17, Sec. 1452(b)) to one or more relatives (by blood, adoption, or marriage), including Indians not enrolled as members of a tribe and non-Indians, such as spouses and step-children, that their culture would nonetheless protect as family members, to a tribe or tribal organization and/or to one or more Indians.

(6) Certain AI/AN income and resources (such as interests in and income derived from tribal land and other resources currently held in trust status and judgment funds from the Indian Claims Commission and the U.S. Claims Court) are exempt from estate recovery by other laws and regulations.

(7) Ownership interests in or usage rights to items that have unique religious, spiritual, traditional, and/or cultural significance or rights that support subsistence or a traditional life style according to applicable Tribal law or custom.

(8) Government reparation payments specifically excluded by federal law in determining eligibility are exempt from estate recovery as long as such funds have been kept segregated and not commingled with other countable resources and remain identifiable.

AMENDATORY SECTION (Amending WSR 01-02-076, filed 12/29/00, effective 1/29/01)

WAC 388-527-2790 Filing a lien against real property. (1) ~~((Liens are filed, adjustment sought))~~ The department files liens, seeks adjustments, and effects other recoveries ~~((effected by the department))~~ for the cost of medical assistance or state-only funded long-term care services, or both, correctly paid on behalf of a client consistent with 42 U.S.C. 1396p and chapters 43.20B RCW and 388-527 WAC.

(2) When the department seeks to recover from a client's estate the cost of medical assistance or state-only funded long-term care services, or both, provided to the client, prior to filing a lien against the deceased client's real property, notice shall be given to:

(a) The probate estate's personal representative, if any; or

(b) Any other person known to have title to the affected property.

(3) Prior to filing a lien against any of the deceased client's real or titled property, a person known to have title to the

property ((~~shall~~)) will be notified and have an opportunity for an adjudicative proceeding as follows:

(a) Any person known to have title to the property ((~~shall~~)) will be served with a notice of intent to file lien, which ((~~shall~~)) will state:

(i) The deceased client's name, social security number, if known, date of birth, and date of death;

(ii) The amount of medical assistance(;) or state-only funded long-term care services, or both, correctly paid on behalf of the deceased client that the department seeks to recover;

(iii) The department's intent to file a lien against the deceased client's ((~~real~~)) property to recover the amount of medical assistance or state-only funded long-term care ser-vices, or both, correctly paid on behalf of the deceased client;

(iv) The county in which the ((~~real~~)) property is located; and

(v) The right of the person known to have title to the property to contest the department's decision to file a lien by applying for an adjudicative proceeding with the office of financial recovery (OFR).

(b) An adjudicative proceeding can determine whether:

(i) The amount of medical assistance or state-only funded long-term care services, or both, correctly paid on behalf of the deceased client alleged by the department's notice of intent to file a lien is correct; and

(ii) The deceased client had legal title to the ((~~real~~)) property at the time of the client's death.

(4) An application for an adjudicative proceeding must:

(a) Be in writing;

(b) State the basis for contesting the department's notice of intent to file the lien;

(c) Be signed by the applicant and state the applicant's address and telephone number;

(d) Be served on ((~~the~~)OFR(~~to~~)) within twenty-eight days of the date the applicant received the department's notice of intent to file the lien. An application filed up to thirty days late may be treated as timely filed if the applicant shows good cause for filing late; and

(e) Be served on OFR as described in WAC 388-527-2795.

(5) Persons known to have title to the property ((~~shall~~)) will be notified of the time and place of the adjudicative proceeding by the department when it receives an application for the same.

(6) An adjudicative proceeding under this section ((~~shall~~ be)) is governed by chapters 34.05 RCW and 388-02 WAC and this section. If a provision in this section conflicts with a provision in chapter 388-02 WAC, the provision in this section governs.

(7) If no known title holder requests an adjudicative proceeding, a lien ((~~shall~~)) will be filed by the department twenty-eight days after the date that the notice of intent to file the lien letter was mailed. The lien will be filed against the deceased client's real property in the amount of the correctly paid medical assistance or state-only funded long-term care services, or both.

(8) If an adjudicative proceeding is conducted in accordance with this regulation, when the final agency decision is issued, the department will file a lien against the deceased cli-

ent's real property for the amount of the correctly paid medical assistance or state-only funded long-term care services, or both, as established by that final agency decision.

NEW SECTION

WAC 388-527-2792 Interest assessed on past due debt. (1) The recovery debt becomes past due and accrues interest at a rate of one percent per month beginning nine months after the earlier of:

(a) The filing of the department's creditor's claim in the probate of the deceased client's estate; or

(b) The recording of the department's lien against the property of the deceased client in the county where the property is located.

(2) The department may waive interest only if:

(a) Insufficient cash, accounts, or stock exist to satisfy the department's claim and no sales of estate property has occurred despite its continuous listing or marketing for sale in a commercially reasonable manner for a reasonable fair market value; or

(b) Suit filed in the probate of the deceased client's estate resulted in the filing of a lis pendens or order prohibiting the personal representative from selling the estate property; provided however, this section will not apply to such suit contesting the department's assessment of interest or claim for reimbursement of medical assistance or state-only funded long-term care services debt.

AMENDATORY SECTION (Amending WSR 99-11-076, filed 5/18/99, effective 6/18/99)

WAC 388-527-2795 Serving notices on office of financial recovery (OFR). Serving legal notice on the office of financial recovery (OFR) requires the notice to be served either:

(1) ~~(Legal service must be by personal service or certified mail, return receipt requested, to OFR at the address described in this section.~~

(2) ~~The mailing address of the office of financial recovery is:~~

~~Office of Financial Recovery~~

~~P.O. Box 9501~~

~~Olympia, WA 98507-9501.~~

(3) ~~The physical location of the office of financial recovery is:~~ In person at the Blake Office Park, 4450 10th Avenue ((Southeast)) SE, Lacey, Washington; or

(2) By certified mail, return receipt requested, to Office of Financial Recovery, PO Box 9501, Olympia, WA 98507-9501.

WSR 04-10-065

PERMANENT RULES

**COMMUNITY COLLEGES
OF SPOKANE**

[Filed April 30, 2004, 4:05 p.m.]

Date of Adoption: April 28, 2004.

Purpose: To perform general housekeeping of WACs regarding titles, addresses, etc.

Citation of Existing Rules Affected by this Order: Amending WAC 132Q-01-006 Organization and operation, 132Q-01-010 Bylaws of the board of trustees, 132Q-01-020 Regular meetings of the board of trustees, 132Q-01-040 Office of the board of trustees, 132Q-01-050 Correspondence for the board of trustees, 132Q-113-010 Designation of legislative liaisons, 132Q-136-030 Users, 132Q-136-040 Limitations, 132Q-276-020 Definitions, 132Q-276-030 Central and field organization, 132Q-276-040 Operations and procedures, 132Q-276-090 Copying, and 132Q-276-110 Appeal of decisions.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 03-21-084 on October 16, 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 13, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 13, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 13, Repealed 0.

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

April 28, 2004

W. Scott Morgan

Chief Operations Officer

AMENDATORY SECTION (Amending WSR 90-21-014, filed 10/8/90)

WAC 132Q-01-006 Organization and operation. (1) Organization: Washington State Community College District 17, ~~((the community colleges))~~ Community Colleges of Spokane ~~((;))~~ including Spokane Community College, Spokane Falls Community College and ~~((The))~~ the Institute for Extended Learning ~~((;))~~, is established in Title 28B RCW as a public institution of higher education. ~~((The institution))~~ District 17 is governed by a five-member board of trustees, appointed by the governor. The board employs a chancellor/chief executive officer who establishes the structure of the administration.

(2) Operation: The administrative office is located at ~~((N. 2000 Greene Street))~~ 501 North Riverpoint Boulevard, P.O. Box 6000, Spokane, Washington ((99207-5499)) 99217-6000. Spokane Community College is located at ~~((N. 1810))~~ 2000 North Greene Street, Spokane, Washington ~~((99207-5399))~~ 99217-5499; Spokane Falls Community College is located at ~~((W-))~~ 3410 West Fort George Wright Drive, Spokane, Washington ~~((99204-5288))~~ 99224-5288; ~~((The))~~ the Institute for Extended Learning is located at

~~((W-))~~ 3305 West Fort George Wright Drive, Spokane, Washington ~~((99204-5228))~~ 99224-5228. The office hours are 8:00 a.m. to 5:00 ~~((4:30))~~ p.m. Monday through Friday, except for legal holidays. During ~~((the))~~ summer months, ~~((the))~~ sections of the district may operate on an alternate schedule and throughout the year, evening services are provided. Specific information is available through each campus ~~((the office of communications)).~~

(3) Additional and detailed information concerning the educational offerings may be obtained from the college catalog, available at various locations including ~~((the))~~ college libraries, ~~((or for purchase at the college bookstores-))~~ cashier's offices and district website.

AMENDATORY SECTION (Amending WSR 86-04-010, filed 1/24/86)

WAC 132Q-01-010 Bylaws of the board of trustees. The bylaws of the board of trustees of Washington State Community College District 17 are contained in chapter 1 of the board policy manual.

AMENDATORY SECTION (Amending WSR 86-04-010, filed 1/24/86)

WAC 132Q-01-020 Regular meetings of the board of trustees. The board of trustees of Washington State Community College District 17 (Community Colleges of Spokane) shall hold regular monthly meetings according to a schedule including place, time and date filed with the Washington state code reviser on or before January 1 of each year for publication in the Washington State Register. Notice of any change from such meeting schedule shall be published in the Washington State Register at least twenty days prior to the rescheduled meeting date.

All regular meetings of the board of trustees shall be held at 2000 North Greene Street, Spokane, Washington, 99217-5499, unless otherwise announced. Information about specific meeting places and times may be obtained from the office of the board.

AMENDATORY SECTION (Amending WSR 86-04-010, filed 1/24/86)

WAC 132Q-01-040 Office of the board of trustees. The board of trustees of Washington State Community College District 17 shall maintain an office at ~~((North 2000 Greene Street))~~ 501 North Riverpoint Boulevard, P.O. Box 6000, MS 1001, Spokane, Washington, ((99207)) 99217-6000. ~~((; where all regular meetings shall be held unless otherwise announced, and all))~~ All records, minutes and the official district seal shall be kept in the board office. This office shall be open during all normal working hours.

AMENDATORY SECTION (Amending WSR 86-04-010, filed 1/24/86)

WAC 132Q-01-050 Correspondence for the board of trustees. Correspondence or other business for the board of trustees of Washington State Community College District 17 shall be sent to the secretary of the board at the office of the

board, 501 North Riverpoint Boulevard, P.O. Box 6000, MS 1001, Spokane, Washington 99217-6000.

AMENDATORY SECTION (Amending WSR 92-14-040, filed 6/24/92)

WAC 132Q-113-010 Designation of legislative liaisons. As required by RCW 42.17.190, those persons holding the following positions within Washington State Community College District ((No:)) 17 are designated legislative liaisons for Washington State Community College District ((No:)) 17 and those community colleges contained within ~~((such community college district))~~ Community Colleges of Spokane:

- (1) Members of the board of trustees;
- (2) Chancellor/Chief executive officer;
- (3) College presidents((:)), executive vice president;
- (4) District ~~((vice president))~~ management services officers; and

(5) All those persons designated in writing by the chancellor/chief executive officer of Washington State Community College District ((No:)) 17, which writing shall be made available among the records maintained by the office of the chancellor/chief executive officer of Washington State Community College District ((No:)) 17.

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

AMENDATORY SECTION (Amending WSR 84-19-028, filed 9/14/84)

WAC 132Q-136-030 Users. (1) ~~((Faculty, staff))~~ College personnel, and official student organizations of Washington State Community College District 17 may use district facilities to hold events for ~~((faculty, staff))~~ college personnel and students provided such use complies with the general policy on the use of district facilities pursuant to WAC 132Q-136-010 and that all events are scheduled pursuant to WAC 132Q-136-050. Such use does not require either academic or administrative unit sponsorship nor does such use require approval by the chancellor/chief executive officer or other designated staff.

(2) ~~((Faculty, staff))~~ College personnel((:)) and official student organizations may use district facilities to hold events to which the general public is invited when the event has academic or administrative unit sponsorship and the approval of the chancellor/chief executive officer or other designated staff.

(3) Organizations or persons other than district ~~((faculty, staff))~~ personnel((:)) or official student organizations may use district facilities to hold events for members of that organization provided such use complies with the general policy of the use of district facilities. Such use does not require either academic or administrative unit sponsorship, but does require the approval of the chancellor/chief executive officer or ~~((designated staff))~~ designee.

(4) Organizations or persons other than district ~~((faculty, staff))~~ personnel((:)) or official student organizations may use district facilities to hold events to which the general public is invited when the event has academic or administrative

unit sponsorship and the approval of the chancellor/chief executive officer or ~~((designated staff))~~ designee.

(5) Use of facilities for religious purposes is permitted on the same basis as for nonreligious purposes as long as use ~~((of))~~ for religious purposes does not dominate access to facilities pursuant to WAC 132Q-136-040.

AMENDATORY SECTION (Amending WSR 84-19-028, filed 9/14/84)

WAC 132Q-136-040 Limitations. (1) District facilities of Washington State Community College District 17 may not be used in ways ~~((which))~~ that substantially obstruct or disrupt educational activities or freedom of movement or other lawful activities on or in district facilities.

(2) District facilities may not be used by groups, including informal groups, which discriminate in their membership or limit participation in activities on the basis of race, creed, color, national origin, sex, marital status, age, or the presence of any sensory, mental, or physical handicap.

(3) ~~((Faculty, staff,))~~ College personnel or official student organizations may use district facilities to present educational forums regarding ballot propositions and/or candidates who have filed for public office as long as the audience is limited to ~~((faculty, staff))~~ college personnel and students. However, pursuant to RCW 42.17.130 "the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition" is prohibited.

(4) District facilities may not be used for private or commercial purposes such as sales, advertising, or promotional activities unless such activities are in conjunction with authorized use of facilities by outside groups, fund raising activities directly benefiting the district, or activities fulfilling an educational or service need of the students~~((:))~~ or college personnel. ~~((faculty or staff.))~~ The sale of any item, the use of any advertising material, or operation of any promotional activity is subject to prior approval of the chancellor/chief executive officer or designee. ~~((designated staff. Any such sales, advertising, or promotional activities judged not to be in the best interest of the district shall not be allowed.))~~

(5) The distribution of handbills, leaflets, pamphlets and similar materials is not permitted in or on those facilities to which access by the general public is restricted or where such distribution would significantly impinge upon the primary business being conducted.

(6) Charitable solicitation is not permitted in or on those facilities to which access by the general public is restricted or where such solicitation would significantly impinge upon the primary business being conducted.

(7) District facilities may be used by other public or private educational institutions or public agencies only insofar as the intended use of the facilities meets a community need not being fulfilled by District 17 and where such activities do not interfere with the educational programs being offered by District 17 or with the maintenance and repair programs of the district. A user fee, if any, for such use shall be determined by the chancellor/chief executive officer or designee. ~~((designated staff.))~~

(8) Organizations or persons other than district (~~faculty, staff,)~~ personnel or official student organizations may use district facilities only after the procedures pursuant to WAC 132Q-136-050 are completed and appropriate user fees have been paid in full or satisfactory payment arrangements completed.

(9) District 17 reserves the right to require that the district be represented at any use of facilities where the presence of a representative is in the best interest of the district.

(10) District equipment shall be used only when authorized and shall not be removed from any facility unless written authorization for such removal has been obtained prior to use.

(11) No decorations or other application of material to walls, ceiling or floors of any facility shall be permitted if such application will in any way mar, deface or injure the facility. Users shall be responsible for the removal or disposal of any decorations, materials, equipment, furnishings or rubbish (~~which~~) that remain in or on any facility following use of the facility. Failure of any user to meet this obligation (~~which~~) that results in additional cost to the district shall subject the user to additional charges for such costs.

~~((12) The district reserves the right to reject any application for the use of district facilities when such use, pursuant to WAC 132Q-136-010(1), is determined not to be in the best interest of the district.))~~

AMENDATORY SECTION (Amending WSR 83-10-004, filed 4/22/83)

WAC 132Q-276-020 Definitions. (1) (~~Public records~~) "**Public record**" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(2) (~~Writing~~) "**Writing**" means handwriting, type-writing, printing, (~~photostating~~) photocopying, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) (~~Washington community college district 17~~) "Washington State Community College District 17" is a state agency created and organized by statute pursuant to RCW 28B.50.040, and shall hereinafter be referred to as the "district." Where appropriate, the term "district" shall also refer to (~~the staff~~) college personnel and board of trustees of the district.

(4) "District facilities" of Washington State Community College District 17 include any or all real property owned, operated or maintained by the board of trustees of Community Colleges of Spokane, and shall include all buildings and appurtenances affixed thereon or attached thereto.

AMENDATORY SECTION (Amending WSR 83-10-004, filed 4/22/83)

WAC 132Q-276-030 Central and field organization. Washington State Community College District 17 (~~The district~~) is a community college district organized under RCW 28B.50.040. The administrative office of the district and its staff is located at (~~North 2000 Greene~~) 501 North Riverpoint Boulevard, P.O. Box 6000, Spokane, Washington, (~~(99207)~~) 99217-6000. The district operates two colleges, Spokane Community College, located at (~~North 1810~~) 2000 North Greene Street, Spokane, Washington, (~~(99207)~~) 99217-5499; (~~(;)~~) and Spokane Falls Community College, located at (~~West~~) 3410 West Fort George Wright Drive, Spokane, Washington, (~~(99204)~~) 99224-5288. The district also (~~operates extension and continuing education programs~~) delivers instructional programming through the Institute for Extended Learning in the counties of Ferry, Lincoln (except Consolidated School District 105-157-166J and the Lincoln County portion of Common School District 167-202), Pend Oreille (~~Oriele~~), Spokane, Stevens, and Whitman. The administrative offices of the Institute for Extended Learning are located at 3305 West Fort George Wright Drive, Spokane, Washington 99224-5228.

AMENDATORY SECTION (Amending WSR 83-10-004, filed 4/22/83)

WAC 132Q-276-040 Operations and procedures. (~~The district~~) Washington State Community College District 17 is established under RCW 28B.50.040 to implement the educational purposes established by RCW 28B.50.020. (~~The district~~) District 17 is operated under the supervision and control of a board of trustees appointed by the governor as provided in RCW 28B.50.100(~~(130)~~). The chief administrative officer of the district is the (~~district president~~) chancellor/chief executive officer, who also serves as secretary to the board of trustees. The day-to-day operation of the district, pursuant to policy established and approved by the board of trustees, is implemented through the office of the (~~district president~~) chancellor/chief executive officer or (~~the president's~~) designee.

The board of trustees meets the (~~second~~) third Tuesday of each month at (~~(+30 p.m.)~~) 8:30 a.m. in the board room of the Spokane Community College administrative offices (~~district offices~~) located at (~~North~~) 2000 North Greene Street, Spokane, Washington, (~~(99207)~~) 99217-5499, unless public notice is given of a special meeting. At such time, the trustees exercise the powers and duties granted to the board by RCW 28B.50.140.

AMENDATORY SECTION (Amending WSR 83-10-004, filed 4/22/83)

WAC 132Q-276-090 Copying. No fee shall be charged for the inspection of public records of Washington State Community College District 17. The district may charge a fee per page (~~(of copy)~~) for providing copies of public records, for use of the district's copy equipment(~~(;)~~) and postage. (~~and labor costs~~) This charge shall be an amount necessary to

reimburse the district for its actual costs directly incident to such copying.

AMENDATORY SECTION (Amending WSR 83-10-004, filed 4/22/83)

WAC 132Q-276-110 Appeal of denials. (1) Any person who objects to the denial of a request for a public record of Washington State Community College District 17 may appeal such decision by tendering a written request for appeal. The written request shall specifically refer to the written statement by the public records officer or other staff member (~~which~~) that constituted or accompanied the denial.

(2) Immediately after receiving a written request for appeal of a decision denying a public record of District 17, the public records officer or other administrative staff member denying the request shall refer the written request to the (~~district president~~) chancellor/chief executive officer or (~~the president's~~) designee. The (~~district president~~) chancellor/chief executive officer or (~~the~~) designee shall immediately consider the matter, may consult with the office of the attorney general, and either affirm or reverse such denial of access to a public record. In any case, the request shall be returned with a final decision within two business days following the filing of the written request for review.

(3) Administrative remedies shall not be considered exhausted until the district has returned the petition with a decision or until the close of the second business day following a request for appeal, whichever occurs first.

WSR 04-10-067

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed May 3, 2004, 1:41 p.m.]

Date of Adoption: April 30, 2004.

Purpose: Amendments will provide guidance to applicants with regard to the experience, education and examination application requirements to become enrolled as engineers in training. The rule is also reorganized and clarified in accordance with the governor's directive for rule review.

Citation of Existing Rules Affected by this Order: Amending chapter 196-20 WAC.

Statutory Authority for Adoption: Chapters 18.43 and 18.235 RCW.

Adopted under notice filed as WSR 04-04-027 on January 27, 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 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 3, Repealed 0.

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

May 3, 2004

George A. Twiss

Executive Director

NEW SECTION

WAC 196-20-005 Declaration and purpose. This chapter contains rules and procedures for applications, eligibility and examinations to be enrolled as engineers-in-training.

AMENDATORY SECTION (Amending WSR 96-11-086, filed 5/14/96, effective 7/1/96)

WAC 196-20-010 Eligibility and applications. The law requires the completion of four years of experience or having achieved senior standing in a school or college approved by the board prior to taking the fundamentals-of-engineering examination. If the applicant has achieved senior standing, that standing must be certified by said school or college. The four years may be gained as: Four years of approved education; four years of experience approved by the board; four years of combined education and experience. The experience to qualify for the fundamentals-of-engineering examination must be completed sixty days prior to the date of the examination. All applications must be completed on forms provided by the board and filed with the executive director at the board's address. The deadline for properly completed applications accompanied by the appropriate fee (~~and charge~~) as listed in WAC (~~196-26-020~~) 196-26A-025 is four months prior to the date of the examination. Late applications will be considered for a later examination.

All applicants should submit transcripts of degrees attained or college courses taken in order to obtain maximum experience credit except, applicants enrolled in a school or college having achieved senior standing in a baccalaureate curriculum in engineering approved by the board will be eligible to take the fundamentals-of-engineering examination without submitting college transcripts.

Once an application has been approved, no further application is required. An applicant who has taken an examination and failed or who qualified for an examination but did not take it shall submit a request in writing, accompanied by the applicable fee as listed in WAC 196-26A-025, to take or retake the examination, at least three months prior to the examination date. (~~A written request accompanied by the applicable fee and charge as listed in WAC 196-26-020 shall be submitted to the board's office.~~)

AMENDATORY SECTION (Amending WSR 96-11-086, filed 5/14/96, effective 7/1/96)

~~WAC 196-20-020 Experience. ((The law requires the completion of four years of experience or having achieved senior standing in a school or college approved by the board prior to taking the fundamentals of engineering examination. If the applicant has achieved senior standing, that standing must be certified by said school or college. The four years may be gained as: Four years of approved education; four years of experience approved by the board; four years of combined education and experience. The experience to qualify for the fundamentals of engineering examination must be completed sixty days prior to the date of the examination.))~~

The board shall evaluate all experience on a case-by-case basis and approve such experience as appropriate. Partial credit may be granted for experience and/or education that does not fully meet the requirements. The board will use the following criteria in evaluating an applicant's education and experience:

(1) Graduation in an approved engineering curriculum of four years or more from a school or college recognized by the board, is equivalent to the four-year experience requirement.

(2) Four years or more of broad based progressive experience in the fundamental knowledge of engineering theory and practice, of a character acceptable to the board, under the direct supervision of a person authorized by chapter 18.43 RCW or other applicable statute to practice engineering is equivalent to the four-year experience requirement.

~~((3) The criteria established in WAC 196-20-020 will be used to evaluate the applicant's education and/or work experience.))~~ The experience shall not be limited to, but must include, the following:

(a) Preparation of technical reports and specifications, including graphics;

(b) Application of mathematical techniques to problem solving;

(c) Application of the basic physical sciences (chemistry, dynamics, statics, physics, etc.) in tasks;

(d) Performing assignments, experiments and tests to general specifications;

(e) Compilation and interpretation of data (statistical analysis, etc.);

(f) Executing complex engineering tasks according to instructions;

(g) Effective communication with associates and presenting recommendations and conclusions to supervisor;

(h) Knowledge of the impacts of the products of technology on society (i.e., energy/environmental considerations).

(3) In evaluating the four years of combined education and experience, the board will be looking at transcripts and work experience to determine knowledge in subsection (2)(a) through (h) of this section.

(4) In the judgment of the board, the applicant must have demonstrated increased levels of responsibility and a continuous gain in experience and knowledge such that at the time of being approved for the fundamentals of engineering examination, the applicant is capable of making independent judgments and decisions under the general guidance and direct supervision of an authorized professional.

AMENDATORY SECTION (Amending WSR 96-11-086, filed 5/14/96, effective 7/1/96)

WAC 196-20-030 Examinations. (1) The fundamentals of engineering examination is given at times and places designated by the board. The schedule of future examinations and an examination syllabus may be obtained ~~((from the board office))~~ at the internet website of the National Council of Examiners for Engineering and Surveying (NCEES).

(2) An applicant passing the fundamentals of engineering examination will be enrolled as an engineer-in-training pursuant to RCW 18.43.020(3).

WSR 04-10-068

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 04-04—Filed May 3, 2004, 2:50 p.m.]

Date of Adoption: May 3, 2004.

Purpose: Repeal of WAC 173-26-105 Review by ecology under Part III—Election by local governments of intent to develop pursuant to Part IV.

Citation of Existing Rules Affected by this Order: Repealing WAC 173-26-105 Review by ecology under Part III—Election by local governments of intent to develop pursuant to Part IV.

Statutory Authority for Adoption: RCW 90.58.060 and 90.58.200.

Adopted under notice filed as WSR 04-05-105 on February 18, 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 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 0.

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

May 3, 2004

Linda Hoffman

Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-26-105

Review by ecology under Part III—Election by local

governments of intent to develop pursuant to Part IV.

WSR 04-10-083
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 4, 2004, 12:48 p.m.]

Date of Adoption: May 4, 2004.

Purpose: The purpose of this rule making is to make changes to the prevailing wage rules (chapter 296-127 WAC) based on the enactment of chapter 301, Laws of 2003 (an act relating to job order contracting for public works, SSB [SHB] 1788).

Citation of Existing Rules Affected by this Order: Amending WAC 296-127-011 Time for determining prevailing wage.

Statutory Authority for Adoption: Chapter 39.12 RCW, RCW 43.22.270, 43.22.051, and chapter 301, Laws of 2003 (SHB 1788).

Adopted under notice filed as WSR 04-03-083 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 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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.

May 4, 2004

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 92-01-104, filed 12/18/91, effective 1/31/92)

WAC 296-127-011 Time for determining prevailing wage. (1) Prevailing wage rates for all public work contracts will be determined by the industrial statistician and published on the first business day of February and the first business day of August of each year. These rates shall become effective thirty days after the date of publication. However, the industrial statistician may revise an established prevailing wage rate in response to an administrative or judicial finding overturning the established rate, or at any time necessary to correct an error, with such revision becoming effective thirty days after the date of publication. However, in the event of an

emergency as determined by the director of the department, such revised rate shall take effect upon publication.

(2) The department shall establish deadlines for the submission of:

(a) Completed wage surveys, for inclusion of submitted data in the survey computations;

(b) Newly ratified collective bargaining agreements for inclusion in the semiannual prevailing wage publication;

(c) Notice of collectively bargained wage and benefit adjustments, and/or relevant contractual changes, for inclusion in the semiannual prevailing wage publication; and

(d) Notice of changes in apprenticeship standards and incremental wage rates for inclusion in the semiannual prevailing wage publication.

(3) The applicable prevailing wage rates for a given public works contract will be determined as follows:

(a) For all public works contracts, except janitorial or building service maintenance contracts, the applicable prevailing wage rates shall be the rates that are in effect on the date when bids by prime contractors are due for submission to contract awarding agencies. These rates shall remain in effect for the duration of the contract.

(b) If contracts are not awarded within six months of the date bids are due, the applicable prevailing wage rates shall be those that are in effect on the date the contract is awarded. These rates shall remain in effect for the duration of the contract.

(c) For work orders issued under job order contracts pursuant to chapter 301, Laws of 2003, the appropriate prevailing wage rates shall be the rates that are in effect on the date when the individual work order is issued.

(4) If a contract for public work is not awarded pursuant to bids, the applicable prevailing wage rates shall be those that are in effect on the date when the contract is executed. These rates shall remain in effect for the duration of the contract.

(5) A schedule of the applicable prevailing wage rates must be included by:

(a) Contract awarding agencies, in the bid specifications and contract documents for each contract.

(b) Contractors, in the bid and/or contract documents provided to subcontractors.

WSR 04-10-102
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed May 4, 2004, 3:31 p.m., effective July 1, 2004]

Date of Adoption: April 30, 2004.

Purpose: Amending WAC 388-452-0005 Do I have to be interviewed in order to get benefits?, to reflect a federal change in interview requirements at recertification for the Washington Basic Food program. Basic Food clients may have a telephone interview rather than a face-to-face interview at recertification.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-452-0005.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Adopted under notice filed as WSR 04-06-040 on February 7 [27], 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: July 1, 2004.

April 30, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-18-113, filed 9/2/03, effective 11/1/03)

WAC 388-452-0005 Do I have to be interviewed in order to get benefits? (1) Unless you are applying for medical only, you or your authorized representative must have an interview with the department:

(a) At initial certification; and

(b) At least once every twelve months if your assistance unit (AU) is certified for twelve months or less.

(2) You do not have to attend an interview if you are applying for or recertifying medical benefits only. If we deny your application for cash or Basic Food because you did not have an interview, we continue to process your request for medical benefits.

(3) You will have just one interview even if you are applying for or ~~(have))~~ are having a review for benefits from more than one program.

(4) If we do not interview you on the same day that we get your application, we schedule an interview appointment for you. We schedule your appointment the day we get your application or on the next business day if we get your application outside of our scheduled business hours, on a holiday or a weekend.

(5) We schedule an interview so your AU has at least ten days after the interview to provide needed verification:

(a) Before the end of the thirty-day processing period for applications; or

(b) Before your certification period ends for eligibility reviews or recertifications.

(6) If you miss your first interview and ask for another interview within thirty days of the date you applied for benefits, we schedule a second interview for you.

(7) If you must have an interview for benefits, you or someone who can give us the information we need about your AU must participate in the interview. You may bring any person you choose to your interview.

(8) You may choose someone to take your place in your interview:

(a) For cash assistance if you cannot come to the local office for us to decide if you are eligible for benefits; or

(b) For Basic Food if the person is your authorized representative as described in WAC 388-460-0005.

(9) We usually have interviews at the local office. You can have a scheduled telephone interview if there is **any reason** you cannot attend an interview at the local office. Examples of reasons you may be unable to attend an interview include ~~((include))~~:

(a) Your work or training schedule make it inconvenient for you to attend an in-office interview during regular business hours;

(b) You are unable to take time off of work to attend an in-office interview, because you would not get paid for this time or you fear you could lose your job;

(c) Someone in your AU is ill, or you have to stay home to care for an AU member;

(d) You are having transportation problems;

(e) You can't safely get to the office because of severe weather;

(f) You live in a remote area and can't easily get to the local office;

(g) All the people in your AU are elderly, mentally disabled, or physically disabled;

(h) Someone in your AU is affected by family violence such as physical or mental abuse, harassment, or stalking by the abuser; or

(i) You have **any other** situation that makes it difficult for you to come into the office for an interview.

(10) If you currently get benefits from the department and you are completing an eligibility review or recertification for ongoing benefits under chapter 388-434 WAC, you can have a scheduled phone interview even if you do not meet the requirements for a phone interview listed above.

WSR 04-10-105

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed May 4, 2004, 4:18 p.m.]

Date of Adoption: May 3, 2004.

Purpose: The Washington State Department of Agriculture is repealing WAC 16-219-100 Ethyl parathion—Restricted use pesticide and 16-219-105 Ethyl parathion—Application restrictions, because the Environmental Protection Agency canceled use of this product. Therefore, the product is no longer legal in Washington state.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-219-100 and 16-219-105.

Statutory Authority for Adoption: RCW 15.58.040, 17.21.030, and 34.05.353.

Adopted under notice filed as WSR 04-06-073 on March 3, 2004.

PERMANENT

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 2; 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 2.

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

May 4, 2004

Valoria Loveland

Director

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.

May 5, 2004

Susan Yeager

for Will Roehl, Chair

Fish and Wildlife Commission

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-20-056

Commercial fishing license renewal upon the death of the holder. (01-222)

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-219-100 Ethyl parathion—Restricted use pesticide—Definitions.

WAC 16-219-105 Ethyl parathion—Application restrictions.

WSR 04-10-108

PERMANENT RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 04-105—Filed May 5, 2004, 10:27 a.m.]

Date of Adoption: May 5, 2004.

Purpose: Repeal rule on license renewal upon death of holder. Superseded by RCW 77.65.030, as amended by 2003 legislature.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-20-056.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 03-23-004 on November 6, 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 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.

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